



**TOWN OF LINCOLN, NH**  
Planning & Zoning Department  
PO Box 25  
Lincoln, NH 03251-0025

Phone: 603-745-2757  
Fax: 603-745-6743  
Email: [planning@lincolnnh.org](mailto:planning@lincolnnh.org)  
Web: [www.lincolnnh.org](http://www.lincolnnh.org)

May 29, 2014

## NOTICE OF DECISION

**RE:** (SPR 2014-04) Site Plan Approval for Change/Expansion of Use.

**Property:** (Tax Map 117, Lot 119), 278 Main Street in the General Use (G.U.) District

**Applicant:**

Applicant Larry ("Chopper") Hartle, Jr., d/b/a Pemi Valley Moose Tours, PO Box 216, Lincoln, NH 03251-0216

**Property Owner:**

David Rodgers (d/b/a Mothership) at 278 Main Street (Tax Map 117, Lot 119), PO Box 68, Lincoln, NH 03251-0068

**Project Name:** Pemi Valley Moose Tours using the Mothership during off season for skiing

**Project:** Applicant Applicant Larry ("Chopper") Hartle, Jr., d/b/a Pemi Valley Moose Tours, submitted an application requesting Site Plan Approval for a Change/Expansion of Use for property owned by David Rodgers (d/b/a Mothership) at 278 Main Street (Tax Map 117, Lot 119), in accordance with Article V of the Lincoln Site Plan Review Regulations and Article VI,B,2 of the Land Use Plan Ordinance. Presently the Mothership sells snowboarding and ski equipment. Mothership is busy during the ski season. Hartle proposed using the Mothership building and parking lot to operate Pemi Valley Moose Tours during the spring through the fall months when skiing/snowboarding is not in season. The following representations were made by Hartle:

- He will not be parking cars on Main Street.
- He will be using only the approximately 14 parking spaces at the "Mothership" snowboard shop location
- The bus only holds forty-five passengers, and most passengers carpool.
- He will take the "Mothership" banner down and put the "Moose Tours" banner sign up when his business is operating.
- The Moose Tours sign will come down at the end of the season when the Mothership snowboard shop will open again.
- The office opens at approximately 12 noon until the tour bus departs each evening. The tour bus leaves in early evening and returns in late evening.

The change in use was **APPROVED** by vote of the Lincoln Planning Board on May 14, 2014.



**The following is an administrative condition subsequent, to be met prior to issuance of any Land Use Permit:**

- 1. The applicant shall obtain all applicable State and Federal permits and plan approvals and provide copies to the Town of Lincoln.**

**Note:** Site plan approval was granted for twenty-four months from the date of approval, May 14, 2014. If construction has not commenced twenty-four months from this date the applicant must re-file for an extension prior to expiration date of May 13, 2016.

Dated: May 29, 2014

  
James Spanos, Acting Chair of 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 May 29, 2013. Any persons 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 May 29, 2014 to:

- Applicant/Property Owner: Denis Desmarais on behalf of Denis E. Desmarais, Trustee of the Denis E. Desmarais Revocable Trust of 2012, 11 Maple Street, PO Box 711, Lincoln, NH 03251-0711
- Board of Selectmen
- Town Clerk
- Tax Assessor
- Posted at Town Offices on May 29, 2014
- Posted at Post Office on May 29, 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.



