

TOWN OF TAMWORTH

PLANNING BOARD

SEPTEMBER 26, 2007

MINUTES

**\*\*DRAFT\*\***

**Meeting opened at 7:02 pm**

**Members Present:** Dom Bergen, Chairman; Scott Aspinall, Vice Chair; Herb Cooper, Secretary; Tom Cleveland, Treasurer; David Cluff, TCC Rep.; David Goodson, School Board Rep. Steve Gray, Howard Nordeen, Tom Peters, Tom Abugalis, Selectman's Rep.

**Review of Minutes** – motion to accept Minutes of August 22, 2007 by H. Cooper. D. Goodson seconded. Vote was unanimous in favor.

**Report of Officers and Committees**

**Treasurer Report** – solvent

**Secretary Report** – workshop given by Grn. Mtn. Conserv. Group on GPS will be on Oct. 13, Saturday at Camp Calumet from 9 – 1 pm.

**Master Plan** – the draft Vision Statement has been posted at 3 post offices, 2 libraries, the Town Office and on Yahoo. All are urged to submit comments by Sept. 27, 2007.

**Capital Improvement Plan** – next meeting is on Oct. 3, 2007 at the Town Office. The spread sheet will be finalized and will discuss a schedule for the highway dept. to meet with the Selectmen. Also discussion of a public hearing date.

**Selectmen's Rep** – Linda Jones has been hired as the new financial director. Thurs., Oct. 4 the winter schedule will resume. They are implementing the personnel policy and are pleased at how it is going.

**TCC Rep** - Discussed the CMI revision. Letter from TCC meeting, Sept. 24, 2007 attached.

**School Board Rep.** – next meeting will be on Oct. 6, to be discussed, reducing the school budget.

**Ossipee Valley Snowmobile Club** - David Bowles and Chip Kimball – There are three areas of concern on the trails used by the OVSC. Area 1 and area 2 are going to be addressed now and waivers of the 25' set back requirement from wetlands are being requested. Area 3 will need an SUP and will not be addressed. **Area 1** – is on private land belonging to San Danato, a 20' bridge to go over a 4' waterway has been proposed. This bridge will encroach on the 25' buffer. Letter from the TCC recommends that we grant a waiver for this project. There is no summer traffic on this area. The winter freeze will not Letter attached.

Motion to accept the request for a waiver for area1 made by D. Cluff. Seconded by D. Goodson. H. Cooper abstained. Vote was 5 in favor of motion.

**Area 2** – is on private property belonging to Myrtle Delude, the area in question is a 50' section of a logging road where 10' – 12' is loam and get mushy when wet. Proposed are planking, 3 rows length wise, the 25' buffer will be disturbed to do this work. There is winter and summer on this trail and this will help the protect the environment.

D. Cluff motioned to accept the request for a waiver as requested. D. Goodson seconded. H. Cooper abstained. Vote was 5 in favor of the motion. Letter will be sent to David Bowles.

**Debra Davis – Paul King, surveyor – Subdivision** – D. Cluff recused. H. Nordeen sitting in for D. Cluff. Map 414 Lot 22, north side of Durrell. The application for the subdivision and 2 waivers was reviewed and found complete. H. Cooper motioned to accept the application as complete. D. Goodson seconded. Vote was unanimous in favor of motion. Minutes of May 24, 2006, prelim review was provided. There is mobile home on 13 acres. The subdivision will give .85 acre with road frontage of 190' to the mobile on Osgood Rd, a class 6 road. The remaining 12 acres will be the second lot. They will need a waiver for a non-conforming lot and a waiver for the road frontage to be on a Class 6 Road. This leaves the larger lot with road frontage of 205'.

H. Cooper motioned to accept the waivers as presented. H. Nordeen seconded. Vote was unanimous in favor.

H. cooper motioned to accept the subdivision as presented. T. Cleveland seconded. Vote was unanimous in favor.

Recess for 15 minutes.

PUBLIC HEARING FOR CMI – SPECIAL USE PERMIT, ROAD WAYS AND ACCESS WAYS AT 8:05 PM. Continued next page.

CMI  
PUBLIC HEARING  
SEPTEMBER 26, 2007  
\*\*DRAFT\*\*

**Meeting opened at 8:05 pm**

**Members Present:** Dom Bergen, Herb Cooper, Tom Cleveland, Scott Aspinall, David Cluff, David Goodson, Tom Abugalis. Alternates – Tom Peters, Howard Nordeen, Steve Gray.

T. Abugalis abstains from this single vote. H. cooper recuses from voting. T. Cleveland stepping down from this vote. S. Aspinall stepping down from this vote. D. Bergen abstaining from this vote. T. Peters stepping down from this vote.

D. Goodson, D. Cluff, H. Nordeen, and S. Gray remain.

**Attorney Sager** will conduct this hearing.

**Attorney Young** - making a procedural issue – she objects that D. Goodson refuses to be the Chairman.

**Attorney Sager** – there are only 4 out of 7 members that can vote on this application and this seemed to be the fairest way to proceed.

**Attorney Quarels** – Some of the PB rules and procedures are in conflict with the state law. There is no NH law that requires that a chairman be appointed for a meeting. There is no NH law that prohibits the Chairman from having a vote or only voting when there is a tie. The bare minimum for a board is 4 voting members. All members must deliberate and vote. On the CMI access way SUP application, we request the PB review each impact area individually and that the PB deliberate and vote on each of the requested impact areas.

**Jim Hoenscheid and Bob Erickson for CMI** – Recapping the process this SUP for Access Ways and Road Ways has been through from December 8, 2006. There are 3 lots of record. The Tamworth Transfer Station and CMI share a “lower value” wetland area (“lower value” stated by the TCC). On the three lots, existing logging roads and culverts impact the wetland areas. CMI is asking to replace one existing culvert (Impact Area 12) and widen the logging road (Impact Area 11). Access ways and road ways are allowed in the Tamworth Wetland Ordinance (TWO) with the TCC and the PB agreeing on this point. The TCC and the PB also agree that a land owner is entitled to access to their land.

The December 8, 2006 CMI Special Use Permit (SUP) application for access ways and road ways had 6 impact areas consisting of 6,118 sq. ft. of impacts over 13 plus acres of wetlands. After many meetings between the Tamworth Conservation Commission (TCC) and CMI; the TCC recommended to the PB two access ways with 1,112 sq. ft. of impacts. (See January 24, 2007 letter from TCC to PB.) CMI eliminated 4 impact areas from original application. CMI further reduced the impact areas to 674 sq. ft. with only 2 access ways – 40% more than what was recommended by the TCC. CMI

realigned impact area # 13 so there is no direct impact to that area, per recommendation of TCC. CMI requested approval to encroach on 25' buffer area of that area rather than having a direct impact. The construction of the requested roads will bring improvements to the current impacts created by the existing logging roads. There are no other encroachments to the 25' buffer area of a wetland.

**B. Berlind, Chairman TCC** – Letter Sept.24, 2007 - The TCC commends CMI for the vast reduction of impacts that they have made for this SUP for road ways and access ways but feels the “stated use” is incomplete. The TCC wants CMI to present the complete use of the uplands, for any project considered for all 3 lots – and does not want to allow CMI to apply for any other permits for future use. (Letter attached).

CMI addresses the concerns in the TCC's September 24, 2007 letter about showing a use in the upland and that each and every required SUP or buffer waiver be on a single application. No where in the TWO does it require that a land use be specified. The TWO does not have jurisdiction over the upland portion of a property. Also, no where in the TWO does it state that only 1 application can be made for the entire parcel.

CMI wants their project to be treated as any other project in town has been treated, being allowed to apply for permits as their development progresses. Re: 1. Bryant Mill Subdivision – a phased construction project, permits applied for as project progressed. And wetland applications were granted.

2. Remick Farm Museum – 2005 applied for SUP for wetland impacts of 3580 sq. ft. and were granted. And 2007 applied of SUP for wetland impacts of 3012 sq. ft. to extend the road that was built in 2005 under the above SUP.

If you apply the same standard to the CMI application as the other wetland impacts in Tamworth, the Board must approved our request.

Per the request of the TCC and PB, CMI provided additional information and clarification on their SUP application in their January 12, 2007 and September 7, 2007 letters to the PB. The use upon the wetlands did not change. The use upon the wetlands is for access ways. CMI requests for approval for 674 ft of wetland impacts for access roads to commercially develop the property.

The TCC's Jan. 24, 2007 letter to the PB gave conditional approval if CMI provided a use of the uplands and show that use(s) on the plan. The TCC's September 24, 2007 letter also addressed the upland use. Per the request of the TCC and the PB, CMI showed a use of the uplands to prove that the wetland impacts have been minimized. CMI will impact less than two-tenths of one percent (.22%) of the wetland areas located adjacent to the access ways. (CMI table B-1 and B-2 were reviewed.) (CMI complete presentation attached and letters).

**Attorney Sager** opened the meeting to public comment – comments are attached if they were given to recording secretary.

**Attorney Young** presented a letter from Focus, attached. Read from the TCC minutes of Jan. 23, 2007 and the TCC letter dated Sept. 19, 2007; requesting information on "stated use". Attorney Young agreed that tonight CMI had proposed a use for the access ways and upland areas. It was her "personal judgment" that it was unlawful.

**Attorney Quarels** – there is no consistency with what has been said. CMI has worked with the TCC and the PB to put the issue to bed. Tamworth does not have a general zoning ordinance (zoning was rejected by town vote). Tamworth has no site plan review approval because they have no zoning. CMI has taken the TCC

recommendation and exceeded them by 40%. CMI has shown a use on the uplands. The PB must review the application as it stands currently.

**D. Goodson** suggested postponing the vote until the TCC could have another look at the "stated use" for the project.

**T. Quarels** was hoping not to go around again but would if the PB felt it necessary.

**B. Berlind, Chairman of TCC** stated that the TCC was fatigued with this application.

**D. Cluff** motioned to close public hearing. S. Gray seconded. Vote was 3 – 1 in favor of closing public hearing.

**D. Cluff** motioned to meet with counsel. D. Godson seconded. Vote was unanimous in favor.

No further discussion.

**H. Nordeen** motioned to deny the CMI Application. S. Gray seconded. Vote was 3 – 1 in favor of denying application.

Motion to adjourn meeting at 10:20 pm by D. Cluff. D. Goodson seconded. Vote was unanimous in favor.

