

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adj.
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Meeting Minutes
May 3, 2018
6:00 PM

Members in Attendance: Larry Brown, Michael Tabory, Stan Nadeau, Brian McQuade, Steve Baker, Andy Rawson Alt. Also in attendance, Dana Crossley Land Use Clerk, Walter Mitchell Town Attorney

Public Attendance: Andy Lucier, Bob Carrier, Paul Nadeau, Daryl Carlson, Janice Carlson, William Thurber, Patricia Thurber, Shannon Ponte, Joel Ponte, Chip Harlow, Deborah Wilson, Mary Lane, Rhonda Burke, Dick Burke, George Petrillo, Fran Petrillo, Chris Boldt, Judy Boucher, Gene Boucher, Marilyn Hayes, Steve Hayes, Deborah Blair, Robert Blair, Mike Desrochers, Jen King, Dan Flores, Norm Turgeon, Sandi Woods, Dennis Woods, Roland Meehan, Betsy Kachoris, Thomas Kachoris, Susan Egan, Kevin Egan, Fred Field, Karen Dollyn, Sue Houle, Ken Houle, Wayne Sylvester, Peter Malia

M. Tabory called the meeting to order at 6:00 pm.

Public Comment: None.

Appointment of New Alternates: Tabled till next meeting or later in meeting if he shows up.

Continued: Public Rehearing of: Case 2017-7 Special Exception Request from Article III Section 3.5, Table of Principle Uses C, Campgrounds; to expand MiTeJo Campground, 111 MiTeJo Rd, Milton, Low Density Residential Zone, Dan Flores, SFC Engineering Partnership Inc, Applicant Three Ponds Resort LLC Owner: Dan Flores of SFC Engineering Partnership and Peter Malia of Hastings Malia Attorneys at Law were in attendance.

Walter Mitchell Town Attorney, spoke: the board members came to the meeting anticipating continuing on with the deliberations previously started that the board debated three out of the five criteria thoroughly and reached a preliminary decision on those criteria points, since then he has communicated with the applicants attorney and the abutter's attorney had also received an email, the email indicated the applicant would like to amend its application, the most significant thing to him is they are looking to eliminate the 39 sites proposed in the Easterly point of the property North of the entrance. **(Pause for point of order S. Baker stepped down from the board as he is an abutter, and Chairman Tabory brought A. Rawson to the board as a full voting member)** W. Mitchell continued board has the choice to refuse to allow the amendment force the applicant to go back and file a new application, instead what he recommends is that the board allows the applicant to amend which will involve is no further discussion this evening, there would have to be a further public hearing to allow the applicant to explain the changes,

explain why it would make a change of impact or standards, and allow abutters to comment, this would have to be noticed as well.

S. Nadeau questioned if the third option would be for the applicant to withdraw their application, withdraw without prejudice and then would allow the board to cleanly start from scratch. W.

Mitchell replied he sees S. Nadeau's option three as part of his first option, the question before the board at this juncture is whether the board will allow the applicant to amend, he does recommend but is not the decision makers.

Chairman Tabory questioned if they allow the applicant to amend would they have to re-notify all of the abutters. W. Mitchell replied yes, including the regional impact. Chairman Tabory continued if they withdraw it would force them to spend more money to reapply, because they would not have to pay an application fee if the board allows them to amend. (W. Mitchell noted the applicant would bear the cost of the public notice and abutters notices, if allowed to amend) Chairman Tabory, to him felt the end result is similar to withdrawing but would not be charging them an application fee and then go set the date.

L. Brown finds himself thinking along the lines of S. Nadeau because he is concerned about still having two proposals in front of the board, would prefer one focal point of an application. S.

Nadeau questioned if they have the authority to waive fees. L. Brown replied they have. B.

McQuade feels along the same lines, spent many hours already on this case, wonders if there is a way to narrow that down but does not want to incur extra fees if avoidable. A. Rawson does not agree with S. Nadeau. Chairman Tabory noted they would be starting again with criteria 1 and reviewing based on what has been submitted, thinks the end result is similar but by allowing the applicant to amend feels they can move it along faster, his thought is to allow the amendment. L. Brown discussed the notifying costs are the same, can waive fees, addressed that the presentation of the paper plan and reconfiguration of sewer, wells and buffers are by formula.

Chairman Tabory questioned the secretary if the applicant withdrew and re-applied would there be time for the submittal to be heard in May at the regular meeting date. (D. Crossley noted it would depend on when the application documents were submitted but there needs to be 5 days' notice of the hearing, believes there would be time if submitted appropriately)

W. Mitchell noted the vote of the board should be whether or not the board allows the applicant to amend, and then the applicant would need to answer the question if they want to withdraw the application with the intent of applying anew or have the board go forward with a continuation with deliberations.

S. Nadeau noted he still felt it would be cleaner to deal with it as a new application.

S. Nadeau motioned to not allow the amendment, L. Brown seconds the motion, Vote, 2-3 (W. Mitchell advised the board make a positive motion for a clearer vote) Motion discarded.

New Motion: L. Brown motions to accept the amendment and move forward. A. Rawson seconds the motion. Vote: 4 (A. Rawson, B. McQuade, S. Nadeau, M. Tabory in favor)-1 (L. Brown opposed), Motion carried. Applicant is allowed to make an amendment.

Chairman Tabory explained a motion was made to allow the applicant to make an amendment to the application that the board has been hearing, that has passed allowing the applicant to make an amendment, that ultimately means they are going to re-notify all abutters, submit what the plan will look like for public knowledge previous to the hearing to allow those with an interest to speak will start with criteria #1 based on the plan as it sits (provided the 24th comes together)

treated much the same as new information. (Question if Strafford Regional Planning Commission would do another regional impact review) It would be up to SRPC if they wanted to do another review on the amended plan, suggested the applicant add them as an abutter considering history depicts a potential regional impact. (Chris Boldt point of order questioned who would sending notifications be out) Chairman Tabory stated the normal process would be followed (D. Crossley the applicant would fill out the abutters list and the notices would be sent out by the Town)

Point of order: Norm Turgeon felt the board needs to determine if the board wants finish a decision on the original application and then deal with if they file a new application. Felt that not making a decision on this application is almost equivalent to threatening the integrity of the zoning appeals process. Chairman Tabory stated that if the applicant chose to withdraw the application and then resubmit they would not be making a decision then.

L. Brown thinks the applicant may have had a sense that the tide was running out on the original application. His own interest is courtesy, timeliness, and good fact and wants an application focuses on the parcel and effects on the community. If the applicant having reviewed his situation has made that decision the costs for the substantial cost for owning the parcel and operating the camp looking at costs very similar going forward, thinks the comments of the community are solid and substantial and points raised on the boards decision are clear enough.

Chairman Tabory finalized that the board has voted to allow the applicant to amend the application and at this juncture it puts an end to the discussion, unless further discussion, closed this section of the agenda.

Chris Boldt asked for clarification since there is no new application yet, there is not a date set yet and questioned if the zoning deadline sheet is being complied with depending on when the application comes in depending on when the application comes in. W. Mitchell stated that if the updated abutters list is provided soon, it would be aimed for the 24th, notices will be sent out a date does not need to be set yet. Chairman Tabory added that if the notices do not go out for the 24th it would be a different meeting date, 24th is the target but depends on applicant submission. C. Boldt noted the applicant has to give amended documents, really a new application whatever it is called, board is giving the applicant permission to do it rather than denying them or forcing them to withdraw, for procedure what they get and when it should be new text. Chairman Tabory replied that he expects to receive text that reflects the amendments in the application, will look at it with fresh eyes.

Question was asked if the application would be available on the website prior to the hearing. Answer was yes.

Discussion and Approval of Minutes: April 5, 2018 meeting minutes, first straw vote correct L. Brown's name, page 2 clarify if it is campsites or RV sites that are 216 sites, pg 11 remove the first 'do not', page 13 add 's' to motion, S. Nadeau motions to accept the minutes with changes. L. Brown seconds the motion. All in favor, motion carried.

Other Business: Lebanon Resident, questioned how Mi Te Jo Campground are building now. Chairman Tabory commented that topic of Mi Te Jo Campground is closed to this board at the time but they can contact the Milton Code Enforcement Officer Brian Boyers with those concerns.

S. Nadeau motions to adjourn, L. Brown seconds the motion all in favor motion carried meeting adjourned at 6:30pm.

Respectfully Submitted,

Dana Crossley, Land Use Clerk