



TOWN OF LINCOLN, NH
Planning & Zoning Department
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NOTICE OF DECISION APPROVAL

SITE PLAN REVIEW – Change of Use - SPR 2013-06 (M117 L049)

October 2, 2014

Owner: Herbert J. Lahout
64 Sunset Hill Road
Sugar Hill, NH 03586

Applicant: Herbert J. Lahout
64 Sunset Hill Road
Sugar Hill, NH 03586

Agent & Surveyor: Kellogg Surveying & Mapping, Inc.
254 Manns Hill Rd
Littleton, NH 03561

Property: Tax Map 112, Lot 27 (31 Main Street) and Tax Map 112, Lot 028 (33 Main Street)
(Formerly Bill & Bob's Famous Roast Beef and Pinestead Quilt - both formerly owned by
Kathleen & Robert W. Sherburn, Jr.)

On March 26, 2014, after a duly-noticed public hearing, the Planning Board voted to:

1. **APPROVE** Herb Lahout's Application for a Voluntary Lot Merger of Tax Map 112, Lot 027 and 028. Tax Map 112, Lot 027 is 0.07 acres and Tax Map 112, Lot 028 is 0.10 acres. Once the two lots are merged the size of the proposed merged lot will be 0.17 acres.

AND

2. **APPROVE WITH CONDITIONS** Herb Lahout's Application for Site Plan Review for a Demolition, an Expansion of Use and a Change of Use. Mr. Lahout will demolish the former restaurant known as Bill and Bob's Famous Roast Beef (702 sq. ft.) located on Tax Map 112, Lot 27 (31 Main Street) and portions of the former office/retail Pinestead Quilt building (289 sq. ft.) located on Tax Map 112, Lot 28 (33 Main Street) and then put up to a 990 square foot addition onto the back of the Pinestead Quilt building for combined commercial uses as office space and retail space. The footprint of the building with the addition will be the equivalent of the footprint of the two pre-existing buildings. Both lots are located in the Village Center (VC) Zone.

CONDITIONS OF APPROVAL:

The Planning Board voted, on March 26, 2014, to accept the Site Plan Review application as complete pending Lahout's providing the following within two weeks from March 26, 2014:

1. Plan views of all buildings, either existing, or proposed, with their use, size, location and floor elevations indicated.
2. A typical elevation view of all existing and proposed buildings indicating their height and signing.
3. The size and location of existing and proposed public and private utility connections, including provisions for fire protection.

Provided Lahout provides the rest of the application so that it is complete as set forth above, the Planning Board further voted to approve the Voluntary Lot Merger and the Application for Site Plan Review with the following conditions:

1. For Retail/Office Space as proposed; or
 2. For Restaurant Space provided the building is reconfigured to accommodate sufficient parking.
 3. In addition, the 991 square feet being demolished can be rebuilt as shown on the approved Site Plan.
 4. If the building is reconfigured to accommodate the restaurant and the addition is less than 990 square feet, those square feet are grandfathered for the additional footage up to 991 square feet.
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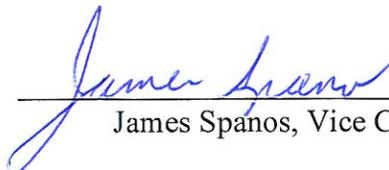
On September 24, 2014, the Planning Board heard evidence that the applicant had met the conditions “to accommodate sufficient parking” to approve a restaurant as a change in use (see #2 above). The Planning Board approved the Applicant’s Site Plan Review Application for use as a restaurant with the following conditions:

1. **Fourteen (14) on-site parking spots plus two (2) off-site parking spots for a total of sixteen (16) parking spots for up to sixty-four (64) seats in a restaurant.**
2. **The Planning Board has relied on the applicant’s representation that he has access to the subject property. The Planning Board has not performed additional title research and makes no warranty or representation concerning the applicant’s legal right to access. In the event that a court of competent jurisdiction finds that the applicant does not have access to the property and/or the approved parking spaces, then the approval shall be null and void.**
3. **Gardner Kellogg Surveying to revise plan and submit new plan (with notes above) to the Town.**

Prior to the issuance of any Land Use Permit or Subdivision Approval or further Site Plan Review Approval the applicant shall obtain all applicable state and federal permits and approvals and provide copies to the Town, including any permits obtained from NHDES. Any documentation also will be provided to the Town.

Note: Conditional Site Plan Review approval was granted for two (2) years from the date of approval September 24, 2014, to an expiration date of September 23, 2016. If the approved change in use has not taken place two (2) years from this date the applicant must re-file for an extension for an additional six (6) month period, only if the plan is still in compliance with all town regulations in effect at that time. Before the final approval is extended, the Planning Board may require the applicant to appear before the Board to discuss the status of the project or any aspects of the plan. [See Site Plan Review Regulations Section 4.07, d & e.]

Dated: October 2, 2014



 James Spanos, Vice Chair, Planning Board

Notice: This Notice of Decision has been placed on file and made available for public inspection in the records of the Planning Office on October 2, 2014. Any person aggrieved by this decision of the Planning Board is referred to NH RSA 677:15, which sets forth the appeal procedure. Copies of this notice have been distributed on October 2, 2014 to the Applicant & Property Owner, Herbert Lahout, 64 Sunset Hill Road, Sugar Hill, NH 03586, and to:

- Board of Selectmen
- Fire Chief
- Public Works Director
- Town Clerk
- Tax Assessor
- Cartographic Associates, Inc.
- Posted at Town Offices on October 2, 2014
- Posted at Post Office on October 2, 2014

677:15 Court Review

Last revised 1983

I. Any persons aggrieved by any decision of the planning board concerning a plat or subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within 30 days after the date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the petitioner shall have the right to amend the petition within 30 days after the date on which the written decision was actually filed. This paragraph shall not apply to planning board decisions appealable to the board of adjustment pursuant to RSA 676:5, III. The 30-day time period shall be counted in calendar days beginning with the date following the date upon which the planning board voted to approve or disapprove the application, in accordance with RSA 21:35.

II. Upon presentation of such petition, the court may allow a certiorari order directed to the planning board to review such decision and shall prescribe therein the time within which return thereto shall be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the order shall stay proceedings upon the decision appealed from. The planning board shall not be required to return the original papers acted upon by it; but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such order. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

III. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

IV. The court shall give any hearing under this section priority on the court calendar.

V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed against the municipality unless it shall appear to the court that the planning board acted in bad faith or with malice in making the decision appealed from.

Revisions

1983, 447:1. 1991, 231:14. 1995, 243:7, 8. 2000, 144:4. 2005, 105:2, eff. Aug. 14, 2005. 2009, 266:4, eff. Sept. 14, 2009.