

**TOWN OF HOLDERNESS
PLANNING BOARD
Tuesday,
July 16, 2019 6:30PM**

MINUTES

CALL TO ORDER: R. Snelling called the meeting to order at 6:30.

ROLL CALL OF MEMBERS:

Members Present: Robert Snelling, Chairman; Donna Bunnell, Secretary; Angi Francesco, Member; Ronald Huntoon, Member; Louis Pare, Member; Peter Francesco, Ex-Officio

Member Not Present Carl Lehner, Vice Chairman

Staff Present: Linda Levy, Land Use Board Assistant; Michael Capone, Town Administrator

Others Present: James Crawford, Gus Fish, Georgene Fabian, Lynn Durham, Bill Waldrip, Cheryl Scott, Linda Crawford, Carol McHugh, Barbara Currier, Ten Vansant, Kristen Fuller, Walter Horton, Dean Smith, Gus Fish (son), Roger Larochelle, Stephanie Luongo Crawford, Mimzie Uhler, Roger Uhler

APPROVAL OF MINUTES: The draft of the minutes of the May 21, 2019 were reviewed.

Motion: "To accept the minutes."

Motion: D. Bunnell

Second: R. Huntoon

Discussion: None

Motion Passes: 6-yes 0-no 0-abstention 1-absent

R. Snelling: Asked that the audience identify themselves when they get up to speak. He apologized for the cancellation of the June meeting.

CONTINUED APPLICATIONS:

Case 19-4-10: Property owner Squam Lakes Conservation Society of US Rt. 3, tax maps 241-043-000 and 241-044-000, request a lot merger so that lot 241-043-000 (2.55 acres) merges with lot 241-044-000 (1.8 acres) to create one lot equaling 4.35 acres.

R. Snelling introduced the case.

R. Larochelle: It is a simple case, describing the merger as 2 lots merged into 1 lot.

Motion: "To accept the application."

Motion: P. Francesco

Second: R. Huntoon

Discussion: None

Motion Passes: 6-yes 0-no 0-abstention 1-absent

R. Snelling opened the hearing at 6:33, asking for comments from the board and the audience. None were made.

Motion: "To approve the lot merger."

Motion: R. Huntoon
Second: P. Francesco
Discussion: None
Motion Passes: 6-yes 0-no 0-absention 1-absent

The hearing was closed at 6:34.

NEW APPLICATIONS:

(The order of the following applications was changed.)

Case 19-6-12: Application submitted by Ames Associates as Agent for Patricia R. Fish Trust – 1994. who owns property at 228 Coxboro Rd., tax map 246-031-000, requests a boundary line adjustment so that lot 246-031-000 is reduced from 5.89 acres to 4.95 acres, and lot 250-033-000 is increased from 1.33 acres to 2.27 acres located in the General Residential District, in accordance with the Town of Holderness Subdivision Regulations.

R. Snelling introduced the case.

W. Horton explained the boundary line adjustment (see above) to reconfigure the lot line. The larger lot still meets the soils and slopes requirements. The smaller lot does not meet the Holderness Zoning Regulations for soils and slopes, but by increasing the size of the lot it is more conforming, while still technically non-conforming. The lot can no longer be subdivided.

Motion: “To accept the application.”

Motion: A. Francesco
Second: R. Snelling
Discussion: None
Motion Passes: 6-yes 0-no 0-abstention 1-absent

R. Snelling opened the hearing at 6:40.

R. Huntoon asked a question about the existing well and septic setbacks to make sure he understood their proposed placements. The short discussion between R. Huntoon and W. Horton satisfied his questioning.

P. Francesco: What measurement did you use for the protective well radius?

W. Horton: The State’s 75’ radius.

P. Francesco: The Holderness ordinance is 125’. It does look like you’ve met that, but on a subsequent plan I would suggest that you show that as 125’.

W. Horton: The current lot as it sits does not have any other place to meet the Holderness well setback.

P. Francesco: The well setback meets the requirement of 125’ from the proposed leach field?

W. Horton: Correct.

R. Snelling: Is this the circle that I’m looking at, the 125’?

W. Horton: It’s the 75’.

D. Bunnell: Then it doesn’t meet it.

W. Horton: I can move the well radius to a place where it meets the distance to the area. Will that satisfy everybody? There aren’t many places on the lot where a leach field could go, and that setback prevents the septic design to meet setbacks. This is the suitable area for a leach field.

P. Francesco: Does that mean you haven't done a test pit?

W. Horton: Correct

P. Francesco: How do you know that's acceptable?

W. Horton: We did high intensity soil study of the entire area.

D. Bunnell: I have an issue with the fact that it hasn't been tested to know for sure that it doesn't meet the 125' requirement.

A. Francesco: I'm less concerned about that because we're talking about just moving the boundary line. This is not a discussion of a site plan review for where they are going to place a septic field or a well. Obviously, they know that they need to get things separated. What I am more concerned about is that this is currently a non-conforming lot as it stands right now and you are making it more conforming, but not completely conforming. If we were to allow this boundary line adjustment, what about this lot will still be non-conforming?

W. Horton: Just the lot size. As far as soil and slopes go for the Town of Holderness Zoning Ordinance...

A. Francesco: Because it is so steep?

W. Horton: No, all of that lot counts. It is just that there is not enough square footage to meet zoning regulations.

R. Snelling: The buildable area you're talking about?

W. Horton: No, the whole lot is buildable.

R. Snelling: What standard are you saying that you're not going to meet?

W. Horton: The soils and slopes ordinance for the Town of Holderness that calculates lot sizing.

P. Francesco: What do you think the minimum lot size is?

W. Horton: It depends on the soil. He explained the calculations that was in the packet saying that very sandy soil allows for a smaller lot size because it drains well, and not very sandy soils requires larger lot because it does not drain well.

A. Francesco: How large is the current lot (without the boundary line adjustment) when the poorly drained soil is taken out?

W. Horton: It is ok, but the boundary line adjustment does not affect the larger lot for conformity.

R. Snelling asked if there were other questions for the board or from the audience. It appears to me that you need to ask for a variance to create a buildable lot that is non-conforming.

R. Horton: It is an existing lot.

A. Francesco: The lot that you are asking us to increase the size of, by increasing the size of that, it becomes a conforming buildable lot.

R. Snelling: No

R. Horton: It is already a buildable lot. It is on the Holderness town tax records.

R. Snelling: We are talking about the existing lot.

W. Horton: Yes, that is the original lot.

A. Francesco: You are asking us to increase the size of that, the non-conformity that will be on that lot.

W. Horton: That lot already doesn't meet the town's conformity.

R. Snelling: The non-conformity is on the new part.

A. Francesco: It doesn't meet the wetlands to be less non-conformity?

W. Horton: Correct. The lot that is 246-031, if you approve this boundary line adjustment, that lot is conforming to the town regulations. It exceeds the remainder of the lot size calculations.

P. Francesco: I am very confused. If we were not looking at a plan that had a possible house location, possible driveway location, acceptable well and septic location and the Fish Trust came in and asked for a boundary line adjustment to this affect, would we and should we treat it differently?

W. Horton: You would not know that the land you are taking land from would be a conforming lot.

D. Bunnell: We would know that according to the measurements on the drawing and the ordinance.

W. Horton: How would you know what the soils are?

D. Bunnell: We wouldn't be accepting it.

W. Horton: That's my point.

D. Bunnell: But you are asking us to pass a non-conforming lot without a variance. I don't know how we can do that.

A. Francesco: It is not creating a non-conforming lot, which this board cannot do. We are increasing the size of a lot that is currently non-conforming that doesn't increase its non-conformity. Based on my interpretation, I think we are ok to approve this.

D. Bunnell: Even though it is still non-conforming?

A. Francesco: Even though it is still non-conforming. It does not increase the non-conformity. We are not breaking any regulations.

R. Snelling: Using the soil type data, what size does the 2.27 acres come out to be?

W. Horton: The lot is 15% shy of being a conforming lot, on the basis of soils and slope.

P. Francesco: This has enough fully drained soil?

W. Horton: The lot is completely dry, it has no wetlands.

Motion: "To approve the boundary line adjustment."

Motion: A. Francesco

Second: P. Francesco

Discussion: see below

R. Huntoon: I still have an issue with the well setback from another piece of property.

W. Horton: Correct, but the septic regulations...

R. Huntoon: I'm not worried about the septic regulations. I'm worried about the fact that you're going to encumber that 2nd piece of property that you're creating with a setback from that well.

W. Horton: Encumber, in what sense? The placement of the leach field?

R. Huntoon: Where you could do anything inside that setback.

W. Horton: There is existing rules that protect that well because it is pre-existing.

R. Huntoon: That's correct, but there are rules that are pre-existing. I don't see them in the deed of the new lot.

A. Francesco: The rule is that the well has to be 35' from the setback. That's the only rule that we have. It doesn't say it has to be a 125' radius.

R. Huntoon: No, the radius of the well has to be a minimum of 75'. As soon as you cross the property line, it changes because you don't have control of what's on the other side of the property.

P. Francesco provided an example that illustrates a similar situation to help R. Huntoon understand.

R. Huntoon: That is where my problem arises. What is the neighbor going to do with the lot and you can't tell me, that because it's an existing well, that the neighbor has to give up his rights to what he does with his well. That setback has to be met.

R. Snelling: If someone wanted to do that, they would have to submit a building permit which would have to comply with the setbacks.

R. Huntoon: Right, for the new or slightly enlarged lot. But I still have a problem with, even though the 35' setback is good enough for us, it is not good enough for the State. The State wants 75' around the well.

W. Horton: Not to a property line.

R. Huntoon: I'm not arguing about the property line, that's fine. If you go from the well 75' out, you can't dig a leach field, you can't do anything that would jeopardize the well. And, that property is going to be somebody else's.

W. Horton: That's why I'm showing that there is suitable area...

D. Bunnell: I think what he is trying to say is that it doesn't matter what you're showing us here, you are restricting this person's property.

R. Huntoon: If you were doing this to me, I'd be complaining really loudly.

A. Francesco: I would assume that these 2 people have made an agreement and that they know what they're going into and if a new person buys the property, they will be well aware of those things. If you still disagree, you can vote no, when we do this vote.

R. Huntoon: I agree with you 100%, but I would like to see that awareness in a deed.

A. Francesco: We can't ask that, that's not the way our zoning regulations work.

R. Huntoon: I can ask it. Without asking it, it is going to give them permission to infringe on the property next door. I don't think they have the right to do that. I don't have the right to encumber that property because of that well location.

R. Snelling: Which property are you saying is encumbered?

R. Huntoon: The bigger one.

R. Snelling: Why is it encumbered?

R. Huntoon: It is the little one that gets encumbered by it.

R. Snelling: It is not encumbered if they meet our zoning codes.

R. Huntoon: It is not meeting the State's; the State wants 75' from the well head. That 75' crosses the boundary line.

R. Snelling: So, what?

R. Huntoon: How can you tell people that as long as we meet 35', we don't care what the State says?

A. Francesco: You may not be aware of this. A well radius can cross boundary lines.

R. Huntoon: That doesn't bother me. What bothers me, where it crosses the boundary line, you can't do anything in that area without talking to your neighbors and agreeing to it. You can't put a septic in that area.

R. Snelling: That's right, you can't put it there, but you can put it elsewhere.

R. Huntoon: Because you can put it over there, doesn't give me the right to take that piece of property. You are encumbering it. I'd like to see some agreement in the deed that says somebody is well aware of the fact the from the well head of the old property, they can't do anything to their property within 75' of it.

A. Francesco: I call the question as moved and seconded.

R. Snelling: We have to function within the charge of the Planning Board. It is not our job to educate them on this property; that you're not going to be able to put the septic system anywhere you want. You have to get a building permit and the building permit is going to make sure you get certification from the State that the septic system meets their standards and its buyer beware. The lot is buildable. That's the bottom line.

The question was called.

Motion Passes: 5-yes 0-no 1-abstention 1-absent

The hearing was closed at 7:05.

Case 19-5-11: Application submitted by Cheryl Scott as Agent for William and Sharrie Waldrip of 426 US Rt. 3, tax map 241-072-000, request a change of use for the Yankee Trail Motel from short-term rentals to long-term rentals.

R. Snelling: The next application is a change of use for the Yankee Trails Motel.

C. Scott: We are looking to make the Yankee Trails Motel into an Apartel with long-term rentals. It is no different than what we do already. We will have 10 studio units. We need to get approval before the sale can go through.

R. Snelling: There are no physical changes to the property being proposed.

Motion: "To accept the application."

Motion: R. Snelling

Second: R. Huntoon

Discussion: None

Motion Passes: 6-yes 0-no 0-abstention 1-absent

R. Snelling opened the hearing at 7:08, asking for a definition of long-term.

C. Scott: Month-to-month, we'd like to keep people in there as long as possible. Payment could be each week or month-to-month. We'd like to see people in there for 6 months to a year at least.

R. Snelling: Would you allow people to come in for shorter duration?

C. Scott: Probably not 3 days or 5 days (as R. Snelling asked). I'm going to say at least a month. We are not looking for transients. There are a lot of people who can't find decent rentals or don't need a big rental unit, that can't afford to come up with everything it takes to get into a unit.

A. Francesco: There are already kitchens in all of those units?

C. Scott: There are no kitchens and we're not going to have cooking in there. They're going to have a mini-fridge, a microwave, everything furnished.

R. Snelling: Your petition says no food.

C. Scott: No cooking.

R. Snelling: What does a microwave do? There is also no counter space. Where are they going to wash dishes?

C. Scott: There is a kitchenette in there.

R. Snelling: You're putting in a kitchenette?

C. Scott: I can't make it a rental because there is no place to wash the dishes?

R. Snelling: Here is the issue. An apartment, by definition, requires a bathroom, a sleeping area, and a kitchen – these are not apartments by definition unless you put in a kitchen, meaning a sink tied into the septic system, some counter space. Is that what you're planning to do? That would meet the criteria of an apartment.

C. Scott: We are planning on a bathroom, a bed, a sitting area with a small kitchen area with a sink, mini-fridge and a microwave. This is just like any other motel you would go into.

R. Snelling: Are all the rooms the same?

C. Scott: They are all identical and are well maintained, totally over code with fire.

R. Snelling: What services are you going to offer your residents?

C. Scott: We are going to offer them the pool, Wi-Fi cable, everything furnished.

R. Snelling: How about sheets, blankets, pillow cases, towels, face cloths and soap?

C. Scott: No

R. Snelling: So, you're not offering any personal services that are typical with a motel? They are moving in as their apartment, they are bringing in everything they need with them. You are providing them with heat, water and electricity.

C. Scott: TV, cable, internet, swimming pool.

R. Snelling: How about trash disposal?

C. Scott: We'll have a dumpster there.

R. Snelling: Is it accessible? They are living kind of independently.

C. Scott: I'm sure there will be.

R. Snelling: Don't tell me that. Have you put in your plans that there is going to be a fenced, accessible dumpster area to service the 10 residents?

C. Scott: We will put that in our plans. I'll hire a company to pick it up every Saturday.

D. Bunnell: Where is it going to sit in the meantime?

R. Snelling: It has to be fenced and accessible.

A. Francesco: The town has regulations for apartment houses. That's what you are talking about transforming the property into. So, you have to look at the regulations. The trash facility has to be accessible; it can't be locked up so that people can't get to it.

C. Scott: It is the same as restaurants. The new owner has several restaurants. I'm sure we can put the pad down, fence in a dumpster area that is located on the far left or right side. We have to have someone be able to come in and get it with their trucks.

P. Francesco: It won't have cooking facilities so I can't eat there.

C. Scott: You can eat there. We discussed also taking the restaurant and making that a common area for the units. We'll leave all the hood system in place and put in a regular stove, dishwasher and tables where they can go in there and cook and eat. This will be under the lease agreement.

P. Francesco: How many total acres are there?

C. Scott: 10.5

P. Francesco: You can say that you have the density for 10 dwelling units, but you can't get around the fact that you don't have a cooking facility.

C. Scott: We don't want to allow cooking in the rooms. A microwave is one thing, a lot of motels and hotels have microwaves and mini-fridges. There will be no cooking or animals in the rooms.

P. Francesco: You may be able to come to this board or any other board in the Town of Holderness and look at your density and say this is what I intend to use for density. I am guilty of not knowing the density requirements for 10 units.

R. Snelling: It is a lot less than what they have.

C. Scott: If they have a common cooking area...

R. Snelling: Who is going to be responsible for the cleanliness of the cooking area?

C. Scott: I oversee a property management company so we will have people there who keep the place clean, that make sure that nothing is going on.

D. Bunnell: 24/7?

C. Scott: Not 24/7. There is a maintenance guy on the property who lives there. If anything is going on, we'll hear about it.

A. Francesco: We can't give our approval based on...

C. Scott: There is a maintenance guy who lives on the property.

L. Pare: When you refer to it as a studio type thing, and you suggest it is like a hotel, they get visited everyday by a housekeeper. Is someone going to go in and visit every day to make sure they didn't bring in an electric grill?

C. Scott: Everyday? No.

L. Pare: It is out of the question then. A hotel like you are suggesting is visited by a housekeeper.

C. Scott: So, you're saying, if I put a microwave in that room, it makes it that way?

L. Pare: I'm not saying that at all. Furthermore, it brings in transients that bring in problems.

C. Scott: Motels are transient businesses.

L. Pare: In a permanency situation, you are inviting welfare. I couldn't agree with that.

A. Francesco: If you look at your lot density and look at converting those units from motel units into dwelling units, we would then have a discussion about cooking facilities and what you choose to put in there. These are 2 different things.

C. Scott: I have a question. I rent the motel for a week to somebody. Do you go in the room every day?

L. Pare: The maids do. So, you're going to have housekeeping?

C. Scott: We'll have housekeeping if they want it.

L. Pare: What if they don't want it? What if they want the privacy of the room to themselves because they don't want you to enter that room?

B. Waldrip: We are not going to let them sit in there for a month or a week without going in there. This is a motel except that we going to encourage people to stay longer. In the summer time there are people who come into us for a week, two weeks, and could intend to stay the summer here. It is a good place for them to have a place for that time. They have maid service, a restaurant down the road. Everybody has a microwave and little refrigerator. They'll have a larger refrigerator in the kitchen. You say that they're not cooking, that they're bringing in a hot plate. I don't think so.

L. Pare: You can't give me assurance that that won't happen.

B. Waldrip: I can't give you assurance that they won't shoot somebody or that won't steal the TV's.

R. Snelling: Let me clarify something. Our definition of a dwelling unit is "independent cooking". You say there is no cooking.

C. Scott: Well, not in the rooms.

R. Snelling: So, it is not an apartment.

C. Scott: So, I could just take the motel and rent it day-to-day, prorated, and put them in there.

Correct? Then it would make it the same thing. That's how we could run it, prorate it month-to-month and it would be the same exact thing. All that we're asking is for long-term rentals that other motels do and I guarantee that those people don't go in there every single day and do housekeeping.

A. Francesco: This could be someone's full-time, year-round residence. But those people can't use that motel room on the basis to register their car.

C. Scott: That's a good point. The motel will have to get a PO box to register their car. There shouldn't be any law that says that I can't live there for as long as I want. If I took a month rent and prorated it daily, it would cost you the same thing.

D. Bunnell: So, someone could rent your place and claim residency in the Town of Holderness?

C. Scott: I suppose they could. Why shouldn't they be allowed to?

R. Snelling: I don't know if that would work. How many people are you going to allow per room?

C. Scott: One person, maybe 2 depending on accountability, a couple.

R. Snelling: That's 2 people max.

C. Scott: 2 max.

R. Snelling: How about laundry service?

C. Scott: There is a washer and dryer on the property.

R. Snelling: One?

C. Scott: Yes, it is at the house.

D. Bunnell: I think we are more concerned about septic.

C. Scott: We're the ones that have to pump the septic and take care of it.

D. Bunnell: But we're the ones that have to enforce the septic and make sure that it meets the State and our requirements year-round. That place, I believe is closed during the winter.

C. Scott: It used to be year-round and is intended to be run year-round. Because that it wasn't run in the winter doesn't mean that it wasn't originally set up that way.

D. Bunnell: You have paperwork that the septic system is capable of having these 10 people on a full-time basis? Is your septic system capable of handling that and do you have the paperwork?

C. Scott: We're willing to do that.

D. Bunnell: You have to prove to us that the septic system is going to be able to handle the load of having 10 people there over the long period.

C. Scott: I understand that.

P. Francesco: Even if it had been run for many years, as soon as it had not been run that way for more than a year, you lose that.

C. Scott: We are willing to do the septic test. Are there any other issues that we need to address?

L. Pare: I don't know where a septic test helps you, will it test that it is good for 10 rooms?

R. Snelling: That would be the basis of the system.

P. Francesco: You are going to need 1,500 gallons per day. Is that the original septic system that's there?

B. Waldrip: Yes, it is. There are 5 systems for 10 rooms, and a system for the restaurant. Nothing is changing for occupancy. I'm a little confused. It is the same as we've got now. I just billed for 2 months for workers that are building a house in Center Harbor. It is 3 rooms; they are regular customers.

We've had some bad ones, but that is the business that we're in. You have to use your common sense.

L. Pare: The difference is that you are asking for long-term now.

B. Waldrip: I'm saying that it is going to be available long-term. The motel used to be year-round. We didn't want to deal with the winter time plowing and taking care of it. It has heat, it's insulated. We ran it as a retirement thing – 6 months on, 6 months off.

R. Snelling: I've had a number of conversations with the town attorney and State people anticipating this thing. There are 2-3 facts that we're dealing with. One is the issue, is this a dwelling unit? That puts it in one category of things, a motel puts it in another category of things. From what you describe, these are not dwelling units, they are not apartments. They don't meet our definition because there is not independent cooking in the units. You meet the definition of a motel. There are accommodations with or without a kitchen for transient guests. The Town of Holderness doesn't define what a transient guest is, but the State has a more refined definition under RSA 353:7 III Rental by Day, Week or Month. So, you meet both the Town and the State definition of a motel. One decision what we have to make is, are these dwellings or motel rooms? From what you describe, they are motel rooms and therefore it is a change of use in terms of your business model. It was a motel before, it is a motel now.

A. Francesco: The difference is an increase in use.

R. Snelling: An increase in the amount of time people stay there. If you want to bill monthly, weekly or daily, that is up to you. So, our decision is to make a decision about what you're proposing. Is this a motel with a different kind of...

C. Scott: Apartel, that's what they're called.

R. Snelling: That has no meaning. It is a motel under our ordinance. Given that, there really isn't a change of use. It remains a motel.

C. Scott: Is there a time limit on how long I can rent a motel room to a person?

R. Snelling: The only regulation that I can find is a State one and you can rent month by month by month. If a person wants to stay there 6 months, that would meet the State regulation.

C. Scott: There can stay there indefinitely for 2 years if they wanted to?

R. Snelling: If they wanted to.

C. Scott: So, the only change of use I would have to do is if I make a common cooking area. Would that be a change of use?

R. Snelling: That opens up a whole set of health issues. You'd have to maintain the level of cleanliness of a shared eating area/cooking area, which raises health questions.

R. Huntoon: You would change cooks every day, so you'd have to meet the Standards.

C. Scott: So, I really don't even need a change of use.

R. Snelling: Address it so that we recognize that the model of the motel is changing. It is good to have that on the record and that we recognize the change that is taking place. But it is still under our definitions, it comes under the category of a motel. I think the concern that it doesn't become a zoning

issue, it becomes an enforcement issue, because motels are generally under day-to-day oversight as to who's coming in, who's leaving, what's going on in the rooms. Even though it is a motel, if you are managing it like an apartment; you don't know who is coming in, who's going out. A couple rents the room, you have 3 people sleeping on the floor, 2 people in the beds. It becomes an enforcement issue, that is not the Planning Boards' job. Those are the concerns.

C. Scott: If we offered that we came in and cleaned the rooms once a week versus once a day... Does a motel room say that I have to clean it every day?

R. Snelling: No

R. Huntoon: I would think it would be to your benefit to see what's happening.

C. Scott: I agree.

R. Snelling: It is a question of management oversight. They move in, they do their own laundry, they do their own dishes, if you want to use the shared kitchen facility, it raises the question of what kind of management oversight you have.

C. Scott: If I put in an independent cooking facility in each room, I could make them apartments?

R. Snelling: You could call it a multi-dwelling apartment unit.

P. Francesco: You'd have to show the density.

C. Scott: We were trying not to have cooking in the rooms because of cleanliness or fire hazards.

L. Pare: Is there presently on-site management for 6 months?

C. Scott: There is a maintenance person.

L. Pare: What will the management process be for long-term if you agree to these changes?

C. Scott: We have a maintenance person that lives there now.

L. Pare: He is not on-site management; he is a maintenance guy.

C. Scott: We have a property management company coming in.

R. Snelling: What are their duties going to be?

C. Scott: Day-to-day, checking it out, making sure the pool chemicals are right.

R. Snelling: They'll be there on a day-to-day basis?

C. Scott: At least on the property once a day.

P. Francesco: Do you see this property changing to an LLC, corporation, or other group who would start transferring interest so that we would wind up with 10 different owners?

C. Scott: No. Michael Rowland has other rental properties; he wants to make the money to pay for the mortgage. It is a great opportunity for everyone involved. We wanted to find out what people thought about it, to address their fears. I agree with you that there should be a weekly cleaning in the rooms to keep an eye on things in the rooms. I will discuss with Michael if he wants to put cooking units in the rooms. Do I need to come back if he decides he wants to do that?

R. Snelling: If you were to convert these to dwellings, there are other conditions like 2 parking places per dwelling. It opens up a set of requirements.

L. Pare: If you had housekeeping once a week, that's a great idea. I've asked for housekeeping to do that. How will you have control of that? They don't have to let you in the room.

C. Scott: If it is in the lease and the price is added in there, I don't see why they'd really want to.

D. Bunnell: What lease? I thought there weren't going to be leases?

C. Scott: We'll have a lease agreement; you'll sign an agreement with the motel. Everything should be in writing.

B. Waldrip: There is a difference in the wording. It is a motel room that allows you access to that room.

D. Bunnell: Basically, it is like a boarding house.

A. Francesco: Back to discussing that it is an increase in usage from seasonal to year-round, do we as a board have any obligations to consider that piece?

R. Snelling: Sure, if you think it creates an issue. It is a business decision.

C. Scott: The septic would have to be tested for year-round use.

D. Bunnell: For the sale to go through, you're going to have to have the septic approved.

R. Snelling: We would want to see documentation that you get from the State that your existing septic system is of adequate size and function to support 10 year-round motel rooms with 2 people in each one. That would be a condition of approval. Audience questions/comments?

C. McHugh: I own the White Oak Motel. Just to clarify, when you rent a cottage for once a week, you clean it once a week. You don't go in the rest of the times. We have the right to go in if we feel there is something going on in that room.

R. Snelling: Is there a State statute that says that motel owner has the right to enter a guest's room?

C. McHugh: I believe so.

B. Currier: I've never seen any upset there, the kitchens and the rooms are immaculate. The long-term person who is there as opposed to someone different every single day, to me, is more security conscious for the people around them. This would be a good thing for Holderness and the owner and the wife. They are going to reside on the property. I think the board should look at this situation as a win/win.

D. Bunnell: This is not a reflection to Bill or Sherrie and the way they have run their business throughout the years. We have to follow the ordinances and rules and it's never an intent to anything against the Waldrip's.

B. Currier: If we can cut down on the amount of transients for the village, that is a win/win.

G. Fabian: You say no cooking, but you can get a microwave meal, so is that really no cooking? It seems as though nothing is definite according to this (holds up a paper). I see the microwave thing is a big loophole.

C. Scott: I don't think the microwave is because whether it is an apartment or a motel, you can have a microwave in there. It has all the fire codes that are up to standards, it really doesn't matter. I understand what you're saying, but we are really trying to push for a common area so they'll have a place to sit and eat. We wanted to have a designated safe area for cooking.

G. Fabian: The pool, I consider that to be a real problem.

C. Scott: That's our liability. It is the same as any other motel that has a pool. It will close at a certain time as part of the common grounds.

G. Fabian: I don't ever remember the motel being year-round.

B. Waldrip: I have the records to show that it was.

C. Scott: I am looking for long-term persons staying there; people who care about where they live.

S. Crawford: The crux of it, what folks are trying to access, is whether there will be maintenance to the property, will it be run-down, how is it going to be run, enforcement, who the tenants are going to be? We don't see any specifics here. What is the intent for the quality of the property? There is not a lot articulated in the proposal, there are a lot of unknowns. We don't see the things that have been flushed out tonight here with the board. It is question of residency, and long-term rentals bring different issues to the Town, and who qualifies for services in the Town or the State. Does staying long-term allow you to apply for residency? What are the implications for that and for taxes?

C. Scott: The people pay part of the taxes. The place is immaculate. I handle the rentals. I don't want somebody who is going to be giving me a hard time. I understand that we want the property maintained. We are pretty particular in how we take care of stuff.

S. Crawford: You understand that's not reflected in any of the documentation.

C. Scott: I do.

S. Crawford: It is a very thinly sketched business plan. There is no assurance when you need to turn a profit.

C. Scott: I don't know how we could put that into, that we have to...

S. Crawford: You're not even certain that there will be property management on site as a motel would.

C. Scott: The property manager is the same thing. I'll be here every day. We will keep the place immaculate, trying to come up with a plan that works for everybody. I can give you Mike's email to contact him if you want a meeting. This could be a place for cliental that is 25-30 years old that have no place to rent, that want a little place of their own, or someone in town for 2-3 months, or someone building a home and needs a place to live while their house is being built.

R. Snelling: Have you considered housing for PSU students?

C. Scott: Yes. We've talked about it.

R. Snelling: You understand that you'd be paying a motel tax?

C. Scott: 9% tax

L. Pare: How do your experiences relate to the changes that are going to be made if it is approved?

C. Scott: I've done a lot of work for the Waldrip's based on my experiences.

L. Pare: I thought you'd be talking about your clients.

P. Francesco: I have a comment. If this board approves, you are neighbor, you assure us that nothing changes. I would want to see several conditions attached. I personally don't have enough assurances to move forward. I would suggest a continuance. We would need full approval from the Fire Chief, the health officer, the septic designer.

R. Huntoon: You are asking us to let you do long-term leasing. Where does the Town draw the line between 2 nights, 20 nights? Where does the Town draw the line at what number of days does it become long-term?

R. Snelling: The State statute says daily, weekly, monthly. It does not say up to a year or anything.

C. Scott: We want to be a good neighbor.

R. Snelling: I had a conversation with the Bridge House in Plymouth. They have a common kitchen with microwaves in the common room, rather than have them in the rooms. Why not have the microwave facility in the kitchen? That makes the cooking situation more enforceable.

B. Waldrip: You can look at any motel and they have microwaves and little fridges.

C. Scott: I have a question. For anybody who is buying a motel, would they have to do septic testing?

D. Bunnell: For any property, you'd have to do that.

R. Snelling: A recertification.

L. Pare: I think our ex-officio member's comments are good. If we follow his summary, we'd stop beating around the bush.

D. Bunnell: I don't think there is enough information to move this, there should be a continuance. Everything has changed; no cooking in the rooms but there is going to be a microwave. Everything that I thought was going to be "this" has changed, "we're going to change it". I think if you come back with a more defined plan...

R. Huntoon: I still go back to where is our authority to tell her what she can do without us.

R. Snelling: You're absolutely right. Our authority is to approve the use. We've defined the use as a form of motel, therefore in one way there is no change of use, just a different business model. I would suggest that if we were to approve this that it is on the record that it is a different business model. We have the authority to approve a motel in that zoning district. The issues that have been raised have to do with effective management. I've talked with State Health people and they bring a slew of secondary problems like drugs, like overcrowding, like drunken parties. It brings up effective management of this business model. You describe bringing in people who have low income or that may have other problems, but this board doesn't have the authority to approve your business model. We are not enforcement. Our job is to decide if this is an appropriate use for the zoning district that it sits in.

R. Uhler: There is not information in the materials. You didn't do your homework because you ended up having these people help you make your plan, this should have been thought through before this meeting. My question is, are there any examples within a 30-mile radius that we could see?

C. Scott: None that I know of.

R. Uhler: Will there be a full-time manager?

C. Scott: No, a maintenance guy who has been there for 18 years.

R. Uhler: The long-term rental is contingent on the sale?

C. Scott: There is that contingency. We can still work those rooms month-to-month.

B. Currier: Am I confused? If it has been operated as a motel, can they continue as a motel?

R. Snelling: You are not confused.

M. Uhler: We do not have enough information. We need a lot more clarification as things have changed in the course of the discussion.

C. Scott: We intend to take the 10 rooms and renting them, have long-term rentals, all year-round. We want to have the restaurant be a common area and not have people cooking in rooms. It is above commercial grade. Yes, there are a few things that I was not aware of that was brought to my attention. We are trying to work with everybody. We do intend to keep it up.

A. Francesco: This application requested a change of use from short-term to long-term rentals. This is not what is going to happen. Based on that, there are couple of options. The application should probably be withdrawn because it is asking for a house that is lived in to be a house that is lived in. What I think should happen is that the restaurant is going to be a change of use from a restaurant to a group cooking facility. I would want plans on refrigeration units, etc. Does that sound reasonable?

R. Snelling: That is what we have to decide, if you are asking my personal opinion.

A. Francesco: If they withdraw that application, there is no chance of that being denied, they could do more thinking and come back with another public hearing.

R. Huntoon: Including a septic plan approved by the State.

R. Snelling: That would be a condition. I agree that there is a lot more than what is being proposed than changing from short-term to long-term rental. It is also converting from serviceable rooms to an apartment that is not a dwelling, renting a room. It would have been helpful to have all of the critical conditions laid out in a document. For example, 2 people per room limit, on-site management presence, accessible trash area, fenced but accessible to 10 residents. All that has been drawn out this evening, but it would be good to have that documented as the understood conditions.

L. Pare: I can see a problem with the common cooking area as well. If 10 units are rented out to 10 (or 20) different people and someone else is using it when they want to use it. I can see quarrels; I can see schedule problems.

R. Snelling: We want to see a well thought out management plan.

C. Scott: Except for a common kitchen area, there isn't a change unless we have it a "serve yourself".

R. Snelling: You can't go back and forth, you have to say, "it is going to be 'this'." No where do we have a piece of paper saying that the restaurant is going to be converted into something else. There is no documentation for the restaurant.

B. Currier: Would it be possible to have a list of what is needed?

A. Francesco: That is not the board's job. It is the applicant's job to look at the ordinances and bring those things back in a plan. Legally, we can't make the list. If we didn't include something that we realize we needed later, we would be liable. I am not in a position to approve what was in that document. The application doesn't exactly say what is going to happen. I would not be inclined to approve it right now. It could be continued as proposed with more information or withdrawn.

L. Pare: Look at Extended Stay Motels and see what they do.

R. Snelling closed the public hearing at 8:40 and asked for a motion.

R. Huntoon: We don't have any right to make a decision on it at all. If she changes it, as she should, that's a different story. Saying "I'm going from short-term to long-term", we don't have any criteria to say one way or the other on that.

R. Snelling: I agree. I don't think we have the authority beyond making judgement as to whether we are going to call it rental long-term. Motel business is allowed in the zoning sector that it exists in. How it is going to be managed could turn out to be a great thing, but that is beyond our authority.

R. Huntoon: You have a lot of food for thought.

R. Snelling: Any concerns.

A. Francesco: I would be inclined to not approve a change of use because there is not a change of use.

R. Snelling: We would want to keep this positive, the Board concluded that this is not a change of use rather than saying that we are not going to approve the change of use.

Motion: "We dismiss the application on the basis that the Board's determination that the proposed changes do not constitute a change of use."

Motion: R. Huntoon

Second:

Discussion: See above

Motion Failed: (there was no Second to the Motion)

A. Francesco: We are obligated to approve or disapprove that on the grounds that there is no change of use.

R. Snelling: I am trying to not be negative.

A. Francesco: There can be no ambiguity. The Board did not approve a change of use because there is no change of use.

P. Francesco: I would like to make a motion that we continue this. There are 5 people who are not willing to make a Second to the first motion and we still have an application in front of us that we have accepted.

Motion: "We continue it until the next meeting or we become more comfortable."

Motion: P. Francesco

Second:

Discussion: R. Snelling: The things we are not comfortable with are not within our authority to approve or not approve. The question before the Board in essence is for this place to continue operations allowing with long-term rental, which was allowed from the very beginning. That is the only thing we have authority to approve or not approve. If you want to word it as a negative, that we determine that there is no change of use, therefore they can move forward, that's fine. We have the information we need. Do we have a Second to the Motion on the floor?

Motion Failed: (there was no Second to the Motion)

Motion: "We do not approve the application for changing the use of the Yankee Trails Motel from short-term to long-term rental because there is, after discussion, in actuality no change of use."

Motion: A. Francesco

Second: R. Huntoon

Discussion: See above. Additionally, the specific conditions that were discussed (septic system certification, trash accessibility) were decided to no longer be needed as the change of use was dismissed.

Motion Passes: 5-yes 0-no 1 abstention 1 absent

OTHER BUSINESS:

1. Ted Vansant from the Holderness School re: Solar field on Rt. 175

T. Vansant: The Holderness School has authorized me to put together a solar plan to manage the costs. It will be on the site across from the football field. We can't use the property other than parking for football games. It will only be able to be seen from Rt. 175 as you pass by it. The abutters won't be able to see it.

R. Huntoon: Are there steep slopes through here?

T. Vansant: Yes, we are taking down 6 white pines. (Showing a photo, he described the height and size of the array.) We will submit a plan tomorrow. Horizons Engineering is working with the State to see if we need an Alteration of Terrain permit. We don't think it is needed.

R. Huntoon: How much do you expect this to do for you?

T. Vansant: It will generate 20-25% of our electrical costs.

R. Huntoon: There has to be some battery storage too, right?

T. Vansant: There will not be any batteries. It gets connected right in. It will go underground, connect into the Hagerman Science Building.

R. Huntoon: If we lost the power grid, these things would only be good if the sun was out.

T. Vansant: That's right.

P. Francesco: That will give you 25% of your means.

T. Vansant: Technically, if they shut down all of the buildings, it would connect to the buildings.

R. Snelling: A solar farm in a residential sector is not allowed. It is not an allowed use and it is not a special exception use, so you're going to have to go to the ZBA to get approval to put a solar farm in a residential area. I personally agree with you that the site is perfect, but the fact remains it is a structure in a residential zone that is not on our list of allowed things or special exceptions. As part of that there are a number of issues that need to be addressed. How many square feet is this going to cover, well under 100,000, isn't it?

T. Vansant: Yes.

R. Snelling: I think you will not be required to produce an Alteration of Terrain permit which basically is a storm water management plan. One issue that will come up is the land coverage. Our land coverage was originally developed as density control standard. What would you propose as lot coverage? The lot is 4.68 acres. The percent land coverage on how you would propose calculating it would have to meet our lot coverage.

P. Francesco: It looks to be 17.5%.

R. Snelling: Could be. The other question is that there is a lot of controversy over the calculations of the land. It is the sum area of the individual panels or the vertical projections of the panels on the ground or is it...?

T. Vansant: That is proposed to the ZBA?

R. Snelling: Right. Two things will have to happen. They would approve you putting this thing there, then we would approve the site plan which would be looking at the 35' setback, emergency response access, statement on glare and reflection, storm water management plan, on-site lighting, if there is going to be lighting. ZBA has to approve use. There is a list of

permitted uses, it is not one of those. There is a list of special exceptions, this doesn't appear on this list. You'd need approval for a new use in a residential area. You should address all these things to the ZBA.

T. Vansant: But not necessarily for what we submit tomorrow?

R. Snelling: I don't know what you're submitting.

L. Levy reminded him that he has missed the deadline for the August meeting and that they need to go to ZBA first.

T. Vansant: For a variance or for special exception?

R. Snelling: For a variance because there is no special exception covering solar array. It is not on that list.

T. Vansant: This is a solar farm because?

R. Snelling: Whatever you are going to call it. It is a large ground-based solar array in a residential area.

T. Vansant: I'm not sure I agree with that because I have a ground-based solar array at my house that can be called large. As far as I'm concerned, I don't have to apply to the ZBA. We're now in a situation that our schedule could be severely compromised because of this. Solar farm is one that is hundreds of acres.

R. Snelling: Whatever you call it, it is a use of land in a residential area that is not identified in our regulations as an allowed use.

T. Vansant: Why is it different than what I have at my house?

R. Snelling: Size.

R. Huntoon: I was wondering the same thing. A solar farm is something that produces electricity above and beyond what the installer needs because he is giving it away to other people.

T. Vansant: This will be used only by the campus.

R. Huntoon: My thinking was for household solar uses.

T. Vansant: I don't see any delineation of a cut-off point in the zoning.

P. Francesco: Did we not make some statement, that I could not make it any larger than 125% of my needs?

R. Snelling: If you put a solar array on the ground on your property, it is an ancillary structure.

P. Francesco: What the statement says is that the Town of Holderness doesn't want me to put in a solar farm to sell and make a profit. He is talking far less than 125% of their needs. Unless I hear something that says solar panels of a particular square footage, I think we're left where we were with the previous case.

R. Snelling: I talked with our attorney about it and she supports my view that this is a use we haven't run into before, that it would be a use that would need a variance for in a residential area.

T. Vansant: Could somebody help me with the process to submit to the ZBA?

D. Bunnell: You'd go to the September ZBA meeting.

T. Vansant: Once they approve it, it comes back to here?

L. Levy: The ZBA meets one week before Planning, so you could get to both meetings in September, if they approve. She asked which variances he would need to submit.

R. Snelling: 300.4.1.1 and 300.4.1.2 – large ground-based solar array in a residential zone. He read both ordinances and said that the Board needs to have on their agenda ground-based solar units on private and residential zones. We don't have anything like that right now.

P. Francesco: I disagree. You talked with Town's Counsel before this came to the Board and that the interpretation is too broad.

R. Snelling: I disagree.

T. Vansant: Solar is here, the Town needs a consistent and defined use to say what a residence can do, a school can do, a commercial can do. So, then if a solar farm comes in and does a 100-acre solar farm, you won't have to put conditions around that.

R. Snelling: There are other issues, so I asked. I asked why can't we consider this an ancillary structure for the school campus? School campus consists of 5 or 6 lots. Legally, it is a separate lot. So, I argued that it would be very easy for them to come back and merge lots. It is still a lot in a residential area and it's a use that currently is not authorized. It's not saying we're against it. It is not covered by our existing ordinances. The way out is for the ZBA to say that we recognize that this is not covered but given the site and what is being proposed, it doesn't impact the fundamental values of the community (scenic values, transportation, people's property values). It is not doing any harm therefore we grant a variance for it in this circumstance. I have some model ordinances that we can work from. We first need approved use.

R. Huntoon: Suppose I put a house there and I put solar panels in. You're saying they can't do it because it is not a residential area.

R. Snelling: I didn't say that. That becomes an ancillary structure. This is not a private solar unit.

R. Huntoon: Sure, it is. It goes to the school.

R. Snelling: That's not private. The school is a corporation.

P. Francesco: Did you do the solar array that is on top of the hockey rink?

T. Vansant: Yes

P. Francesco: Did you go to the ZBA?

T. Vansant: No

P. Francesco: Did you have to come to the Planning Board?

T. Vansant: I wasn't there for the approval of the hockey rink, it was on the site plan.

R. Snelling: There should be regulations governing roof mounted solar arrays from several point of views. One, impact on your neighbor, like glare. But the other way too. Your neighbor puts in white pine trees so you don't get sun. There needs to be rules to protect the home owner that is putting up the solar unit as well as the neighbor.

D. Bunnell: For the future, we do need a lot of things. But how can we stop him from doing it if we don't have anything?

R. Snelling: Right now, my opinion is and the Town attorney's opinion is, since it is not specified either as an allowed use or a special exception, they'll have to get a variance to put it there.

P. Francesco: Which Town's attorney?

R. Snelling: Holderness

P. Francesco: Which attorney?

R. Snelling: It wasn't Christine because she was on vacation. It was another fellow in that office (Shaun). What if someone said we shouldn't do this, it is a disgrace, and by the way it is not an allowed use? Where do we stand? We recognize that it is not an allowed use, but given the site, given the size, we felt it didn't do any harm, so we gave them a variance. It gives you a legal standing for why that was put there. Michael, you've been around these issues.

M. Capone: Yes, a couple of things. I could be wrong, but I'm going to check with Shaun Hutchins. I felt it was exactly the opposite. I thought if it wasn't in there, we had no way to restrict it so therefore you can do it. Logically, that makes more sense to me. But you had the conversation and I'm not going to question what they told you. I would just like them to tell me the same thing to educate me. I think it is the opposite. If you don't have a rule that says you can't do something, then how can you not allow it.

R. Snelling: If you read the general objective of that section it is in keeping with the scenic, recreational, environmental values inherent in the district. That's what we're doing. The ZBA in essence, would be saying that even though it is not listed as a permitted use or a special exception, we believe, in this instance, that it is in keeping with the scenic, recreational, environmental values inherent in the district. That's what we need confirmation on.

M. Capone: And I could be wrong. I've known those attorneys for a long time. I believe it is true. It just comes as a surprise to me because I thought it was the opposite.

T. Vansant: Is there any reason that I shouldn't submit the application? It is all done, signed by the school, it's ready to go. Is there any reason that I shouldn't submit it and have you look at it before the ZBA looks at it?

M. Capone: Can I say one more thing? It is my understanding that the way this process worked was in order for something to get to the ZBA, an application comes in through the Land Use, which would be reviewed by the Compliance Officer. The Compliance Officer notes that what is intended in the application is not allowed by zoning, cites the part of the zoning ordinance that you need to appease and in the letter of denial, they cite that. I review septic systems. If it doesn't meet the setback, I send a letter saying that your application is in violation of zoning ordinance 800.1.1 and they take that and when they fill out their zoning application, they cite the ordinance that they are seeking relief from. So, you need the application to trigger going to the Zoning Board. In my opinion, based on the way it was presented, it makes all the sense that you need some act that triggers someone going before the ZBA. I guess my answer would be, yes, submit the application because we would have to deny it to seek the variance.

R. Snelling: I didn't want to make them come to us for a formal hearing and then say you have to go back to the ZBA. Go right to the ZBA, have them make a determination and then we can look at the setbacks and storm water management.

D. Bunnell: Is there no way that we can check with Counsel first thing in the morning to confirm?

M. Capone: I'm just surprised because if that wasn't specifically in our ordinance, we would have no way that it wasn't permitted.

R. Snelling: That's saying that anyone can do anything they want without approval. That doesn't make sense. Because it isn't specifically on the list, but does it affect these stated values? If it doesn't, you'd allow it.

M. Capone: The point is, we better get some rules in place.

R. Snelling: There are other things we don't have rules for. Tiny houses are a growing issue. We have no rules for what it is. My own opinion, as I understand how our ordinances work, it's not you can do anything you want if we haven't explicitly said you can't. Submit your application and if your proposal hasn't explicitly mentioned all the things that I talked about (emergency access, the % land coverage and how you calculated it), I just want to see the variance for the use. At the site plan review, we can go over setback. We will want to see either an Alteration of Terrain permit or Storm Water Management plan.

T. Vansant: Yes

R. Snelling: That would be the main question in my mind, that we haven't created a storm water run-off issue.

T. Vansant: Horizons is working on that. Thank you. I appreciate all that you do for the town.

R. Snelling: Please read the 2 sets of ordinance changes. They are mostly word clarifications, there is very little substance to change the intent.

D. Bunnell: It is my understanding, marinas. The term marinas mean that it is on water. Marine is not on water. Ordinance 600.6 is incorrect.

R. Snelling: That one is for homework. Go to the ordinance and read the context to fully understand the changes.

2. Public hearing on the Flood Hazard and 300/400 Zoning Ordinances (continued to August 20, 2019)
3. Continued discussion of the Conservation Commission Master Plan (continued to August 20, 2019)
4. Discussion on the proposed changes to Zoning Ordinance Sections 400, 500, 1000 and 1100 that were distributed at the May meeting (continued to August 20, 2019)
5. Discussion of the proposed changes to Zoning Ordinance Sections 550, 575, and 600 for review at the August meeting (continued to August 20, 2019)
6. Next Meeting - Tuesday, August 20, 2019 at 6:30PM

CORRESPONDENCE: None

ADJOURNMENT: At 9:40 the following motion was made.

Motion: "To adjourn."

Motion: D. Bunnell

Second: P. Francesco

Discussion: None

Motion Passes: 5-yes 0-no 0-absention 2-absent (A. Francesco excused after Yankee Trail discussion)

Respectfully submitted,

Linda S. Levy
Land Use Boards Assistant