

TOWN OF TEMPLE, NEW HAMPSHIRE
PLANNING BOARD
October 16, 2013
FINAL MINUTES OF PUBLIC MEETING

Board members present: Camilla Lockwood, Randy Martin, John Kieley, Mary Beth Ayvazian, Ken Sullivan, and Allan Pickman

Guests present: New Ipswich Planning Board members Ed Dekker and Paul Termin

Call to order by Pickman at 7:29 p.m.

Barnsley - proposal for lot line merger: William C. Barnsley and William K. Barnsley were present along with attorney Craig Donais of Donais Law Offices. Donais addressed the board and read the content of RSA 674:39-a (Regulation of Subdivision of Land, Voluntary Merger) and presented a written request for a merger of three contiguous lots. The involved parcels are:

- Map 5B Lot 79 – owned by Kumatsu Gumi, Ltd.
- Map 5B Lot 91 – owned by Kumatsu Gumi, Ltd.
- Map 5B Lot 91-1 - owned by Northwestern Resources, Inc.

Board members asked for clarification about the status of ownership of the lots, as under state law all parcels need to be under the same ownership to allow consolidation. They had several questions concerning the legal status of Kumatsu Gumi as a dissolved corporation, and requested a copy of the corporation's by-laws or other legal mechanism to show how the corporation's assets are to be handled. They also requested documentation to show that William K. Barnsley as trustee has authority and standing in this matter. Pickman stated he was not comfortable with a defunct corporation as a legal entity. He suggested the board may want to have town counsel review any submitted documents. Board members were in general agreement that proof of ownership would be necessary before moving forward.

Donais told the board Kumatsu Gumi was on record as owner of the properties, as indicated in the deed references provided. He stated Kumatsu Gumi was a Nevada corporation, and under Nevada law there is no process or mechanism for succession. He suggested perhaps the two properties owned by Kumatsu Gumi could be merged, and revised paperwork submitted at a later point regarding the third parcel. After further discussion Donais commented that it was clear the board would not approve the merger at this meeting. Pickman summarized the following points: board members would like to see legal documentation that William K. Barnsley is sole trustee of both corporations; that all three parcels are legally within the same ownership; that as a defunct corporation under Nevada law there is no official process to transfer assets to a successor entity; any written documentation to have a Clerk of Court seal as proof; and any documents presented to be reviewed by Temple town counsel. Donais asked if there exists no mechanism for succession under Nevada law, would the board be willing to accept documentation by Mr. Barnsley that he is official. Pickman stated again that any documents presented will be subject to review by town counsel.

Approval of minutes: Motion by Ayvazian to approve the minutes of 10/2/13 as amended, seconded by Lockwood, and so voted.

Fisk sugar house: Kieley stated the Board of Selectmen (BOS) is aware of complaints about the former Whiting property on Route 101 becoming a new location for Ben's Sugar Shack. He said town counsel has reviewed state law, Temple's regulations regarding agriculture and Site Plan Review, and that commercial agriculture is an allowed use. However, there is a conflict with the town's Site Plan Review ordinance, which does not have an exemption for agriculture. Town counsel believes the BOS cannot issue Fisk a building permit without

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Planning Board approval through the Site Plan Review process. Kieley said the BOS sent a letter to Fisk advising the need for a building permit and the possibility he may need to go before the Zoning Board of Adjustment (ZBA). Martin suggested inviting Fisk in to talk to the board about his plans. This was followed by general discussion about the status of current town ordinances and state laws regarding agriculture. Board members stated the desire to strike a balance between support and control. The board was reminded of a previous attempt by petition to change zoning to require Site Plan Review for large scale buildings, including agriculture structures.

Other business:

- Order placed order for 2014 Planning & Land Use Regulation manuals

Motion by Lockwood to adjourn the meeting, second by Ayvazian, and so voted at 8:43 p.m.

Minutes submitted by Betsy Perry

~ Next meeting is scheduled for November 6, 2013 ~