

Baldwin Planning Board

Meeting Minutes 11/08/2018

I. Call to Order

Blake called the meeting to order at 7pm

II. Roll Call

Jo Pierce, Norman Blake, Nichol Ernst, Matt Sanborn, David Strock (arrived late)
Selectmen Dwight Warren, James Doloff and Jeff Sanborn. CEO West Sunderland.
Town lawyer David Laurie

III. Reading of the Minutes From Last Meeting

Minutes were read and approved from 10/25/2018. 4 votes for, Sanborn abstained due to not being present at the meeting.

IV. Open Business

A). Nature's Wilderness

Strock discussed our tendency to be public with our discussions with the town lawyer and recapped our decisions to solicit legal advice.

- i) Strock shared emails that have occurred since the last meeting. Discussion between David Laurie and Robert Shearin re: the corporation that is applying and owns the Nature's Wilderness property. Email was sent to Strock who brought up that the applying LLC is not registered in the State of Maine. Strock also brought up that there is a Natures Wilderness Resorts, LLC that is administratively dissolved in Maine. Shearin stated that he is an authorized representative of Natures Wilderness, LCC from Florida but is not practicing as a lawyer in Maine (attached to minutes).
- ii) Strock shared additional emails that have occurred since the last meeting. Shearin and David Laurie sent emails to discuss proceedings conducted by Natures Wilderness, LLC (attached to minutes).
- iii) Strock also submitted a proposed CUP for Nature's Wilderness for discussion.
- iv) Strock brought up the possibilities that board could decide re: the fact that Nature's Wilderness was not authorized to conduct business to deny the CUP. If denied, the applicant cannot come back with a similar proposal for two years. Board can dismiss the CUP, and it can be resubmitted anytime.
- v) Blake suggested that the board dismiss the CUP and ask the applicant to return with evidence from the Secretary of State that they are authorized to do business in the State of Maine. Mr. Shearin submitted a document from the Secretary of State of Maine dated November 2nd titled a "statement of foreign qualification to conduct activities" for Nature's Wilderness, LLC. Mr.

Shearin stated that he made a mistake in not filing for this form and he immediately filed it upon hearing from Mr. Laurie. Mr. Laurie stated that filing an application is more than just being a landowner. Shearin stated that filing with the State of Maine makes any act they have done now legally valid.

- vi) Pierce brought up experiencing anger from Nature's Wilderness end that the planning board has slowed this process down, but no application was submitted until September 20th.
- vii) Blake mentioned that he committed to the fact that there will be a planning board meeting on December 27th.
- viii) Pierce asked if we can dismiss the application can we continue to discuss the pre-application information. Laurie stated that this is legally permitted.
- ix) Strock agreed with dismissing the application as the entity that submitted it did not have permission to submit, but that we will accept the submission as of today and waive the new fee. Laurie stated that the board does not have the right to waive the fee. Ernst made a motion that we dismiss the CUP. Pierce seconded. Strock brought up that the applicant will have to resubmit and repay the fee. Unanimous vote.

B). Questions to Mr. Laurie:

i) Blake asked if the Natures' Wilderness shall be considered a campground or hotel/motel? Laurie stated that the real issue is about the cabins—he stated that they are not residences. Discussed hotel/motel and referenced definition in land use ordinance. Laurie stated that cabins could be an accessory use to a campground and referenced definition of accessory use in land use ordinance. Shearin stated that there will be 5 cabins, and obviously subordinate to campground. Laurie stated that he would like to see that this is a common accessory use in other campgrounds. Laurie stated that you can conclude either way that this does or does not count as an accessory use. Laurie stated that it would be good for the applicant to provide evidence for the record that this is common use and some explanation of how these cabins are to operate. Pierce asked if the accessory use can only be open with the campground is open. Pierce asked how do we treat the house on the property. Shearin stated that the house on the property will be occupied year-round by the caretaker/manager and is a private residence. Laurie brought up that it is grandfathered in as a single-family dwelling.

ii) Blake asked if the campground is a subdivision. Laurie stated that is unlikely to be determined a subdivision. Stated that the difference is whether or not there is an advantage given to some people over the general public. Brought up a case where the supreme court determined that if anyone can get into any campground all of the time than it is not a subdivision, if there is priority rights to particular campsite ahead of general public than it would be a subdivision. Laurie suggested that applicant submit a plan of how rentals will take place and attach to a condition to avoid triggering it possibly being a subdivision.

iii) Pierce asked how the town handles gatherings off-season. Laurie suggested adding conditions to how property can be used in the off-season as

conditions of approval of the campground as long as there is a rational basis for attaching the condition

iv) Blake asked once a condition is set are the Selectmen required to enforce it. Laurie stated that it is discretionary and not required. Nor can a citizen sue someone for violating a town ordinance per Maine state law.

v). Asked about if a property has violations can the board consider an application. Laurie stated that you can consider the application you just cannot approve it until all violations are resolved.

vi). Shearin discussed that Camp Twain is 1 deed, roughly 452 acres. Map 7 lot 22. Discussed definition of a parcel as an area of land defined by a deed. Strock discussed that the application includes the 452-acre lot and the use of that lot. Are any of the accessory uses going to be outside of the 120 acres. Discussion ensued, the answer is yes it will include the whole lot. Discussion ensued that applicant will be clear on the application that the accessory uses will be limited to the 452 acres. Discussed a condition that any expansion of accessory uses onto additional lots require becoming before the planning board for a new CUP.

vii). Blake discussed resource protection designation that occurred regarding the two and its effect on Marston's Pond. Sunderland stated that in a resource protection zone cannot use 250ft around pond.

viii). Pierce asked if an aggregate square footage can be used for multiple campsites instead of having to designate a set 5000 for each site. Laurie stated that is permitted. Strock requested that an application can include a designation of how the 5000sq ft will be designated. It was discussed that 20000sq ft is needed for sites with non-water carried sewage. Ernst asked for clarification from the board or Mr. Laurie regarding determining whether a site has water carried sewage. It was clarified that any site that does not have water-carried sewage contained within the site requires 20,000sq ft. Mr. Laurie asked if grey water from showers counted as sewage or is treated differently. Laurie stated that the board will have to interpret the language at some point.

- x) Strock shared that he wrote a draft CUP. This draft was shared with the board and the public for discussion (see attached).
- xi) Strock stated that within 35 days after receiving a completed application the board must hold a public hearing, and within 35 days after that the applicant can ask the board to vote on it. However, Laurie stated that the time does not start counting until there is a completed application. Shearin asked if we can schedule a public hearing. Blake stated that we cannot schedule a meeting until we have a completed application in hand.
- xii) Pierce suggested that applicant consider selling alcohol in their store in order to help manage traffic as brought up in previous meeting.
- xiii) Pierce also brought up suggestion of a lodging tax. Blake asked if a municipality can levy a lodging tax. Laurie stated that there is a state lodging tax and a town could possible charge an impact fee based on an impact fee statute.

- xiv) Matt Sanborn asked about how to legally have a site walk. Laurie stated that no ordinance that a site walk has to happen, but has to have public notice.
- xv) Strock suggested that a site walk be scheduled today for December 1st pending receipt of an application by the 16th of November physically to Debbie, the town clerk and electronically to Danielle, the Assistant to the Selectmen. It will be posted on the town website and multiple copies at town hall for public consumption. Strock made a motion that we schedule a site walk for December 1st at 9am contingent upon the conditions of weather, and an application submitted by 3pm on November 16th physically to Debbie, the town clerk, and electronically to Danielle, the Assistant to the Selectmen. Sanborn seconded. Unanimously approved.
- xvi) Strock stated to Mr. Shearin that the board appreciates Mr. Brown as a representative of Natures Wilderness, LLC.

V. New Business
none

VI. Adjournment

Pierce made a motion to adjourn, Ernst seconded. Unanimous vote. Meeting adjourned at 9:21pm.

Submitted by: Nichol Ernst