

Town of Barnet Planning Commission & Zoning Board Minutes

Meeting/Public Hearing Date & Time: March. 8, 2022. 7 PM

Location: Barnet Fire Station – 151 Bimson Drive, Barnet, VT. 05821

Board Members Present: Board Chair: Ben Adams, Vice Chair: Dennis McLam, Bruce Denio, Trent Roy, Elizabeth Evans, Mark Bowen, Eric Skovsted, Zachary Mangione, and Dakota Butterfield.

Also present: Shirley Warden – Barnet Zoning Administrative Officer, Board secretary, Dawn Holtz.

Members of the public present: In person - Gregory Jackmauh, Mary Jane Egerton, David brody, Annmarie Sloss, Michael & Jane Lawton, Dylan Ford. Remote - Minty Conant, Brit & Jeremy Korsh.

Hearing Minutes: *Note: This hearing was a continuation of the previous public hearing held on February 8, 2022 for the sole purpose of collecting NEW statements/evidence and then officially closing the hearing as it was previously adjourned for a deliberative session.*

Continuation of Public Hearing: Application #01-22 received on January 4, 2022 from applicants Michael and Jane Lawton of 622 Keyser Hill Road, St. Johnsbury VT 05819, for Change of Use in non-polluting commercial use of the property; Change of Use for two existing structures; permitting of 12 newly-built structures.

- **Agenda #1 - Those present & reading of public hearing announcements, info, and conduct;** Chairman Adams called the above public hearing to order at 7:10 pm with the above list of members of the board and the above listed members of the public present and those attending remotely via Zoom. Adams stated a regular board meeting would follow the hearing. Adams then conducted roll call, followed by a reading of public hearing announcements, information/procedures, and conduct. All present were made aware the meeting is recorded for reference. Adams then asked that all conflicts of interest and/or recusals of board members be made known at this time:
 - ❖ McLam brought up a point of order that a motion to come out of deliberative session needed to take place before proceeding any further. **Action:** McLam motioned that the board come out of deliberative session which began on February 8th and was recessed on February 9th, 2022 until today's hearing. Denio seconded the motion, all favored, motion carried.
 - ❖ Applicant, Mr. Lawton, asked for clarification regarding Butterfield's previous conflict of interest statement and disclosure of her ex-parte communications. Butterfield explained that since she disclosed her conflict of interest at the start of the previous hearing and had stated her ability to be objective that she did not need to recuse herself

and is still a member of the board during this hearing. Mr. Lawton questioned Butterfield as to whether she felt her conversations [with him] were unbiased and if she felt she had the ability to remain unbiased in her decision based on her conversations with both the Lawtons themselves as well as several of the abutters. Further discussion of Butterfield's objectivity ensued as well as discussion around the cabin specifically. Bowen asked about letters/statements from both the applicants and abutters that came in while the board was in deliberative session. Holtz stated she did receive these and made them available to the board for consideration. McLam stated that the applicants' wish to amend the application cannot be honored since the application is already in process and must be decided on as is. Chairman Admas then asked Mr. Lawton if he was comfortable with the conflict of interest info and proceeding with Butterfield being a part of the hearing and stated that he thinks they can directly ask the board to vote on Butterfield's recusal. Lawton indicated that he was as long as she was able to be objective. McLam stated that the board cannot force Butterfield to recuse herself that she has to do that on her own.

- **Statements/evidence from applicant:**

- ❖ Mr. Lawton read his request to amend the application (removal of cabin from application) letter into the record* per Ms. Edgerton's request.

- **Statements/evidence from abutters and members of the public:**

Chairman Adams then invited statements from abutters and members of the public to begin.

- ❖ Abutter, Greg Jackmauh, gave a summary of his submitted statements in opposition to the application for the record.*
- ❖ Abutter, David Brody, read his written statement of opposition to the application aloud and provided a written copy to be filed.*
- ❖ Applicant, Mr. Lawton, made general statements further explaining their position in response to the previously made statements.
- ❖ Abutter, Mary Jane Egerton, made a statement that she has always voiced her concerns over to the Lawton's from the beginning.
- ❖ Member of the public and selectboard co-chair, Dylan Ford, stated that the town of Barnet select board's perspective is one of consideration for welcoming new members and businesses to the community along with potential concerns that may arise.
- ❖ Applicant, Mrs. Lawton, made further clarifying statements about what they do and do not allow from their guests and clarified what they ARE offering.

● **Final evidence/discussion:**

- ❖ Chairman Adams asked if there were any further statements or evidence to be submitted.
- ❖ Abutter, Jackmauh, stated that he wished to be on record that he disagrees with Mr. Lawton's statements about him.
- ❖ **Action:** Upon no further submissions, Bowen motioned to close hearing to public testimony, Evans seconded the motion, all were in favor. Motion carried, hearing closed to public testimony at 8 pm. Board proceeded to issue a decision.
- ❖ Butterfield distributed a rewrite of a previously created draft version of a decision made while in deliberative session. Discussion ensued. All members agreed to accept the edited version with the exclusion of a proposed condition added by Butterfield pertaining to the Water Andric. All except Butterfield agreed that this proposed condition was out of the jurisdiction of the board.

Hearing Decision: McLam motioned for board to approve application as follows:

- I. Request for Conditional Use §305.02 pg.14 for New Construction of Structures A-F. 200' frontage, the 150.6/3.4 acre parcel with all structures in Zoning District LD, requires a 25' setback from property lines, edge of right-of-ways, and town highways:

A. Barn w/lean-to & connected tack room B. Tractor implement barn C. Horse run-in - pasture D. Horse hay feeder E. Golf cart cover F. Horse run-in - paddock

Decision: The Board refers the permitting process for Structures A-F back to the ZAO for independent action based on the following findings:

- ❖ Structures A-F are not related to the non-polluting commercial enterprise proposed on the property;
- ❖ Structures A-F are accessory structures to the single-family dwelling pre-existing on the property.

- II. Request for Conditional Use/Change of Use & Shoreland, §305.02 pg.14 & §422.04 pg. 39, for New Construction of Structures G, H, I, J, and M and Change of Use for Structure K; w/200' frontage, the 150.6/3.4 acre parcel with all structures in Zoning District LD requires a 25' setback from property lines, edge of right-of-ways, and town highways; 200' setback from shoreline:

G. Tent platform #1 H. Observation deck I. Tent platform #2 J. Tent platform #3
K. Former distillery (existing - change of use) M. Sign ("Base Camp").

Decision: Pending the following conditions and based upon the following findings, the Board renders these decisions:

Decision A: The Board grants the request for a Change of Use/Conditional Use permit to be issued for the property as a whole, from a non-polluting commercial operation previously permitted as a distillery, to a non-polluting commercial operation providing seasonal overnight camping accommodations and outdoor recreation.

Decision B: The Board allows the New Construction of Structures G, H, I, J, and M for conditional use as specified above.

Decision C: The Board allows a Conditional Change of Use for Existing Structure K, from a distillery building to a base lodge facility for the common use of seasonal camping guests.

CONDITIONS:

❖ **Condition #1** - *Re: Permit Contingency* All required state permits, including an approved Act 250 amendment, must be in place BEFORE any further rental operations may occur.

❖ **Condition #2** - *Re: Habitat Restoration* - Owner shall demonstrate approved completion of a state-reviewed plan for remediation of damage to the Water Andric buffer zone located to the north and south sides of the pottery camp. State officials from the Vermont Department of Environmental Conservation/Watershed Management Division as well as the fisheries biologist from the Vermont Fish and Wildlife Department are on notice to be tapped for site assessment, mitigation design, and completion approval. Owner will Contact Pat Ross, River Management Engineer at patrick.ross@vermont.gov, 802-279-1143, shortly before May 1st 2022 to set up an initial site assessment visit.

❖ **Condition #3** - *Re: Fire Safety*

1. Campfires are allowed only when fire danger is rated as low to moderate in the Town of Barnet by the Vermont Fire Danger Forecast on a particular day. A system for communicating the daily fire danger rating shall be developed and maintained by camp management to reach all campers on a daily basis. (Check fpr.vermont.gov/forest/wildland-fire/monitoring-fire-danger for current information..)
2. Open fires are permitted only in designated fire circles; fire circles must be placed in areas at a safe remove from any overhanging branches.
3. Materials and/or equipment for the extinguishing of campfires shall be provided and maintained at each campsite. (Fire extinguishers, sand buckets, fire safety water supplies, or other.)

4. Materials that may be burned consist of forest litter and locally obtained firewood. No firewood is to be brought in from outside the borders of Caledonia County. No painted wood or pressure-treated wood shall be burned.
5. Written guidelines for campfires as recommended by the Town Fire Warden shall be distributed to and reviewed by all campers. Fire safety rules are to be enforced by camp management.

❖ **Condition #4** *Re: Specific Standards Letter E, Zoning Bylaw §307.02*

All sewage and other effluents shall be disposed of in accordance with state law, so as not to become a hazard to public health.

❖ **Condition #5** *Re: Specific Standards Letter G, Zoning Bylaw §307.02*

No fire, explosive, or safety hazard shall be permitted which endangers other property owners or which results in an increased burden on Town facilities.

❖ **Condition #6** *Re: Specific Standards Letter L, Zoning Bylaw §307.02*

No noise, created on any parcel, shall be permitted which is excessive at the property line and represents a significant increase in noise levels in the vicinity so as to be incompatible with reasonable use of the surrounding area.

FINDINGS:

❖ **Finding 1:** The approved non-polluting commercial use of the new and existing structures, and the change of use of the property as a whole as specified, with all attached conditions, will not have adverse effects on existing or planned community facilities, character of the area, traffic & roads in the vicinity, and utilization of renewable energy resources.

❖ **Finding 2:** The approved non-polluting commercial use of the new and existing structures, and the change of use of the property as a whole as specified, with all attached conditions, meet the criteria of §305.02 & §422.04 for conditional use and shoreland setback and will not threaten shoreline habitat.

Applicant Notice: Failure to adhere to any of these conditions as set forth here may result in penalty fines of up to \$200/day per violation under VT Statutes §4451(a): Enforcement penalties.

- III. Request for Change of Use/Conditional Use & Shoreland, §305.01 pg.13 & §422.04 pg. 39, for Structure L, existing pottery camp, w/200' frontage. 150.6 acre parcel with structure

located in Zoning District AG requires a 25' setback from property lines, edge of right-of-ways, and town highways; 200' setback from shoreline:

Decision: Board **denies** permit for Change of Use for Structure L, existing pottery camp, based upon the following finding:

❖ The structure is within 200' of the shoreline and therefore does not meet the criteria of §422.04 of the Barnet Zoning Bylaw. The structure may not be used for any commercial purpose. Failure to observe this decision may result in fines of \$200/day for every day of infraction.

Bowen seconded, votes noted as follows: **Yes votes:** Adams, Roy, McLam, Denio, Evans, Mangione, Bowen. **No votes:** Butterfield, Skovsted. Butterfield then submitted a written statement to the board of her dissent from the board decision. Discussion ensued regarding a letter submitted by Butterfield to board members.

Regular Meeting Minutes:

- **Agenda #2- Approve February minutes:** Butterfield distributed a rewrite of February minutes in which she proposed several minor changes and grammatical corrections to the minutes. Board secretary, Holtz, asked the board to choose 1 copy to discuss as it was confusing going back and forth between both. Discussion/arguments ensued about the amount of unnecessary edits and paperwork Butterfield continues to burden everyone with and the amount of time these take. Holtz reiterated that minutes are meant only to be a brief summary of what was said in meetings, all agreed.

Decision: McLam motioned to approve Feb. minutes as written, Bowen seconded. Motion approved, all in favor except Butterfield. February minutes approved.

- **Agenda #3 - New Business:**
 - ***Town Plan Committee Updates*** - Skovsted gave a brief update of progress on town plan update. Subcommittee meets every other Monday to work on updates. Bowen stated he has to resign from the subcommittee due to too many other obligations. Mangione agreed to join the subcommittee to help with the updating work.
 - ***ROP Subcommittee Updates:*** Evans gave a brief update of work on ROP updates. Copies have been sent out to all, some have given feedback and those changes will be incorporated then a final draft will be sent to all board members.
 - ***ZAO Updates:***
 1. Warden reviewed an application for an upcoming possible permit.

2. Warden suggested the board make work on updating zoning bylaws a priority to address more and more new requests that current bylaws are not adequate to cover.

● **Agenda #4 - Old/other Business:**

1. Holtz reported Warden's term as ZAO is expiring on 3/22/22. **Action:** Bowen motioned to nominate Warden for a new 3-year term as ZAO to the select board. Denio seconded, all were in favor. Motion carried.

2. Holtz stated that she no longer wishes to offer remote meeting access as she is using her own personal equipment to do this, it creates extra work, and it seems Covid numbers are drastically reduced making it no longer necessary to offer this option. All agreed this was okay.

● **Agenda #5 - Correspondence:**

1. Holtz reminded all of the Danville amendments to zoning bylaws that were sent out and perhaps they may be helpful to our own work. A copy is available should anyone wish to review them.

2. Denio made the board aware of potential broadband project that could come before the zoning board sometime in the future.

- **Agenda #6 - Adjourn:** Chairman Adams asked if there was any other business to attend to, all stated no. Bowen motioned to adjourn meeting, Evans seconded, approved by a unanimous vote. Meeting adjourned at 9:20pm.

*All statements, letters, supporting application documents, and recordings are on file and are part of [public] hearing record.

A true copy, drafted 3/8/2022, approved 4/12/2022

Attest: Dawn Holtz (e-signature)

Board Clerk