

Town of Milton

424 White Mountain Highway
Milton NH, 03851



Conservation Commission

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Meeting Minutes
August 27, 2019
6:00 PM

Members in Attendance: Cynthia Wyatt, Wayne Sylvester (Alternate for Karen Golab), Paul Blanc, Deb McCormack (Alternate for Steve Panish) and Robert Weiss.

Absent Members: Karen Golab and Steve Panish.

Public Attendance: This was a special public meeting and members of TPPA (Three Pond Protective Association) and other concerned landowners were invited to attend.

Attending TPPA board members: Norm Turgeon, Stephen Baker, Judy Boucher, Jennifer King and Wayne Sylvester

Other members attending: Kevin Egan, Deborah Blair and Kaye Maggart

Chairman Wyatt of Conservation Commission (MCC) called the joint meeting to order at 6:00 pm.

Purpose of meeting: C. Wyatt (MCC) - To prepare for the upcoming Planning Board meeting on September 3, 2019.

The Conservation Commission (MCC) and the Three Pond Protective Associations (TPPA) have concerns about Northgate Resort's (Three Ponds Resort, LLC) application to develop resort amenities at Mi-Te-Jo Campground and the impact the amenities will have on ground water, surface water and the overall health of the Milton Three Ponds.

Letter from Dr. Jim Haney: C. Wyatt (MCC) read the email dated the day after the ZBA denial of the expansion on June 28th, 2018 and discussed the following: (copy of Dr. Haney's letter and credentials attached)

- Dr. Haney has 40 years of experience analyzing the data from Three Ponds' water testing.
- He attended the last Planning Board meeting on 8/20/19.
- Average depth of ponds is 10 feet.
- Concerns of groundwater withdrawal for pool, hot tubs, and water playground.
- Concern of gray water from pool and hot tubs.

- Concerns of increased impervious surfaces stormwater water runoff.
- Want 3rd party review at applicant expense.

ZBA Ruling on Regional Impact and Timing of Site Plan Review Public Hearing:

Question by TPPA Blair and Maggart: Does planning board have to abide by ZBA's ruling that there is no regional impact; and is date for public hearing on site plan review beyond the 30 day appeal period for the ZBA's ruling on the need for a special exception?

Answer from MCC: Planning Board could have made a different ruling on regional impact, but chose not to. The September 3rd date for public hearing is beyond the 30 day appeal period.

Question by TPPA Blair and Maggart: What about any future decisions after site plan is approved?

Answer from P. Blanc (MCC): Building inspector gives permit once approved.

250' from Shoreline (State interest) and water runoff issues- Amenities and park models:

TPPA

- Park model trailers have no cement foundations pads.
- There are 11 park model trailers most likely within 250' and 16 more up in the meadows, more than 250'. Cabins sleep up to 8 – how many more will be added – that's the elephant in the room.
- If cabins are considered RV's, then can install on any site.
- Town should require a site plan review for this and tax them.
- Zack (Zachary Bossenbroek of Northgate Holdings) said they are moveable RVs on personal property.
- Avitar (Milton's assessing company) is looking into taxing these models at \$43,000 = \$530/unit. It is rumored that these taxes were due on July 1st and have not been paid yet. Northgate might be considering an abatement.
- Must move for 24 hours if considered RV/trailer.

N. Turgeon (TTPA)

- Cabins' (park models) roofs restrict storm water from infiltrating into the ground before reaching the lake.
- Cabins are not on the site plan. They are in place with town permits.
- Code Enforcement Officer, Brian Boyers (CEO) considers Park Model Trailers are RV's and not regulated by zoning even if permanently installed.
- Models have hookups and small decks.
- Norm Turgeon informed that he was working with the Town Planner, Bruce Woodruff to come up with some agreement to recommended approval conditions relative to the site plan for amenities at the Mi-Te-Jo campground. After much discussion, it was the consensus of the group that uncertainty about the full scope of Northgate Resorts Inc's expansion plan for MiTeJo makes it impossible to develop approval conditions adequate to safeguard the Milton Three Ponds. So, MCC members unanimously agreed to authorize Cynthia Wyatt to write a letter behalf of the MCC addressing the concerns

brought up at the meeting. Members of the TPPA Board of Directors agreed that TPPA will argue for disapproval of the site plan during the public hearing before the planning board on 9/3/19.

- See attached email to/from Bruce Woodruff.

Paul Blanc (MCC)

- Roof viewed as impervious surface (or deck) no matter how high, as nothing can grow.
- Within 250', can only have 30% impervious surfaces, entire campground can have 30%.
- With proposed 66,350 sq. ft. of impervious surfaces, is a 2.2% increase.
- Review the process of NH DES Alteration of Terrain" (Natural Heritage). This is part of the full application on file (SFC Engineering). Check for plants and other life (i.e. turtles).
- To treat runoff of impervious surfaces (stormwater water runoff) through bioretention.
- To reduce volume that leaves area of amenities. Bioretention to take care of specific area. Would need shoreline plan if within 250 ft.
- 20% impervious threshold within 250'. 30% would trigger full drainage analysis.
- Beyond 250' from shoreline falls into town/city's hands. Might look at percentage of lot.
- Campground must treat with bioretention areas (rain gardens).
- Post development runoff must be less than predevelopment.
- Pool will have stone drain infiltration trench 20' x 30'. To dump end of season backwash water and chemicals to underground chamber.
- Chlorine in minimized by sun, but there will be suntan lotion and other chemicals.

In reference to ZBA minutes of 4/5/18, the septic and water – proposed design flow of 29,500 gal. /day.

Question by C. Wyatt: Do bioretention areas need to be maintained?

Answer by P. Blanc: Yes, if needed. Samples from 3 deep wells are taken to verify no adverse conditions.

Question: Where's all the septic waste from cabins going?

Answer by P Blanc (MCC): The idea is to protect end user. Wells are placed in appropriate areas and using an old well. Monitoring is essential to get baseline immediately before construction. Shoreline permit is not needed for campground.

Question: How will it affect 4 wells (2 in use and one more expected)?

Answer: Once they apply for permit to build pool, will address the issues then. Understanding is they will be trucking out water from pool and hot tubs. But earlier photos show draining hot tubs with hose running to pond.

Flood zone issues:

P. Blanc (MCC):

- Will speak with D. Gray of NH DES.
- 420.3' above sea level is flood zone level. Recreation at 414.67.
- Elevation is more important than distance from shore.
- CEO should restrict structures.
- Milton participates and should file with FEMA when building is built.
- Questions in application to build – Building in a flood zone? What zone?
- Zone AE BFE 420.3 NGVD 29
- Floor joists must be above flood level – based upon grade level near building.
- Dori Wiggin of DES Pease office – advocate for protection of water.
- NH Law – RSA 483-B Shoreland Water Quality Protection.

Questions by C Wyatt (MCC): If the Shoreland Dept. of DES is told about 11 cabins within 250' of shore, does Northgate have to apply for a permit?

Answer: Northgate said they will move them.

Alteration of Terrain and Construction:

P. Blanc (MCC):

- Can ask for baseline, but not typical.
- Concern only if disturbing 100,000 Sq', of 50,000 Sq' within 250' of shore.
- Three areas of bioretention systems: 6" below grade (add plants for rain garden), 2,500 sq' – need test pit, and 45,000 sq' – system #3.
- Systems to be maintained – revised rule 1500 to require stricter maintenance plans – in deed.
- DES does check and utilizes UNH grad students.
- Northgate will need to supply town with reports and towns could impose fines if not done. (Rochester has \$7,500 fine.)
- State will look at reports and SWPPP (Stormwater Pollution Prevention Plan) which is EPA.
- During construction phase, applicant can monitor themselves and report to state and CEO of town.
- Entire campground is 225 acres with 142 acres of developable land.
- Lot size and developable land not the same.
- Lot loading – soil type – slope will trigger what size lot needed. Probably OK.
- Total disturbed land = approximately 248,300 sq'.
- Will have to go for EPA general construction permit prior to construction and give a copy to Brian (CEO).
- During construction need a certified person for environmental monitoring and weekly inspections by 3rd party or hire 2 people to do it.
- DES wants photos and is tough.
- Less than 5 acres, wouldn't need weekly monitoring by DES, but will need by EPA.

- Reports needed within 24 hours (weekday) after ¼" rain.
- Three deep wells and point wells (shallow) need to have a baseline by a professional geologist and paid by applicant.
- If more than 3 wells, then community well will have to be tested by DEA. Would probably find chemicals from suntan lotion, heavy metals, but chlorine dissipates with sun.
- Are shallow wells down gradient from the 3 wells?
- Hire a hydrologist?

TPPA wants permission to monitor shorelines for runoff sites (maybe once a year). Need to follow NHDES protocols for review.

All don't want campground to do surveys – either the town or an agent such as TPPA to hire 3rd party agent. Then rely on land use office to police reports and for TPPA to get copy.

Question: Is there a pre park model report?

Answer: Maine and NH DES and DEP should have past assessment.

Question by C Wyatt (MCC) Who's going to pay for professional baseline survey and 3rd party assessment?

Answer by TPPA: Sue Houle's son at UNH might be of assistance. TPPA might have funds. UNH grad students to review data.

Answer by P. Blanc (MCC): Developer usually pays.

Question by C. Wyatt (MCC): Who will monitor these reports in the town office?

TPPA requested that MCC submit reports to CEO and then to Ashley for posting for public and keep binder onsite.

Suggestion from MCC to N. Turgeon (TPPA) – To discuss his email to Bruce (TP) with Ernie, Town Administrator before 9/3 PB session.

Discussions about Planning Board:

TPPA (Turgeon): All need to understand that the consultant town planner is PB's principal advisor on whom they rely. He has also been appointed by Board of Selectmen to act as liaison with the ZBA. So, it's important we find ways to work with him on zoning administration matters.

Other Points for 9/3 Planning Board Meeting:

- Our objective is to stop approval of amenities.
- Bring in citizens to help.

- Ask for a stay of execution until more studies/reports are done and Article #3A rewritten and Supreme Court decision.
- New sites will have more impact than amenities.
- Present letter from Dr. Haney and concern with Phosphorus (eutrophic), cyanobacteria and connection to ALS.
- No real increase in jobs.
- Taxes: Not a tax benefit. Even if turned into a tax benefit, won't offset the effects on ponds. Value of land won't change, but amenities have value. Will Northgate win an abatement?
- Court would need to settle if park models are permanent structures. At Westward Shores – called RV's when constructed. Park model or RV?
- At last PB meeting, Brian (CEO) read town attorney letter in answer to MCC's question about how Northgate could apply for amenities while in litigation.
- Why is town agreeing?
- Need to get an outline for a letter to PB and copy to BOS from MCC meeting.
- Traffic study was done at end of August when most campers not there – not accurate.
- Swapping our park models for campsites concerning.
- Sludge from pool filters into drainage ditch?
- Wells – will they be tapped dry?
- Water to fill pool and hot tubs – absolutely from outside tank truck?
- Draining of pools and hot tubs – absolutely into holding tanks to be taken offsite?
- Any blasting?
- Is there a cap on amenities? Added to deed?
- LDR (Low density residential zoning) – It's a resort – not allowed. Resorts don't exist in our zoning.
- "Amenities" don't need special exception – not considered an expansion? But involve construction.
- Townhouse Road is already lined for traffic, but sufficient for large campers. Take photo.
- No one could give a valid reason for a special exception to expansion.
- Bruce (TP) currently working on proposed zoning amendment to ordinance. Should wait for this to be finalized. Says PB should oversee.
- MCC sending to 3rd party planner.
- MCC will write letter to PB.
- Should argue for more conditions.
- Get citizens' petition.
- Meeting will probably be postponed.

Motion for C. Wyatt to write a letter on behalf on the MCC to be read at PB meeting on 9/3 to not approve the site plan based on the following:

- Exceptional fragile state of Three Ponds. Reference TPPA docs and Dr. Haney's comments.
- Site Plan increases impervious surfaces.
- Site Plan increases groundwater withdrawal.
- Argue for Regional Impact.

TPPA will do their own letter.

Joint meeting adjourned at 8:35pm

Milton Conservation Commission continued at 8:35 with their meeting.

Paul Blanc made a motion to approve Steve Whitman, Founder and Principal at Resilience Planning and Design as certified 3rd party to review proposed changes to the Zoning Ordinance.

Motion seconded and approved.

Motion to approve August 12, 2019 meeting minutes. Seconded and approved.

MCC requests a legal opinion from former town attorney (Walter) to C Wyatt's question about how can the planning board move forward with any approval of amenities while still in litigation with Northgate? MCC does not have the funds to hire another attorney to discredit the legal letter read at last PB meeting.

Motion to adjourn at 8:42pm. Seconded and approved.

Respectfully submitted,

Deb McCormack
Milton Conservation Commission, Alternate