

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, July 19, 2023
Raymond C. Foster Municipal Building

Full discussion on topics below is available on audio recording at the Newry Town Office.

Members Present: John (aka Gootsch) Gauthier (Board Chair), Bruce Pierce (Board Vice Chair), Ted Baker (Secretary)

Members Late:

Staff Present: Joelle Corey (Code Enforcement Officer)

Members & Staff Absent:

Call to Order: Chairman John Gauthier called the meeting to order at 6:00 PM.

Current Attendance/Quorum: The Chair took attendance and confirmed the presence of a quorum.

Prior Attendance/Voting Eligibility: With no recent absences, all members are eligible to vote.

Previous Meeting's Minutes: The Board reviewed the previous meeting's minutes. **Ted moved to accept the minutes of the Wednesday, June 21, 2023, meeting as written. Bruce seconded. There was no discussion. The motion passed with all voting in favor.**

BUSINESS

- a) **Election of Officers:** The Chair confirmed that the 3 current members are willing to continue to service in the same roles in which they've been serving. **Bruce nominated Ted Baker as secretary; Gootsch seconded. The vote was unanimously in favor. Ted nominated Bruce Pierce as vice chair of the Planning board; Gootsch seconded. The vote was unanimously in favor. Ted nominated John Gauthier as chairman of the Planning Board. Bruce seconded, and the vote was unanimously in favor.**

- b) **Findings of Fact for Sunday River Skiway Corp, Map R17/Lot 2A3 and Map R13/Lot 13; Construction of new lift at Merrill Hill – Application #23-275:** The Board reviewed the Findings of Fact and confirmed that they had the most recent version. **Gootsch moved to approve the Findings of Fact and Conclusions of Law for Application 23-275. Ted seconded, and the motion passed unanimously.** The Chair proceeded to sign two copies – one for the Town's files and one to be mailed to the applicant.

- c) **Site Plan Review – Sunday River Skiway Corp Golf Storage Building, 18 Championship Drive, Map R17 Lot 2A-1:** Joseph Aloisio, representing Sunday River, explained the resort's plan to build a 120'x60' metal building to store golf carts when they are not in use – at night, during the winter, and whenever they are charging. Some of the current charging outdoor stations will remain in the parking lot, but some will be moved into the new building and additional charging stations will be added. The primary function of the building is to store the carts all winter when the course is closed. There is already 3-phase power in the area. A maintenance shop already exists for the golf equipment.

Ted moved that the Unified Development Review Ordinance (UDRO) Section 1.C.2.a references new buildings and structures, and that the applicant is proposing a new building or structure, and therefore, the Planning Board has jurisdiction to review the site plan. Gootsch seconded, and the motion passed unanimously.

Ted moved that the applicant has standing, and that Sunday River is the owner of the golf course and the lot that is referenced. Bruce seconded. The motion passed unanimously.

The applicant was asked to submit a formal letter giving him authorization to represent Sunday River Skiway Corporation. **In view of the fact that the representative of the applicant is not duly authorized as an agent, Ted moved that the Board temporarily waive this requirement until the authorization letter is provided to the Board at its next meeting and that the Board continue on with the application review process. Gootsch seconded. The motion passed unanimously.**

Ted noted that he is an employee of Sunday River in the capacity of a shuttle bus driver, and in such capacity he is neither empowered nor solicited with the opportunity to add input in the decision making for the management of the golf course, and therefore he does not have a bias or conflict of interest. **Bruce moved that Ted Baker does not have any bias or conflict of interest toward this application. Gootsch seconded, and the motion passed unanimously.**

The application fee of \$377.91 was paid on July 12, 2023, with check # 85476 per a copy of the receipt from the Newry Town Office.

The application was numbered 23-277.

Ted moved that no additional escrow is needed as allowed per Section 10.B.6 which states that the Board may collect an additional fee up to \$2,500 or 50% of the application fee to help the Board pay for consulting fees, etc. Gootsch seconded, and the motion passed unanimously.

As agent for the company, Joe was asked to add his name and information to items 11-14 on the application.

The applicant was asked to correct item 31 which shows the site being greater than 1 acre (it's actually less than 1 acre).

The applicant noted that the bathroom will be for employees only. Discussion ensued regarding item 36 regarding sewage disposal, as well as item 38, fire protection. It was noted that the itemized cost list will need to be updated removing the line for a sprinkler system.

Gootsch relayed some questions from the fire chief. 1) Will the golf carts have lithium batteries. In discussion, the Board noted that most have lead acid batteries. 2) Will the building be heated? Joe stated that the current plan is not to heat it. 3) Will the building be sprinkled? The building will not be sprinkled. The applicant added that the building will be ventilated, and the building has access in the front and in the back.

The applicant was to review of the International Building Code 2015 International Mechanical Code 2018 and NFPA 1 in regards to battery storage in large metal buildings, ventilation, and sensor for hydrogen, lockouts, etc., as well as the requirements for the building being an OSHA Class 1 Zone 2 Hazardous Location.

In regards to the Plans, a Stormwater Management Plan is needed and an Erosion Control Plan for during construction with applicable notes. Those notes should include who will be the inspecting engineer, how frequently they will be inspecting, and make a provision to send those reports to the CEO.

Joe will research an area for fire trucks to turn around – perhaps installing a hammerhead per exhibit B in the UDRO.

Ted moved that the Board table Application 23-277 until the Board's next meeting, August 2. Gootsch seconded; the motion passed unanimously.

During the review of the next application, the applicant was told that provisions for concrete washout will mostly likely be a condition of approval on this application.

- d) **Site Plan Review – Sunday River Skiway Corp 3 Valve Houses, one at each: Aurora, Oz and South Ridge, Map R12 Lot 26-1:** Joe Aloisio, of Sunday River, presented an application for valve houses on various peaks at Sunday River Ski Resort. Joe explained the resort’s plan to make improvements to the snowmaking system, upgrading some pipelines and upgrading the valve houses associated with that pipeline so there is better control when making snow during the season – especially early season. These new, expanded valve houses will replace old, dilapidated valve houses, but not necessarily in the same location.

Ted moved that under the UDRO Section 1.C.2.a., new buildings and structures, that the Planning Board has jurisdiction to review the site plan. Gootsch seconded. The motion passed unanimously.

The applicant was asked to complete items 11-14 on the application.

Ted moved that in view of the fact that it is common knowledge that the applicant, Sunday River Skiway Corp, has proper ownership of the land involved, that the Board waive the requirement to include copies the deed and/or leases applicable to the application. Bruce seconded, and the motion passed unanimously.

Item 32 needs to be changed from “N/A” to “waived”.

Item 31 needs to be corrected to less than 1 acre.

It was noted that only the South Ridge valve house would have abutters within 1000’. The Board and applicant discussed the email received from Robbin Kyshura, Property Manager for Fall Line Condo Association, dated July 19, 2023, regarding Broadway Trail Valve House.

Joe explained that DEP grants the resort a waiver because this is part of the snowmaking system. The group discussed items 44 & 45, Stormwater Management Plan and the Erosion Control Plan. Joe stated that the valve houses will have concrete foundations. The applicant explained that the South Ridge valve house will most likely have electricity because it’s already available at that location; the other two, which are in remote locations, may have solar power and may be heated with propane.

The applicant was told that provisions for concrete washout will mostly likely be a condition of approval.

Joe will add a title block to the large map that shows the location of all three valve houses.

Joe stated that these valve houses are slated to be constructed this fall.

Item 72 needs to be corrected to less than 0.01%, not greater than.

With the exceptions of the edits noted that the applicant has duly promised to incorporate into the final application, Ted moved that the application is complete. Bruce seconded, and the motion passed unanimously.

The application fee of \$60.00 was paid on July 12, 2023, check number 85477 per a copy of the receipt from the Town Office, and the application was numbered 23-278.

Ted moved that no additional escrow is needed as per Section 10.B.6 of the UDRO. Gootsch seconded, and the motion passed unanimously.

Ted moved that a site visit is not recommended for this application; Bruce seconded. The motion passed unanimously.

Ted moved that a public hearing is not required for this project; Bruce seconded, and the motion passed unanimously.

In view of the fact that the value of infrastructure to be constructed on this application is \$0, and that 10% of the infrastructure as defined in the UDRO is \$0, therefore, a performance guarantee is not required. Bruce seconded, and the motion passed unanimously.

As a point of order, Ted noted that the applicant is not requesting any waivers. It was clarified that the Board waived item 32, Copy of deed, but this waiver was not requested by the applicant.

Ted noted that he is an employee of Sunday River Skiway in the capacity of a shuttle bus driver and in such capacity has no influence in the planning, decision making, and execution of this application. **Bruce moved that Ted Baker has no bias or conflict of interest in this application; Gootsch seconded. The motion passed unanimously.**

Discussion ensued regarding concrete washouts. It was noted that the procedure is well covered in DEP's Erosion Control Best Practices Manual.

Ted moved that as a condition of approval concrete washouts as per the State of Maine Erosion Control Best Practices Manual, latest edition, be observed. Bruce seconded, and the motion passed unanimously.

The Board proceeded to review the criteria for approval.

CRITERIA FOR APPROVAL FOR THE UNIFIED DEVELOPMENT REVIEW ORDINANCE (pages 21-24)

- A. **Pollution** – Ted moved that the proposed development will not result in undue water or air pollution in making this determination the Board has considered the elevation of the land above sea level and its relation to floodplains, has considered the nature of soils and subsoils and their ability to adequately support waste disposal, which there is none, has considered the slope of the land and the effect of effluence, which there is none, and the ability of streams for the disposal of effluent, there is no effluent and no streams, and the applicable state and local health and water resource rules and regulations, which do not apply since there is no effluent. Bruce seconded. The motion passed unanimously.
- B. **Erosion** – Gootsch moved that these are small structures in forested situations and soil erosion is not expected once the grass grows in. Bruce seconded. The motion passed unanimously.
- C. **Traffic** – Ted moved that section 5.C, Traffic; section 5.D, Sewage Disposal; section 5.E, Municipal Solid Waste Disposal; and section 5.F, Aesthetic, Cultural and Natural Values, do not apply. Gootsch seconded. The motion passed unanimously.
- D. **Sewage Disposal** – *see above motion.*
- E. **Municipal Solid Waste Disposal** – *see above motion.*
- F. **Aesthetic, Cultural and Natural Values** – *see above motion.*
- G. **Financial and Technical Capacity** – Ted moved that the applicant has demonstrated financial and technical capacity to carry out the application as presented. Bruce seconded. The motion passed unanimously.
- H. **Sufficient Water** – Gootsch moved that H, Sufficient Water; I, Public Water Supply; J, Surface Waters; K, Ground Water; L, Flood Areas; M, Freshwater Wetlands; and N, River, Stream or Brook, do not apply to this application. Bruce seconded. During discussion, it was confirmed that there are no documented freshwater wetlands located in the project area. The motion passed unanimously.
- I. **Public Water Supply** – *see above motion.*
- J. **Surface Waters** – *see above motion.*
- K. **Ground Water** – *see above motion.*
- L. **Flood Areas** – *see above motion.*
- M. **Freshwater Wetlands** – *see above motion.*
- N. **River, Stream or Brook** – *see above motion.*

- O. **Storm Water** – Ted moved that with the size of the proposed buildings, stormwater will not be an issue. Bruce seconded. The motion passed unanimously.
- P. **Spaghetti-Lots Prohibited** – Gootsch moved that Section 5 P, Spaghetti Lots Prohibited; Q, Municipal Services; R, Lake Phosphorus Concentration; S, Impact on Adjoining Municipality; and T, Land Subject to Liquidation Harvesting, are not applicable to this project. Ted seconded. The motion passed unanimously.
- Q. **Municipal Services** – *see above motion.*
- R. **Lake Phosphorus Concentration** – *see above motion.*
- S. **Impact on Adjoining Municipality** – *see above motion.*
- T. **Land Subject to Liquidation Harvesting** – *see above motion.*
- U. **Conformity with Local Ordinances and Plans** – Ted moved that the applicant has met section 5.U, Conformity with Local Ordinances and Plans. Gootsch seconded, and the motion passed unanimously.

The applicant was asked to provide the Board with a copy of the law that DEP passed where snowmaking and snowmaking systems are granted an exception to the requirement for DEP approval. He was also asked to insert the Maine State Statute on item 41 of the application.

Ted moved that the Board approve with the conditions Application # 23-278, Sunday River Valve Houses, with the condition being that the applicant will observe proper concrete washout procedures as detailed by the Maine Department of Environmental Protection Best Practices Guide. Bruce seconded. The motion passed unanimously.

CEO REPORTS

- a) Lots of big, luxurious houses are being constructed, which will bring in a lot of valuation once they're taxed. All but one in the Sunday River valley.
- b) Escrow Accounts: the escrow account for Sunday River's Barker Lift is up to date and paid in full, and Gorrill Palmer has been paid. Joelle noted that she believes the Merrill Hill project had some leftover review money; she's not sure if that has been returned to Sunday River yet. There is also inspection money, which is separate; that money has not been used yet. Joelle stated that logging has started on Merrill Hill for ski trails. Joelle stated that logging has started on Merrill Hill for the ski trails and the lift; the ski bridges have been brushed out where the foundations will go in on either side of Morganite.

OPEN DISCUSSION

- a) **UDRO and Land Use and Building Ordinance updates:** Joelle stated, expecting the two applications to take longer than they did, that she did not bring this information to the meeting. Earlier during tonight's meeting, it was noted that the word "residential" needs to be removed from the Sprinkler/Life Safety chapter.
- b) **UDRO verbiage on cell phone tower and solar farms:** Ted noted that the Board should discuss and work on adding language to the UDRO regarding cell phone towers and solar farms. It was noted that the Board should aim for February to have the edits ready to go to Selectmen and public hearing so they can be added to the warrant in May.
- c) **Update on legislation for a second dwelling unit on a building lot:** Joelle stated that the State of Maine has given towns the size of Newry a one-year extension. The State will also give the town \$5000 to cover legal fees to edit ordinances. The State of Maine is taking another look at this law in regards to small towns, lots with private septic, shoreland zones, etc. Joelle and other Code Enforcement Officers are contacting their representatives.

Next Scheduled Meeting – Wednesday, August 2, 2023, at 6pm

Adjournment Ted moved that having dutifully reviewed all the material presented to the Board on the agenda at this meeting, that the Board has completed its task and therefore, the Board adjourn until August 2, 2023, at 6:00 pm; Bruce seconded. Motion passed with all voting in favor. The meeting adjourned at 8:06 PM.