

TOWN OF FITZWILLIAM

PLANNING BOARD

Minutes

September 19, 2023

Planning Board Present: Suzanne Gray, Chair; Tom Rothermel, Vice Chair; Barbara Young, Secretary; Ed Goodell; Kevin Woolley; and Josh Joslyn, Alternate.

Planning Board Absent: Richard Mays; Martin Nolan, Selectmen's Representative; and Robin Peard Blais, Alternate.

ZBA Present: Dan Sutton, Chair; Susan Massin, Vice Chair; Bill Pine; Coni Porter; Susan Silverman (remote); and Jay Drew, Alternate.

Staff Present: Lori Nolan, Land Use Coordinator.

Guests Present: Thomas Lally; Mike Piquette; Dana Pinney; Paul Clark; David Tighe; and Chelley Tighe.

Working Session – Joint Meeting with ZBA to discuss Accessory Dwelling Unit ordinance

The Planning Board and ZBA first discussed the aesthetic/characteristics of the ADU. One of the purposes of the ADU ordinance is to allow residents to age in place. However, that is difficult if converting space and remaining within the 800 square foot maximum. For example, there is a need for first floor living, wider halls, bigger bathroom, etc to accommodate elder care. The Planning Board agreed to look further at this, perhaps tightening up the criteria and/or defining what habitable space means. They also briefly discussed if manufactured homes should be allowed as ADUs.

The Boards then discussed 127-9:F-3. The Planning Board agreed that the wording can be improved.

[At this point, the ZBA leaves and guests arrive]

Chair Suzanne Gray called the public meeting to order at 7:00pm and held roll call.

Public Hearing, continued

Case #23-06: Thomas Lally – Conditional Use Permit – to permit construction of a 30x50 foot addition to an existing house within the WPOD at 77 Scott Pond Road. [Map 16, Lot 3 – Rural District]

Gray welcomed Tom Lally, owner, and Josh Joslyn, agent, to the meeting. Joslyn explained the application is for a 50x30 foot addition. They will tear down 12 feet of the existing structure, which is an old wood shed. They have updated the plans to remove the 12 foot bump out and instead moved the steps into the ell. They will install perforated piping around the entire structure, so all roof run-off will be day-lighted 100 feet away from the wetlands. The water will then shed down the channel and into Scott Brook below the dam. Joslyn then explained that the conceptual plan for the auxiliary spillway in general as the dam work will be done by NH Dams LLC. Joslyn stated that they have obtained approved shoreland permit and septic design from NHDES and a town variance from the ZBA.

Gray asked about the house plans. Lally explained they are from another house he owns.

Lally explained that the spillway will reduce the proximity to the wetland. The spillway itself will be concrete with a notch taken out. The channel will be 25 feet wide with gradual sloped sides. There will be natural growth in the drainage area. There will be a swale in the field, with slight grade changes to control water flow. Lally has had a preliminary meeting with the dam officials, but he does not anticipate approval for quite some time (up to two years).

Young suggested amending the application with an addition that has a smaller footprint. If the first floor is ten feet narrower, then the structure would fit within the WPOD setbacks. Gray commented that the impervious land will increase from 3,900 square feet to 5,400 square feet. She was having trouble getting past some of the WPOD criteria. Lally explained that there are no other areas that do not touch wetlands. This proposed area is the highest point on the property. The auxiliary spillway will be 100 feet away, while the pond is 87 feet away. Gray commented that this is one project, but the entire area is very ecologically sensitive and the town's people voted to protect wetlands. Lally commented that most houses on Scott Pond are only 10-40 feet from the pond, while

his land sheds water away from the pond. Rothermel agreed with Young as he felt the house is too big for the lot and obtaining as much setback from the wetlands is the best course of action. Rothermel questioned the soils by the lower left corner of the proposed addition. The area is typically wet. He asked if the soils can handle the roof and natural run-off.

Goodell thought the submitted house design was supposed to show the addition fitting within the WPOD setbacks. He was not suggesting any changes or specific designs, but misunderstood the intent of the plans.

Woolley commented that this lot is unique in that it sheds water away from the pond. However, Scott Pond does feed another prime wetland.

Lally further stated that there is no other alternative location for the septic. The house is on the highest point on the property. Joslyn stated that the French drain pipe will be 6 inches, which is standard size. This will catch all the initial run-off and carry it approximately 30-35 feet away from the structure, where it will day-light. The stone trench will wrap around the entire structure into perforated pipes.

The Planning Board requested amended plans to show a smaller structure.

Gray motioned to continue Case #23-06, Thomas Lally – Conditional Use Permit – to permit construction of a 30x50 foot addition to an existing house within the WPOD at 77 Scott Pond Road, [Map 16, Lot 3 – Rural District] to October 3 at 7:00pm. Young seconded. Motion passed unanimously.

Yes: 5 [Gray; Rothermel; Young; Goodell, Woolley]; No: 0; Abstained: 0

With the absence of one member, Josh Joslyn was seated as a voting member.

Preliminary Consultation

Elizabeth and William Samuels – to permit demolition and construction of a pre-existing non-conforming structure at 18 Laurel Lane. [Map 21, Lot 16 – Rural District]

Gray welcomed Paul Clark, architect representing the owners, to the meeting. Clark explained the existing and proposed conditions on the lot. The existing structure was more or less built on the side property line. Clark was interested in hearing the limits to building and asked if the enclosed deck can be converted into heated living space. Young asked the dimensions of the deck. Clark stated 16x30 feet.

Gray stated that when a structure is rebuilt, that structure must meet all zoning requirements. She referred Clark to the ZBA for a variance.

REVIEW OF MINUTES

After a brief discussion and two minor edits, **Rothermel motioned to approve the minutes of September 5, 2023 as amended. Young seconded. Motion passed unanimously.**

Yes: 6 [Gray; Rothermel; Young; Goodell, Woolley; Joslyn]; No: 0; Abstained: 0

OLD BUSINESS

Enforcement: The Planning Board received a letter and video of complaint in regards to Turnkey Lumber. At this point, Gray recused herself and Rothermel chaired the meeting.

Dave Tighe stated that at the 2019 Site Plan Review, all work was to be done inside, except for loading of trucks. That has not happened. The noise is horrific. Tighe explained that Turnkey is utilizing the entire lot, but most of the lot is within the rural zoning district. They have clear cut and excavated the land without permits and have not paid property taxes. NHDES has issued a documented violation, but can only request that Turnkey stop work. They have not stopped land clearing.

Dana Pinney stated that he spoke with NHDES. The letter is just a request and the authority rests with the town's Board of Selectmen. However, Turnkey is doing work at their own peril. The professional engineer who is completing the Alteration of Terrain (AoT) permit has requested an extension. Once the application has been submitted, then NHDES can determine any fines or alternative plans. However, Pinney felt the Selectmen will not do anything that could force Turnkey out of town and are instead promoting the business. Whenever a complaint is filed, the Selectmen have an excuse for not investigating.

Mike Piquette asked what duties the Selectmen have to enforce. He felt that it is unfair that the Selectmen are delegating their enforcement duties onto its citizens. The Selectmen knew Turnkey needed an AoT permit. He said this is not a big operation but they are operating on a big piece of land. Piquette had concerns with noise and pollution as there is a large trash mound. He has been to the Selectmen in October.

Chelley Tighe stated that trash is blown onto her property often. She expects there to be noise, but not loud banging and blaring music at 2:00am.

Young described the property. She mentioned that there is an unpermitted structure that Turnkey indicated would be taken down. It is still standing. D. Tighe commented that the structure is in the rural district.

Pinney explained that the Site Plan Review required they store all materials behind a fence and not by the road. The entire yard is now fenced as the fence was moved closer to the road. Their entire operation would also be inside. The Planning Board gave approval to work within perimeters but they are working outside of those perimeters. They are working on back land with no authority. The Planning Board does not have the authority to approval variances, only the ZBA can.

Rothermel stated that the town must get to the bottom of this as this affects both the abutters and the town as a whole. He would like to conduct another site walk to see what has changed or not. Gray commented that expanded business operation and hours could trigger a need for a new Site Plan Review.

Young motioned to send a letter to Turnkey (Fitzwilliam LLC, Map 15, Lot 29) inviting them for a site walk on October 6 at 11:00am. This walk is to include fire and health officials. Goodell seconded. Motion passed unanimously.

Yes: 5 [Rothermel; Young; Goodell, Woolley; Joslyn]; No: 0; Abstained: 0

Gray rejoins meeting as chair.

Short-term Rentals: Gray suggested deferring this topic while the court cases are being work out. The Planning Board was in agreement. They requested that the Conway decision be sent to them.

With no further business to discuss, **Rothermel motioned to adjourn the meeting. Young seconded. Motion passed unanimously.**

Yes: 6 [Gray; Rothermel; Young; Goodell, Woolley; Joslyn]; No: 0; Abstained: 0

The meeting was adjourned at 8:46 pm.

Respectfully Submitted,
Lori Nolan
Land Use Coordinator

Minutes approved as amended on October 3, 2023.