

Conway Planning Board

Thursday, December 16, 2021, 7:00 p.m.

MINUTES

Location: Meeting conducted remotely via Zoom

Present: Beth Girshman (chair), Jenn Mullins (vice-chair), Susan Fentin, George Forcier, Bill Moebius, Joe Strzegowski (associate member); Lara De Lucca (administrative assistant)

Other Attendees:

Lucy Anderson, 949 Roaring Brook Rd

Lisa Gustavsen, 40 Whately Glen Rd

Chris Larabee, Greenfield Recorder

Thomas Lesser, 195 South Part Rd

Kimberly MacPhee, FRCOG

John Moore, 40 Whately Glen Rd

Elizabeth Potter, 622 Roaring Brook Rd

Meeting called to order 7:03 p.m. by Chair Beth Girshman

Review and approve minutes of previous meeting, December 2, 2021

Motion by George to approve minutes of Planning Board meeting as submitted, seconded by Jenn.

Vote:

Forcier - Aye

Girshman - Aye

Moebius – Aye

Mullins - Aye

Motion passed.

Motion by Joe to approve Public Hearing minutes as submitted, seconded by George.

To approve public hearing minutes as submitted by Joe seconded by George (all voted except Susan – Joe voted on this one)

Vote:

Forcier - Aye

Girshman - Aye

Moebius – Aye

Mullins – Aye

Strzegowski - Aye

Motion passed.

Beth notes a recording of the above meeting is also available on the town website here: <https://townofconway.com/public-hearing-modification-of-special-permit-roaring-glen-farms-llc/>

Nexamp – outstanding issues, reports

Per Jamie Stanton communication with Joe (and Joe has also visited the site and taken photos) they have started the work. They are about 90% finished with the digging, and part of the drainage ditch is covered with a stabilizer that will hold the seed in place until the grass comes in. According to a worker at the site, they are hoping to be done by Wednesday (12/22).

Flood plain bylaw revision – grant process, next steps, Kimberly McPhee

Kimberly sent a document to members – a copy of the state’s model flood plain bylaw with extensive annotations and comments in track changes. It provides information and insight gleaned from the work FRCOG did with Whately as they adapted the model to their town’s needs. She mentioned that Whately hasn’t experienced any controversy about this, as people understand the need to be in compliance, and that there are no big changes - the maps haven’t changed – and it’s just a clarification of language.

Kimberly also noted that Whately used DLTA funding, which expires at the end of December, but that she anticipates will be the same for next calendar year. Project request forms will go out to Selectboards by early January. If PB wants to continue with FRCOG, it should request that Conway Selectboard indicates that on their DLTA form.

[Kimberly also says Commonwealth One Stop grant portal is open, and their planning grant can help fund work on master plan. Kimberly will send this info to Beth. She says consider putting in an expression of interest to get feedback before working on full grant application. FRCOG can help with this process.]

Kimberly pointed out that although there are no other sources of funding to help with the bylaw revision process, Peggy Sloan has a certain amount of her time allocated for zoning work, and can step in if the DLTA funding doesn’t come through.

One issue to be addressed – as previously discussed, the Flood Plain Administrator required by the state has to be someone the town designates. Whately designated their Town Administrator as the FPA. The workload of the FPA depends on how much building activity is happening in the town, and mostly entails maintaining documentation that verifies compliance (FEMA might ask for it). Kimberly thinks there will be advice and assistance coming from state for the person filling this position, and FRCOG has talked internally about

providing technical assistance to the FPAs through seminars and training sessions. Beth will continue a conversation with Veronique about what has to happen next.

For next steps, George and Beth will work on reviewing Kimberly's annotations, and Joe volunteers to step in as well if he is needed.

River corridor overlay zoning – MVP action grant, Resilient River community Zoom meeting by late February 2022 to schedule - Kimberly McPhee

The MVP Action Grant slated to fund river corridor work is running into glitches with the town's matches – don't have an executed contract with the town. Can get back on track if that gets resolved. Also been talk if we can't get this current grant back on track, we would apply for additional funding. Problem is town's purchase of 69 Main St, first offer was refused. Just resubmitted to owner's attorney. Affects the grants because the town has to have spent the money and hasn't been successful at spending it, so can't access grant money. Depending on what happens with latest offer, may ask for adjustments of deadlines for the grant. The funders are the state, fiscal year ends June 30. Kimberly will let Beth know when they are ready to move forward.

Could at least put River Corridor Public Forum in calendar to be ready if things get straightened out, pencil in for now. Big, complex topic. Maybe hour-long forum with 20-25 minute presentation and then rest of time for questions/discussion. Stand alone session rather than during regular PB meeting. Hold the dates of March 9 or 10. Beth will promote it. Kimberly will run the dates by Friends of South River and check with consultant team.

Roaring Glen Farms, LLC, special permit modification – deliberations

Susan recuses herself.

Beth noted: Public comments are over. Public hearing section of process is concluded. Planning Board can ask questions of people attending this meeting, and at the end of meeting can accept public comments.

PB has spent several months thinking about this issue. PB and Selectboard have worked a lot on this - doing research, considering all the angles. Given this a lot of due diligence and taken it very seriously, and will continue to take seriously.

PB received two public comments from Roaring Brook Rd residents which were shared to all members. Regarding public comments, the existing special permit as well as the existing

license for RGF is for up to the maximum of 100,000 square feet of canopy, tier 11 for license through the state.

Beth opened the floor to members of PB.

George's Comments: Tom said RGF wants/needs financial partner to make it work but don't want to have to go through Special Permit process as required by section of bylaw. Feels it's unnecessary and impracticable and will scare off investors. George checked with CCC, there is no entirely new process if SP lapsed. License suspended until permit process worked through, but not starting from square one at state level. RGF also argued that it isn't PB's business because CCC already scrutinizes that. Assumption seems to be that "lapse" means SP would cease to exist and a new one would have to be issued. Is that true? Seems that with a new coop member the new permit process wouldn't be long, since the only change would be the new partner. All the previous issues already hashed out wouldn't require more work. But would open RGF to more public criticism, so some delay/risk when opening it again. Drafters of bylaw apparently felt it was useful to retain some control over coop membership. Difficulty with 11.5r is it doesn't enunciate what criteria PB is supposed to apply to judge prospective new owners. The language of Conway's SP says "alleged character and behavior of the applicant" is not scope of PB.

Regarding RGF Special Permit, 4 possible options:

1. stick with bylaw and ask RGF to do new permit
2. grant waiver to allow them to add coop members over remaining life of permit, and PB gives up interest about who runs business, assume CCC has our back
3. require them to come back for waiver for each change in ownership
4. require RGF to notify us about change in ownership before they go to the CCC so we can chime in with the CCC

Remember the decisions made here are only for 3 ½ years, until end of current SP. Special Permit expires 5 years from March 5, 2020.

- Joe's Comments – took different approach. Listened to comments, George is correct that character of applicant should not be taken into account. And the state said they would do this for us. Came to conclusion what I was concerned about the use of the facility. State law says craft marijuana coop has to follow 7 tenets of a cooperative business. Tried revising some language of the Special Permit so that PB can make sure the farm understands it has to continue to operate as a coop. If they want to change, they would have to change their license. Have to follow tenets of coop. So we have right to control use, and it isn't clear how the state will do that. State can approve personnel, but can't see how the state law can control how it is operated.

Trying to put more teeth in law. Annually they would be required to certify that they are still a coop, and how many members they have. It would be available. People are going to want to know this, people in the town want to know that the PB is on top of it. Why do we care: We care because we issued the SP under assumption that they would operate as a coop and operate organically. Clarify that it must continue to operate as a coop. That's the intent.

- Beth's Comments - The expiration date won't change if SP modified today. What would they do to document this?
- Tom Lesser: Yes, this would be acceptable to RGF. Certify each year how many members and continue to operate as craft cooperative.
- Bill's Comments - concurs with picture George and Joe paint. Joe's statement spot on. Not about character of people – leave that to the state. But they don't seem to have a way to enforce running of coop.
- Jenn's Comments – appreciates Joe's language, clarification. Good addition. Think I'm fine with it, expressed only concern last time, understands concern of

neighborhood in terms of volume. SP does have parameters about volume of growing area. Just haven't addressed the number of owners.

Question – asking for just number of coop members or also names? Tom says can give names too, not just number.

Not final draft. Joe can make amendments to document before sending to town counsel, to say that RGF will report the names of all members.

Beth moves that Planning Board accept the direction of Joe's proposal for an amendment to the Special Permit for Roaring Glen Farms, LLC concerning a waiver of section 11.5r, and submit it to town counsel for review before a final vote. Jenn seconds.

Vote:

Forcier - Aye

Girshman - Aye

Moebius – Aye

Mullins – Aye

Strzegowski - Aye

Motion passed.

Joe will revise his document and send it to Beth and she will send to town counsel. PB will take a formal vote on the amended Special Permit at its next regular meeting on January 6.

Mail/email

Planning Board has been asked to write a letter of support for the Open Space and Recreation Plan. Beth will do this. Before next meeting, people should take a look at the plan on the town website. Will approve letter of support at next meeting.

Public Comments

Question from a member of the public regarding the Roaring Glen Farms special permit modification:

We don't want RGF to find creative legal ways to have a management company come and control their shares. We don't want some gigantic thing happening on the little country road. If you put this new wording in the special permit will that reign in the size? Would an increase in stakeholders increase the overall canopy allowed?

PB Answers:

This change would not regulate the number of shareholders/owners. Would allow anyone who is pre-approved by the CCC. But the overall canopy cannot increase. The state

maximum and license limits it to 100,000 square feet. The total of all people on the license has to stay at that 100,000 square feet.

Tom Lesser comments - PB is doing something wrong to take public comment letters when the hearing was already closed. Applicant couldn't see them or respond to them. Procedurally we're okay with the proposal. Should have let applicant respond to public comments that came in.

Motion to adjourn by George, seconded by Bill.

Vote:

Forcier - Aye

Girshman - Aye

Moebius - Aye

Mullins - Aye

Motion passed. Meeting adjourned at 8:42.

List of public comments regarding Roaring Glen Farms, LLC modification of special permit, received by Planning Board

Two emails received -

Lucy Anderson

Dean and Gayle Sullivan