

APPROVED

PLANNING BOARD
PLANNING BOARD MONTHLY MEETING
Wednesday, April 13, 2022 – 6:00 PM
***Lincoln Town Hall, 148 Main Street, Lincoln NH**

*Hybrid meeting available both in person with social distancing & masks & via Zoom Meeting Platform to allow for town wide participation. A quorum of the Planning Board member must be physically present at the meeting. Although there is space in the room for 8-12 guests in addition to the Board members with social distancing, the public is encouraged to participate remotely using ZOOM.

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Meeting ID: 824 5290 9738

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Or dial by your location 1-929-205-6099 US (New York)

(See also town website www.lincolnnh.org for same link, meeting ID and passcode.)

I. CALL TO ORDER by the Chairman of Planning Board (PB); announcement of excused absences, if any, and seating of alternates(s), if necessary.

Members Present: Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin.

Excused: Alternate Mark Ehrman

Staff Present: Fire Chief and Code Enforcement Office/Health Officer/Zoom Host and Moderator Ronald Beard, Planner Carole Bont, Town Engineer Ray Korber, (via Zoom) Deputy Fire Chief Ryan Fairbrother/Code Enforcement (via Zoom), Planning Board Recorder Judy Sherriff (via Zoom).

Guests:

- **Susanne (Susan) A. Chenard**, resident of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment.
- **Dennis M. Ducharme**, resident, (EASEMENT HOLDER ON SUBJECT LOT) Developer & President, RRP, RiverWalk at Loon Mountain, LLC, (**Map 118, L044**) at 22 South Mountain Drive, Mail: 33 Brookline Road, PO Box 636, Lincoln, NH 03251-0636. Developer & President of 10 InnSeason Resorts, headquartered in Hyannis, Cape Cod, Massachusetts, including two (2) InnSeasons Resorts in the Town of Lincoln: (1) InnSeasons Resorts Pollard Brook at 33 Brookline Road (**Map 122, Lot 002 & Lot 003**), Lincoln, NH and (2) InnSeasons Resort South Mountain at 23 InnSeason Drive (**Map 118, L047**), Lincoln, NH.

- **Adam James**, Loon Mountain
- **Brian G. Norton**, non-resident, of 20 Gray Road, Campton, NH 03223 (EASEMENT HOLDER – COOPER MEMORIAL DRIVE), President and General Manager of Loon Mountain Resort, 60 Loon Mountain Road, Lincoln, NH, 03251; Loon Mountain Resort is owned by Boyne Resorts, 3951 Charlevoix Avenue, Petoskey, Michigan, 49770.
- **Thaddeus (“Thad”) Presby**, nonresident, (APPLICANT), President of Presby Construction, Inc., 244 Main Street, Franconia, NH 03580 and d/b/a T&T Mountain Investments, LLC, 244 Main Street, Franconia, NH 03580, owner of Main Street #D LO, (Map 118, Lot 002).
- **Jason (Jay) W. Scambio**, (EASEMENT HOLDER COOPER MEMORIAL DRIVE) resident and co-owner with Katie W. Scambio of 20 Pollard Pines Drive, Lincoln, NH 03251 (Map 117, Lot 048), currently Chief Operating Officer, Day Operations for Boyne Resorts, 3951 Charlevoix Avenue, Petoskey, Michigan, 49770 that is owner of 60 Loon Mountain Road (Map 126, Lot 020) a/k/a Loon Mountain Resort.
- **Jennifer Snyder**, resident, (APPLICANT), co-owner & co-manager of One Love Brewery, 25 South Mountain Drive, Lincoln, NH 03251, and co-trustee owner as Jennifer Riley & Michael W. Snyder Trustees, of the Snyder Family Revocable Trust, 166 Pollard Road, Lincoln, NH 03251 (Map 114, Lot 059).

II. **CONSIDERATION** of meeting minutes from:

- **March 23, 2022**
 - Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen’s Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin

Motion to accept by Member Beaudin
Second Selectmen’s Representative O.J. Robinson
All in favor

III. **OLD BUSINESS** *None*

IV. **NEW BUSINESS**

1. **Modification of SPR 2019-04 M118 L046 -One Love Brewery – Outdoor Lawn Seating Requested**

Request for **Modification** of **Site Plan Review Approval** of July 24, 2019, granting request to expand currently offered outdoor space located in grassy area in front of the Village Shops to include an additional 1,250 square feet of space outdoors. Condition #2 said “there will be no additional serviced seating”. Applicant is requesting the Planning Board to modify Condition #2 of its approval; Applicant wants to put additional tables and chairs and serve food and drink in the additional 1,250 square feet of space outdoors,

instead of guests using that space for games and drink while waiting for a table inside or on the deck. Applicants want to know if the Planning Board would consider the proposed changes “de minimis” and therefore, not require additional Site Plan Review Approval.

Applicant: **Jennifer Snyder d/b/a One Love Brewery**
25 South Mountain Drive
PO Box 304
Lincoln, NH 03251-0304

Property Owner: **Village Shops ICH, LLC**
(Marcia and John Imbrescia)
PO Box 127
Lincoln, NH 03251

Property: **Village Shops building**
25 South Mountain Drive
(Map 118, Lot 046)
The property is located in the Village Center (VC) District.

Project:

Jennifer and Michael Snyder, owners and operators of One Love Brewery, rent space in the Village Shops, and were granted Planning Board approval to extend their outdoor seating area with a temporary border on the grassy area in the front of the building to expand the currently offered outdoor patio of One Love Brewery (& restaurant) currently located in the Village Shops to include an additional 25'X 50' = 1,250 square feet of space outdoors.

The initial purpose of this extension was to help One Love Brewery avoid incurring legal liability from guests traveling around the property with alcohol. This extension was intended to be a seasonal solution. This extension allowed guests to have alcohol in the yard while they played games, such as cornhole. This grassy area was an overflow spot for people to congregate while waiting for a table at One Love Brewery.

The fence was to be made of green mesh, similar to a ski fence, attached to PVC piping that went below the ground. Applicants were to remove this fence after tourist season in summer, and the fence was most likely to be around three and a half feet (3.5') tall.

Applicants did not intend to turn the grassy space into hard impervious space.

Applicants were to take down the fence during the two-weekend craft fair events that usually took place on the lawn space during one weekend in August and Columbus Day/Indigenous Peoples Day long weekend in October.

The additional square footage proposed was to be located on land currently subject to a 99-year lease to the Town of Lincoln for a Town Park and Town Gazebo. The Town lease was up on September 4, 2074.

Request for Site Plan Review Approval

Applicant's request for Site Plan Review Approval for an expansion of use per Article IV A of the Site Plan Review Regulations to expand the currently offered outdoor space located in the grassy area in front of the Village Shops to include an additional 1,250 square feet of space outdoors was **GRANTED** by an affirmative majority vote (4-0) of the Lincoln Planning Board on July 24, 2019 **WITH THE FOLLOWING CONDITIONS:**

1. Review of the original lease by the Town Attorney, and subsequent approval by the Board of Selectmen; and
2. There be no additional serviced seating; and
3. The fence will be removed during the Castleberry Fair craft fairs; and
4. The area will remain grassed (no impervious surface).

Presentation

Jennifer Snyder explains the plans for One Love Brewery's outdoor seating and would like to know if the Planning Board considers the modification of approval to be *de minimus*. She is requesting a continuation of the approval that was granted under the COVID-19 Emergency Orders to serve food and beverages in the outdoor space located in the grassy area in front of the Village Shops.

Discussion

The Planning Board reviews the conditions listed above and determine that the letter from the Town's Attorney regarding the lease be placed in the file. They reviewed the seating map and confirm that the number of seats inside will be decreased to equal the number of seats outside which will not exceed forty (40) seats.

Motion to find proposed changes *de minimus* by Member Beaudin

Second by Vice Chairman Chenard

All in favor

Motion to change Condition #2 from the 2019 conditions of approval from "there will be no additional serviced seating" to say "there will be no additional net change in service seating" AND for every table used outside there will be one equal sized table inside unused AND remove condition #3 AND the Town Attorney's letter regarding the lease is to be added to the file. By Selectmen's Representative O.J. Robinson

Second Member Beaudin

Chairman Spanos asks if there is any public discussion on this matter. *There is no response.*

All in favor

2. Subdivision – SUB 2022-01 M118 L002 Presby d/b/a T&T Mtn Investments LLC – Subdivision

Application for Minor Subdivision of one (1) lot into three (3) lots.

Applicant & Property Owner: Thaddeus (Thad) Presby d/b/a T&T Mtn Investments, LLC
244 Main Street
Franconia, NH 03580

Agent/Surveyor/Engineer: Thomas S. Smith
240 Quebec Road
Lyman, NH 03585

Property: Main Street #D LO (Map 118, Lot 002). Village Center (VC) District

Proposal: Application for Subdivision proposes to divide 1 lot into 3 lots on Main Street/NH Route 112, just northeast of Town Hall. Lot is currently 5.43 acres. Applicant proposes to subdivide it into three (3) parcels:

- (1) Lot 2-1: 133,500 SF (or 3.06 Ac) – has a large easement area for the benefit of Southern Peaks Development LLC (Parking for InnSeasons at South Mountain located at 23 Inn Season Drive Map 118, Lot 047) & is the location of a portion of Cooper Memorial Drive Right of Way (66 feet wide);
- (2) Lot 2-2: 61,753 SF (or 1.42 Ac) & is location of a portion of Cooper Memorial Drive Right of Way (66 feet wide) shared access shown off from Cooper Memorial Drive; and
- (3) Lot 2-3: 41,384 SF (or 0.95 Ac) shared access shown off from Cooper Memorial Drive;

Two (2) new lots will be created. Improvements to these lots, extension of municipal water & sewer lines & extension of utilities will be required. The plan includes shared access easements to Lot 2-2 and Lot 2-3.

Presentation

Thad Presby describes the proposed minor subdivision which has one (1) lot on one side of Cooper Memorial Drive (private road) and the other two (2) lots across the street on the other side of Cooper Memorial Drive with a Right-of-Way (ROW) for access. He has talked with D.O.T. and there might be a chance for some one-way traffic off Main Street. He recalls that at the conceptual meeting there was a question as to whether he had the legal right to use Cooper Memorial Dr. The surveyor said that since it is on his land there is no question about that and they do have access off of Cooper Memorial Dr. Chairman Spanos clarifies that they can't obstruct the road. Mr. Presby notes that there is plenty of buildable room on the lots for the district they are located in. He adds that there is also road frontage.

Discussion and Recommendations

Planner Bont addresses the issue of the which zone the lots are in. She clarifies that the lots are in the Village Center (VC) District and not in the General Use (GU) District. The setbacks noted are for the General Use (GU) District but because the subject lot is located in the Village Center (VC) District the setbacks need to be five feet (5') in the front, ten feet (10') on the sides and fifteen feet (15') in the back.

Planner Bont notes that the survey is missing the owner's address and it is required.

Planner Bont asks Fire Chief Beard if there is going to be enough room to turn a fire truck around between lots #2 and #3 as there are no curb cuts off of Main Street. He replies that he doesn't know without having the dimensions and it would probably be discussed during Site Plan Approval.

A correction needs to be made to the plans as it says this a "Major Subdivision" instead of a "Minor Subdivision".

Check List Reviewed and the missing elements noted below:

- 1. Wetlands aren't shown on maps and Mr. Presby will address with his surveyor.**
- 2. Number of acres in Village Center (VC) District**
- 3. Minimum lot size per district needs to be noted.**
- 4. Deed restrictions to be determined; *there are none at this time.***
- 5. ROW to be noted on the plan and that it is pending D.O.T. approval.**
- 6. Ground water and environmental test pits need to be noted.**
- 7. Correct the setbacks for the Village Center (VC) District.**
- 8. Sewer location needs clarification with Nate Hadaway, DPW.**
- 9. Buildable square feet in Lot designated as "2-1" will be adjusted and use of the easements to be included.**
- 10. Location of the hammerhead needed.**

Planner Bont asks about Lot 2-1 having access off Cooper Memorial Drive. Mr. Presby is not sure as the use hasn't been determined and NH D.O.T. will not issue a permit until the use is known. Planner Bont discusses a similar proposal from 1996 by Slope Side Realty Trust and asks the Planning Board if they want to review the information from the litigation box for Slope Side Realty Trust. She has reviewed the Notice of Decision and the legal opinion. Member Beaudin feels that if there is some documentation that shows a reason why this could not be subdivided, or decisions regarding the uses of this property that are still in effect the Board would need to know about them prior to approving anything. It would be a good idea to review the legal opinion before moving forward.

Motion to open public comment by Vice Chairman Chenard

Second Member Beaudin

All in favor

Dennis Ducharme comments that further discovery needs to be had for the lot in question. When he developed the two wings at InnSeasons at South Mountain Resort he had an environmental assessment and the results of the test pits found that the soil is contaminated with asbestos. The cost to remove the contaminants was close to one million dollars (\$1,000,000). The soil that was removed was located about fifty (50) feet from the property line to Lot 2-1. He feels that further exploration is needed.

Dennis Ducharme then discusses the easement on the property and notes that back in 2014 or 2015 during his Site Plan Approval he improved the parking lot on the subject lot and he has thirty (30) parking spaces from that parking lot which were approved and required for South Mountain Resort. He received a phone call from a prospective buyer of that site who said that

they wanted to put up a one hundred (100) unit hotel and wanted to know if they could share the parking. The answer he gave was “no we can’t do that”. The parking easement on the subject lot is in perpetuity and it has to keep going forward. He understands this is not the issue for tonight’s meeting but wanted to alert the Planning Board this issue is coming down the road.

Planner Bont asks if anyone from Loon Mountain is familiar with who is responsible for the maintenance of Cooper Memorial Drive.

Jay Scambio responds that Loon Mountain Recreation Corporation and South Peak, LLC are responsible for the maintenance of Cooper Memorial Drive. Chairman Spanos asks if there is a formal agreement. Mr. Scambio replies that there is an agreement which consists of an equal share of the maintenance costs between the Loon Mountain Recreation Corporation and South Peak, LLC. He explains that there is an operating covenant that existed and the current arrangement with South Peak, LLC is within the operating agreement that South Peak, LLC holds. The operating agreement has been filed with Grafton County Registry of Deeds (Plan #12578) and is a public document which Selectmen’s Representative O.J. Robinson discusses. Robinson believes this Plan #12578 that is listed also has a document that explains that Loon Mountain Recreation Corporation is responsible for maintaining Cooper Memorial Drive and South Peak Resort, LLC pays fifty percent (50%). Mr. Scambio agrees with Robinson’s statement and adds that it can be changed in the future.

The Planning Board suggests Mr. Presby do some more research and reference the agreement regarding the maintenance of Cooper Memorial Drive.

Mr. Presby will also add a note regarding the parking lot easement Mr. Ducharme referred to.

Chairman Spanos reads a letter from Herb Lahout (see attached)

**Motion to close public comment by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor**

Member Beaudin suggests that the Planning Board continue this to a date and time specific or until Planner Bont can see if there is anything in the Town’s records that the Planning Board should be aware of prior to approving this minor subdivision. The Planning Board discusses the importance of gathering all the information needed to make an educated decision on the current proposal based on the previous conditions that were argued in the previous subdivision application in 1996. Planner Bont will send the information she gathers to the Planning Board and to Mr. Presby.

**Motion to continue this hearing until April 27,2022 by Member Noseworthy
Second Member Beaudin
All in favor**

Mr. Presby will appear before the Plannning Board again on April 27, 2022 with the recommended changes.

V. CONTINUING AND OTHER BUSINESS: *None*

VI. PUBLIC PARTICIPATION AND OTHER BUSINESS: *None*

VII. ADJOURNMENT

Motion to adjourn by Vice Chairman Chenard

Second by Member Beaudin

All in favor

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: Tuesday, May 3, 2022


Chairman Spanos