

# PLANNING BOARD MINUTES

October 11, 2023

**APPROVED:** October 25, 2023

**AGENDA:** **CASES:** 23CUP02 – QUINN - #223-089 – 318 Summer-Street  
23SUP07 – LIBBY - #110-036 - Holiday-Hills  
**REVIEW:** Conservation Commission amendment recommendations to Article IX

**ATTENDING:** John Miller (Chair), Scott Sanschagrin (Select Board Representative), Elizabeth Seeler and David Shirley (Vice Chair) arrived @ 7:20pm.

**ABSENT:** Don Milbrand and Steve Carten (Alternate)

**OTHER:** **Staff:** Christina Goodwin (Town Administrator) **via ZOOM**, Joanne Bailey (Land Use Manager) and Donna Sullivan (Land Use Administrative Assistant)

**Applicants, Professionals, and Public:** James Libby, Michael Quinn, Adam Quinn **via ZOOM**, Alan Barnard, Matt Barnard, Sandra Lively, and Shaun Lagueux

With a quorum present, Chair Miller called the meeting to order at 7:00 pm.

## NEW BUSINESS

### CASES:

#### 23CUP02 – QUINN/DUNKIN - #223-089 - 318-Summer Street

Ms. Sullivan read the application for a Conditional Use Permit for the installation of an outdoor lighted menu board into the record. She noted the public notices and stated the names of 7 abutters notified. There were no phone calls or written comments received. Department Heads were notified, and the Water Department responded with no issues unless they will need to do any excavating to change the existing signpost then they should contact Water/Sewer Department so they can mark water/sewer lines.

The Board reviewed the application for completeness. Following review, Mr. Sanschagrin motioned to accept the application as complete. Ms. Seeler seconded. The motion carried 3-0-0.

Chair Miller asked the applicant to speak to his application. Mr. Michael Quinn spoke about the new menu sign. He stated it is internally lit but will be somewhat smaller than what is there now and that the new signs do have an auto shut off when the store is closed. The sign is part of the update and renovations with new the new branding as Dunkin.

There were no public questions or concerns in favor or against the application.

Following discussion, Mr. Sanschagrin motioned to approve the Conditional Use Permit #23CUP02. Ms. Seeler seconded. The motion carried 3-0-0.

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### 23SUP07 – LIBBY - #223-089 – Holiday Hills

Ms. Sullivan read the application for a Special Use Permit to build a 2-bedroom house and septic system on the property at Holiday Hills. She stated that with the size and conditions on the lot the applicant is proposing the project with the leach field within the setbacks. The applicant and his agent have indicated that due to the conditions, the leach field cannot be placed anywhere else on the lot. She stated that the Conservation Commission reviewed this application at their meeting and during discussion found information that indicated this was not a buildable lot. She read a statement from Conservation Commission indicating they would make no recommendation due to lack of information available about buildability of the lot and wanted the Planning Board to be alerted to these issues before deliberation on this application. She also shared information gathered by the Land Use Office regarding a court case involving the prior property owner, abated taxes due to the condition/value of the lot and the Tax Card note indicating this was an unbuildable lot.

The Board reviewed the application to determine if it was complete. Mr. Sanschagrin motioned to accept the application as complete. Ms. Seeler seconded. The motion was carried 3-0-1 with Mr. Shirley abstaining due to arriving late.

Mr. Miller asked the applicant to speak to the application. Mr. Libby spoke to address the wetland concerns and other issues brought up by the Conservation Commission and Land Use Office regarding buildability of the lot.

Mr. Libby and Mr. Barnard, his agent, talked about two Planning Board approvals prior to the Wetlands Zoning Ordinance. He noted the 1964 Plan approved and the Holidays Hills Drive Plans. He stated that there was a previously approved septic design in 2005 that had expired, and that this application included a new State approved septic design. He stated he has a Soil Scientist report completed recently. Mr. Miller asked when the Soil Scientist report and other information was submitted.

Mr. Miller stated that the new information will be considered but the review will be based on the 125-foot setback defined in the Ordinance. He also stated that the house would also be built close to the wetland and that was to be considered as well.

Mr. Libby went on to address the concerns stated by the Conservation Commission about the lot being buildable. He concluded that the court case stated it is not buildable because the previous owner did not want to pay taxes on the lot. Mr. Miller asked whether the applicant was stating that the lot is buildable by issuance of a State approved design and the Soil Scientist report. Mr. Libby stated he believed that is what can be determined, and he was looking for a Special Use Permit because they cannot meet the 125-foot setback. Mr. Barnard stated that the State regulations for the building setbacks and other setbacks from the septic system determined the septic design and it can only fit on the lot in the location that is presented in the plans.

More discussion followed about the condition of the lot, location of culverts, and wetlands delineation. Mr. Libby stated that in 2017 he was told by the Highway Superintendent that to put in a driveway he would need a culvert. It was Mr. Libby's contention that over 50 years' damage to the dirt road by heavy trucks caused water to back up onto this property. Mr. Miller asked who owns the culverts detailed on the plans. Mr. Libby pointed out one on his property and others that were the Town culverts.

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### 23SUP07 – LIBBY - #223-089 – Holiday Hills – continued

Mr. Shirley asked the applicant if a Wetlands Permit was necessary as well. Mr. Barnard stated that the Wetlands Bureau was consulted, and no permit was necessary. A Shoreland Permit was not needed either as the lot was well away from Newfound Lake and Newfound River.

Chair Miller stated he would like the Conservation Commission to review the new information from the Soil Scientist and the Highway Department to review the culvert issues discussed. Ms. Bailey asked if there were any written responses from NH Department of Environmental Services (DES) regarding no need for Wetlands Permit. Mr. Barnard stated they had no jurisdiction.

Mr. Shirley asked if Mr. Libby knew that this was being taxed as a non-buildable when he bought the property and Mr. Libby stated he was unaware. Mr. Shirley asked if the steep slopes across from the property could be contributing runoff to the wetlands in question. Chair Miller stated that all impacts and current conditions will be considered for all the setback encroachments indicated by the plans.

Chair Miller asked about process and challenges should the Board opt to send this back to Conservation Commission for review of new information.

Chair Miller asked if there was anyone present that wished to speak for or against the application. Ms. Sandra Lively stated she was concerned about the septic system and if it could leach into her drinking water supply. She stated that Jeff Chartier, Water Superintendent indicated there may be a need to change her feed for drinking water. She wants to know if she does have an issue that she would not be overlooked.

Chair Miller stated that when a decision is made on this application, if it was in favor of the application and exception, then conditions could be included to address her water service location.

Following discussion, Chair Miller closed the Public Hearing. Upon point of order from Ms. Goodwin regarding discussion and continuance option, Chair Miller re-opened the Public Hearing on case # 23SUP07.

There was discussion about continuing the hearing and the need for Conservation Commission review of the new information received at the Hearing. Mr. Shirley spoke of his concern regarding waiving setbacks and other issues for the wetlands in this case based on the conditions of the lot and other information shared. Chair Miller shared his concern for the 50-foot setback piece and the wetlands information to be reviewed by the Conservation Commission. Ms. Seeler added that the process was set up for input from other Committees and Departments. With new information submitted, she suggested this should be followed up with review by Conservation Commission and Department Heads as well.

Ms. Sullivan shared that the next Conservation Meeting is November 1st and Planning Board is November 8th. With this information, Ms. Seeler motioned to continue Case #22SUP07 to the November 8, 2023 so that the new reports and information can be shared and reviewed by the Conservation Commission at its next meeting and for review by Water/Sewer and Highway Department Heads. Mr. Sanschagrin seconded. The motion carried 4-0-0. The new information will be forwarded to the Conservation Commission and Department Heads.

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### **MINUTES: September 27, 2023**

Ms. Seeler made a motion to accept the minutes of September 27, 2023, as submitted. Mr. Shirley seconded. The motion was carried 3-0-1 with Chair Miller abstaining due to absence at this meeting.

### **COMMUNICATIONS: NONE**

### **REPORTS:**

*HISTORIC DISTRICT COMMISSION (HDC)* – No report

*CIP COMMITTEE* – No report

*LAND USE* – Ms. Bailey shared that Mr. Duba came in with some updated plans for parking for and Amended Site Plan.

She also stated that Liz Kelly of Resilience Planning is looking for a time for meeting again with the Planning Board about the work done on Steep Slopes and scope of work for Land Use Chapter of Master Plan. Chair Miller stated that the first meeting in December would be a good date.

Ms. Goodwin added that there were open positions for the Town on the Lakes Region Planning Commission and the Pemi River Local Advisory Board should anyone on the Board be interested in serving the Town in this capacity.

*SELECT BOARD* - Select Board Chair, Shaun Lagueux was present and updated the Board about the progress with the Public Safety Building and finalization of the Budget which was due by the next week. He added that it was business as usual otherwise and he is seeing a lot of activity with other Committees and Boards.

Chair Miller asked about the pending All Committees meeting. Mr. Lagueux shared that the survey was in process and Ms. Goodwin stated the Committee Survey closes on Friday.

There was some discussion about the Master Plan process, the Revaluation process and timetable for the Town.

### *CONSERVATION COMMISSION – ZONING AMENDMENT RECOMMENDATION REVIEW*

Chair Miller shared that the Conservation Commission was recommending some changes to the Wetlands Overlay District Zoning.

Mr. Shirley commented on the changes and stated that there seemed to be no big changes, but the changes were more in reference to being in line with the Army Corp. of Engineers definitions.

Mr. Lagueux commented that he was present when the Conservation Commission discussed these and that changes were to be more specific in language that was too generalized and to better match the Army Corp of Engineers definitions and requirements language.

After discussion, the Board agreed to move these changes forward for public notice and public hearings process for zoning amendments.

### **BOARD MEMBER COMMENTS: None**

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**STAFF COMMENTS:** None

**NEXT MEETING:** The next meeting will be October 25, 2023.

**ADJOURNMENT:** With no other business before the Board, Ms. Seeler motioned to adjourn. Mr. Shirley seconded. The motion carried 4-0-0. The meeting adjourned at 8:32 pm.

Respectfully submitted,

Janet Cote  
Land Use Associate