

**Town of Jackson Planning Board**  
**Minutes - December 10th, 2020 - Regular Meeting**  
**- UNOFFICIAL UNTIL APPROVED**

**Call To Order:** Bill Terry, Chair, called the meeting to order at 7:01 P.M. Attending were Members Bill Terry, Scott Badger, Kathleen Dougherty, Chris McAleer, David Campbell, Sarah Kimball, Alternate Huntley Allan, and Selectmen's Representative Dick Bennett. Public attendees included Jackson Selectman Barb Campbell, Andy Dean, Gordon Powers, Seth Burnell, Jessica DellaValla, Diane Pratte, Scott Barringer, Tom Hutchings, and Hank Benesh. Audio and video recorded via the Zoom platform will be made available on Jacksonflicks.com.

**Approval Of Minutes:** Minutes from the November 12th meeting were reviewed. Scott motioned to accept the minutes, and David seconded. The motion was carried unanimously.

**Public Comment:** Public attendees did not express any public comments for non-agenda discussion.

**Lot Line Adjustment:** The Board held an informal discussion about a lot line adjustment proposed by Gloria and Tom Hutchings. Tom Hutchings, property owner, was recognized to comment and provide details on the adjustment. Tom hoped to clarify whether or not the lot line adjustment would cause a non-conforming issue. The Board discussed facets of the procedure and concluded that the adjustment would not create any issues; rather, that the adjustment would make the property more conforming to zoning regulations.

**PUBLIC HEARING:** Bill called the public hearing to order at 7:15 P.M. Following this, Bill recused himself from the hearing, as he is a Board member of the Jackson Ski Touring Foundation. Scott was selected to lead the hearing, and Huntley was appointed as a voting member in Bill's stead.

**Lot Subdivision:** The Board considered an application for a lot subdivision on NH Route 16, Tax Map R12 Lot 143, owned by Jackson Ski Touring Foundation (JSTF). Seth Burnell, with HEB Engineering, was recognized to comment. Seth described the details of the subdivision and highlighted the proposed access to one of the subdivided lots, which would utilize the right of way over adjacent Lot 191, owned by the Powers Family Trust. The proposed driveway expansion was chosen over creating a direct access route due to a steep grade on the side of Route 16 and significant wetland crossing that would otherwise be required for access. Seth mentioned that the Foundation had been in contact with Gordon Powers, Trustee of the Powers Family Trust, to discuss the right of way and to agree on a course of action on the driveway expansion that would benefit both lots.

There was some discussion between Members on the checklist for the application, and Members agreed that the checklist was completed. Seth mentioned that a milar had not yet been submitted, but this was not a requirement for acceptance of the application. David motioned to conditionally accept the application contingent on the assured completion of the checklist, and Kathleen seconded. The motion was carried unanimously.

Scott prefaced discussion of the application by noting that Jackson did not have site plan review; the Board only reviewed the application in relation to zoning ordinances for frontage, septic, and setback requirements. He also stated that the application required that easements and/or deed restrictions be noted on the plat. Gordon Powers, Trustee of the Powers Family Trust, was recognized to comment. Gordon introduced himself and voiced dissatisfaction with the lack of communication from the JSTF in regards to the subdivision. He also noted that he had retained an attorney. Gordon estimated that 90% of the driveway was on his lot and raised concerns about the potential impact of driveway renovation and the liabilities of the expanded driveway. He then presented a letter from his attorney to the Planning Board; Scott asked if all Members had received and read the letter, and all Members confirmed such.

Scott's primary question was about how the use of the Powers easement would impact the requirements of the subdivision application. He stated that, because Jackson did not perform site plan review, the Board would not consider the development of the subdivision, only the subdivision itself. Gordon asked if the driveway expansion would be considered in a separate proposal, and Scott confirmed that such expansion would require a building permit. Scott asked the Board Members if they knew of any other consideration that would impact the subdivision application. Andy Dean, attorney representing the JSTF, was recognized to comment. Andy believed that the requirements for the subdivision had been met, but he acknowledged that the Foundation and the Powers Family Trust would still need to negotiate Gordon's concerns about the easement.

Scott queried the Board Members on how to proceed with the application. Chris stated concern about approving the application with unresolved issues remaining between the two parties. Scott responded that those issues did not weigh on the approval process. He stated that the easement on the Powers plot was referenced on the application plat as required. He explained that the parties involved had the option to retract their application until an agreement had been reached, but Andy did not feel that would be necessary. Andy reiterated that the subdivision requirements had been met and that issues about development could be addressed during further negotiations.

Scott Barringer, abutter, was recognized to comment. Scott voiced his concerns about the placement of the house on the subdivided lot, potential setbacks for the Ellis River, and the septic requirements. Seth responded that setbacks and septic requirements had been reviewed and did meet all requirements for the subdivision application. In further discussion about easement to

Ellis River, Seth explained that the subdivision abutted an existing easement protected under conservation.

Jessica DellaValla, abutter, was recognized to comment. Jessica questioned the exact requirements to approve the application and raised concerns about the application being “pushed through”. Scott stated that the submission of the application in itself brought the Board to action and clarified the requirements for the subdivision to be approved. He also reiterated that issues of development would not impact the Board’s decision on the application. Gordon asked if there was any reason the Board could not postpone their decision until the next meeting. Scott answered that the Board had not been presented with any issues that would delay their decision. Bill Terry was recognized as a member of the public to comment. He expressed apologies to Gordon for the lack of communication from the JSTF on the matter of the subdivision.

Scott Barringer stated that some information about the subdivision application was not available on the town website and questioned why the Board seemed to be pushing the application along in spite of dissatisfaction among all parties. Scott answered that the concerns raised by the public did not give the Board the authority to delay the application. Links provided on the meeting agenda did not function as intended, but all relevant information was available on the town website. Scott Barringer asked if the Board was required to post information relevant to public hearings within a given time limit. Scott Badger asked the Board Members for comment, and David responded that information was made available on the town website two weeks prior to the meeting. He offered his apologies for the broken links on the agenda but stated that all information could still be found by accessing the town website.

Kathleen said that there was no reason that the application needed to be pushed through during the meeting and insisted that the abutters’ concerns needed to be addressed and standing issues clarified and resolved. Huntley seconded Kathleen’s proposal to wait to make a decision on the application until some concerns had been allayed. Chris had initially thought the application ought to be tabled but, after some discussion and comments from Scott Badger, considered moving to approve the application. He retracted that proposal and returned to his previous stance that the application be tabled. Andy reiterated again that the application met all subdivision requirements, and although he recognized the concerns of all parties, he believed that those concerns were outside the Planning Board’s decision. Andy offered a suggestion to conditionally approve the application contingent upon all parties agreeing to the conditions of the subdivision. Scott responded that he would prefer to continue the application instead of conditionally approving it. Kathleen motioned to continue the application until the next meeting, and Sarah seconded. The motion was carried 5-1-1; David, Chris, Kathleen, Sarah, and Huntley approved, Scott did not approve, and Dick abstained from voting. Following this, the public hearing was closed at 8:17 P.M.

**Short-Term Rental (STR) Discussion:** Bill introduced a proposition from the Short-Term Rental (STR) Committee about raising the cost of filing a Conditional Use Permit (CUP) application. He stated that the Committee had met several times and developed suggestions to improve STR regulations. Although many suggestions either were advised against by legal counsel or would have required changes to the application process, which would be handled by the Board of Selectmen, the suggested increase in the application fee required a change to the regulation ordinance and was thus brought before the Planning Board. He reminded the Board that any decision would need to be made swiftly in order to meet the upcoming deadline for adding warrant articles to the next town ballot.

Jackson Selectman Barb Campbell, representing the STR Committee, was recognized to comment. Selectman Campbell related discussions within the Committee about the magnitude of the increase but reminded that the fee was only being raised to cover the clerical costs of processing the CUP applications and was not intended to become a profit center for the town. She proposed adjusting the fee between \$125 and \$150 per application and suggested that a fee of \$150 seemed reasonable. Bill asked if it were possible to add language to the ordinance that would allow the Board of Selectmen to dynamically determine the estimated cost to be covered. Scott suggested that the question be referred to legal counsel. Selectman Campbell argued that she did not anticipate the cost of processing an application to fluctuate from one year to another and reminded that the application fee would continue to be a one-time cost. Therefore, the cost would remain about the same in the future and that there would be little need to make the fee amount more dynamic.

Scott motioned to propose an increase in the STR application fee from \$50 to \$150 and bring the proposal to public hearing, and David seconded. The motion was carried unanimously.

**STR Applications:** The Board reviewed three (3) applications for STR registrations for multiple parties and at various addresses, as listed in the meeting's agenda. Sarah reported that the property at 56 Dundee Road was advertising in excess of maximum advertised occupancy.

David motioned to accept the applications for 34 Whitney Hill Loop and 801 Carter Notch Road with neutral comment, and Kathleen seconded. The motion was carried unanimously. Following this, Dick motioned to accept the application for 56 Dundee Road with comments about the advertisement, and David seconded. The motion was carried unanimously.

**Other Business:** The Board received a survey from the Saco Headwaters Alliance about participating in a presentation about protection of local water resources. Bill asked to confirm how the Board ought to respond, suggesting that the presentation would be in the Board's interest at a later date. Dick seconded that the Board ought to suggest welcoming a presentation but not immediately, instead proposing a later date. He also stated that he had brought up the

survey with the Jackson Conservation Commission and would confer with Jeff Sires, Chairman of the Commission, to spearhead a formal response from the Commission on behalf of the various Boards of the town of Jackson. All Members voiced agreement with this proposal.

Dick motioned to adjourn the meeting, and Chris seconded. The motion was carried unanimously, and the meeting was adjourned at 9:14 P.M.

Respectfully submitted by Will Reisig