

APPLICATION FOR APPEAL FROM ADMINISTRATIVE DECISION
BOARD OF ADJUSTMENT
PO Box 268, Jackson, N.H. 03846

Revised July 19, 2006

Do not write in space below:

Case No. _____ Date Filed _____
ZBA Signature _____ Public Hearing _____

Decision _____

Applicant Signature *Thomas G. White* Date Dec. 3, 2009

TAX LOT NUMBER: R17 #10

Name of applicant
Jackson Ski Touring Foundation, Inc.

Address
PO Box 216
Jackson, NH 03846

Owner
Jackson Ski Touring Foundation, Inc.

Location of property
R17 Lot #10 Carter Notch Road - no 911 Designation

(street, number, sub-division)

Acres 0.3 acres or Sq. Ft. _____

APPEAL FROM AN ADMINISTRATIVE DECISION

Relating to the interpretation and enforcement of the provisions of the Zoning Ordinance.

Decision of the enforcement officer to be reviewed: See Appendix A Selectmen's
Letter

NUMBER: N/A DATE: November 6, 2009

Section 4.3.11 Rural/Residential District and 5.4.1 Permitted Uses in
River Conservation District of the Jackson zoning ordinance:

Is any Use of or Structure on the subject property currently Non-Conforming? YES ___ NO

If yes, explain in detail:

RECEIVED

DEC 03 2009

TOWN OF JACKSON

Does the subject property, including all existing or proposed buildings, signs, driveways, and septic systems meet Jackson Zoning Ordinance requirements and all applicable state regulations? YES X
NO

If no, explain in detail: See Attachment 1

ADDITIONAL INFORMATION: Summarize below any information from preliminary discussions with any state agency personnel in regard to the case. Attach copies of any correspondence from state agencies, or Jackson officials and boards pertaining to the property.

See Attachment 1

See Appendix A Selectmen's Decision Letter 11/06/2009

See Appendix B Construction Plan

See Appendix C Selectmen's Minutes 11/05/2009

See Appendix D Selectmen's Minutes 10/20/2008

See Appendix E State Highway Department Driveway Permit

See Appendix F List of Abutters

NOTE: This application is not acceptable unless all required statements have been made.

Attach a copy of the enforcement officer decision and all pertinent documents and correspondence.

Use additional attachments or separate sheet to provide answers to questions, if the space provided is inadequate.

IMPORTANT NOTICE - Board of Adjustment By-Laws state that information from the applicant and/or his representatives must be provided to the Board no less than 7 calendar days prior to the date of the public hearing.

If you have questions about this application, please review the application instructions and checklist and the ZBA information found on www.jacksonvillage.net under Boards and Commissions. In addition, you may contact the Chairman of the Board of Adjustment, PO Box 268, Jackson, NH 03846

Attachment 1

Statement of Facts

Jackson Ski Touring Foundation, Inc. (JSTF) appeals to the Board of Adjustment from a decision of the Jackson Board of Selectmen denying an application for a building permit to remove 9 inches of soil from the surface of an existing parking lot and replace it with 9 inches of gravel. A copy of the Board of Selectmen's decision in the form of a letter dated **November 6, 2009** is attached as Appendix A. The purpose of the proposed change is to improve the condition of the parking lot in the spring skiing season when it turns to mud.

The parking lot is located on the east side of Carter Notch Road, approximately 0.3 miles south of Moody Farm Road, on land owned by JSTF. **The lot's dimensions are approximately 80 by 60 feet, and accommodates 14 cars. A sketch plan of the parking lot is attached as Appendix B.** The lot provides access to cross-country ski trails that begin on the JSTF land and continue onto lands of others pursuant to licenses and easements. These trails are part of an integrated network of trails maintained and operated by JSTF throughout the Town of Jackson in all of its zoning districts and the White Mountain National Forest. JSTF does not charge for parking in this or any other lot; it does charge for daily and seasonal passes to ski on its trails.

There is no dispute that maintenance and operation of this network of trails is a permitted use. The issue was neither raised nor argued in the Board of Selectmen's meeting, with the Town Engineer noting only that "the trails are allowed in the River Conservation District." *See Minutes of Board of Selectmen's Meeting, Nov. 5, 2009* (the relevant portion of the Selectmen's Minutes is attached as Appendix C); *see also* Appendix A ("your property is in the River Conservation District which permits trails . . ."). Consideration of this issue is therefore foreclosed in this appeal.

The Board of Selectmen's decision was based on the view of two of its members that "the Rural-Residential District does not appear to allow commercial parking lots" and that the "property is in the River Conservation District which permits trails, but not parking lots." *See Appendices A and C.*

Issues

1. Is a parking lot that provides access to cross-country ski trails an integral part of maintaining and operating the trail network, and therefore a permitted use in the Rural-Residential District and the River Conservation District?
2. If not, is maintenance of the parking lot an accessory use to maintenance and operation of the trail network?

Argument

1. Providing reasonable access in the form of parking is an essential and integral part of maintaining and operating a network of ski trails, a permitted use.

Jackson Ski Touring Foundation maintains more than 150 kilometers of trails throughout the Town of Jackson, a recreational resource that benefits residents and visitors and is a keystone of the Town's economy. Reasonable access to the trails is essential to realizing these benefits. Although in theory some skiers could reach most of the trails by parking at the Touring Center and then skiing to them, this ignores the practical necessity for additional points of access.

Beginning skiers should not face challenging terrain, and it may not be safe for them to do so. Skiers with physical limitations or disabilities, of which JSTF attracts an increasing number every year, have similar needs. The trails served by this parking lot are flat and provide ideal conditions for novices and those who are physically challenged. In fact, these trails are the flattest in the entire trail system, with even less variation in terrain than those on the Wentworth golf course. In addition, for all skiers, direct access to trails at higher elevations permits skiing when there is snow there but not at lower elevations.

Although the Jackson Zoning Ordinance's design guidelines for parking do not mandate a specific number of spaces for recreational uses, the Ordinance does require generally that "[a]ll new altered and/or enlarged structures or land uses shall provide adequate parking facilities for motor vehicles . . ." Ordinance, § 7.1 (emphasis added). This and other remote lots maintained by JSTF are consistent with the spirit of this requirement by providing off-street parking, which enhances safety, and reducing the number of skiers parking in the center of Jackson.

Selectman Mason recognized that reasonable access to a recreational resource is as important as the resource itself when he said, "since recreation is allowed and we can't have recreation without somewhere for folks to put their vehicles, so it is a logical extension . . ." See Appendix C.

The Selectmen who voted to deny JSTF's application appear to have relied on the Town Engineer's advice that this was a "commercial" parking lot. See Appendix A. That is simply a red herring. The Jackson Zoning Ordinance defines "Commercial Use" as "any use involving in part or in whole, the sale of merchandise, materials or services . . ." Ordinance, § 3.6. JSTF does not charge for parking in this or any other lot, so standing alone, the lot does not fall within this definition. It is true that JSTF does charge for daily and seasonal passes to ski on its trails, but the trails are conceded to be a permitted use. The lot's association with permitted trails cannot make it a "commercial," non-permitted use within the meaning of the Ordinance.

The Selectmen's decision on the building permit, moreover, conflicts directly with their decision on October 20, 2008 to allow JSTF to construct another parking lot further north on Carter Notch Road in the Town's right of way. *See* Minutes of Board of Selectmen's Meeting, Oct. 20, 2008 (the relevant portion of the Selectmen's Minutes is attached as Appendix D.) At that time, no question was raised that the northerly parking lot was a permitted use. *See* Appendix D. This prior decision of the Board of Selectmen implicitly recognized that parking to provide access to ski trails was itself a permitted use. There is no material difference between the two parking lots for purposes of the Jackson Zoning Ordinance, and the Board of Selectmen in its decision on the building permit provided no explanation for the inconsistency.

For the all these reasons, the Board of Adjustment should conclude that providing reasonable access and parking is an integral part of maintaining and operating a network of cross-country ski trails and, therefore, that it is a permitted use in both the Rural-Residential and River Conservation Districts.

2. In the alternative, the parking lot is an accessory use to maintaining and operating a network of cross-country ski trails, a permitted use.

The Jackson Zoning Ordinance defines an "Accessory Use/Accessory Structure" as "a use or structure customarily incidental or subordinate to an existing principal use and located on the same lot as the principal use." Ordinance, § 3.2.

The parking lot under review meets this definition. Parking is "customarily incidental or subordinate" to maintaining and operating ski trails, and the trail begins on the same lot where the parking lot is located. It is sufficient that the principal use and the accessory use occur on the same lot, and it is irrelevant that the trails continue onto the land of other property owners.

In the alternative, therefore, the Board of Adjustment should conclude that the parking lot is an accessory use to the existing principal use of maintaining and operating a network of cross-country ski trails.



TOWN OF JACKSON

OFFICE OF THE SELECTMEN

November 6, 2009

Mr. Thomas Perkins
Jackson Ski Touring Foundation
PO Box 216
Jackson, NH, 03846

Dear Thom:

As you are aware, during the Selectman's Board meeting last night on November 5, 2009, your building permit request to create a seasonal parking lot was denied. The Town Engineer, Burr Phillips, recommended that a variance be obtained on two accounts. First, the Rural-Residential District does not appear to allow commercial parking lots. Second, your property is in the River Conservation District which permits trails, but not parking lots. In order to proceed with your plans, you will need to obtain variance from Jackson's Zoning Board. The present chairman is Frank Benesh (tel: 383-8229).

Thank you for your cooperation.

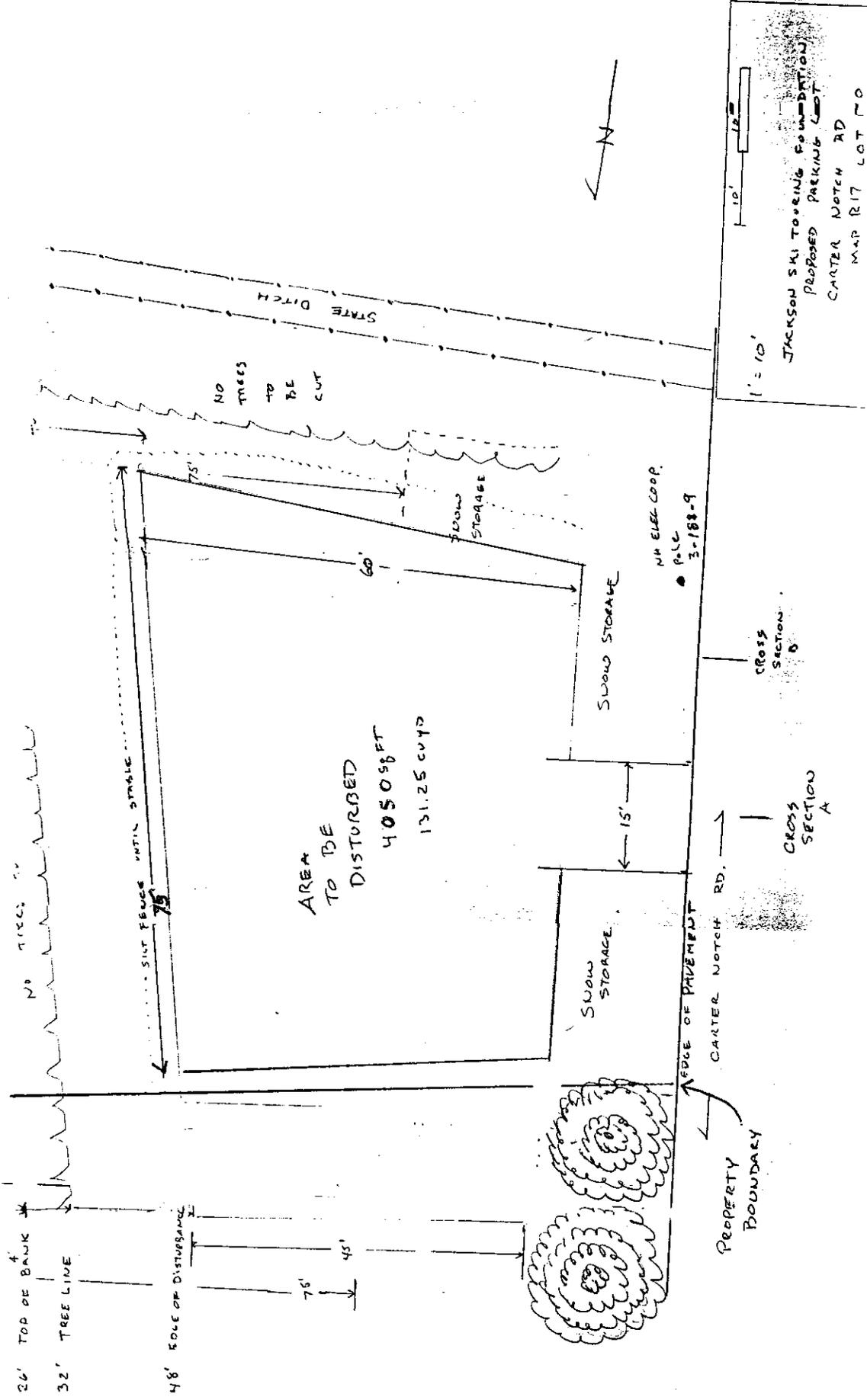
Sincerely,

Linda M. Dresch
Town of Jackson



APPENDIX B

COPY OF PLAN



APPENDIX C

Present: Gino Funicella Chairman, Beatrice Davis, Dave Mason Selectmen

Vtors: Office Administrator Diane Falcey, Jackson Police Officer Sean Cowland, Jackson Fire Chief and Road Agent Jay Henry, Sarah Clemons, Martha Benesh, Hank Benesh, Burr Phillips, John Fichera, Phil Davies, Thom Perkins, Hank Dresch

The Board was called to order at 4:00 p.m.

1. Amend and approve the minutes of October 15, 2009 The minutes of October 15, 2009 as amended were unanimously approved.

2. Police Report Officer Cowland reviewed the Department's activities since the Board's last meeting. These included: six house alarms, two medical aids, three assists to motorists, one theft of flags at the Shannon Door and a Fire Department assist at the Wildcat Tavern. They also responded to a Domestic Violence call which ended in a criminal arrest. Selectman Funicella asked if the Department members alternate night service, which Officer Cowland affirmed.

3. Road Agent/Fire Chief Henry

a) Proposed Public Safety Building & Salt Shed – Burr Phillips, PE, EPESC Consultant Members of the Public Safety Building/Sand & Salt Shed Committee joined the Board (Burr Phillips, Hank Dresch, Phil Davies and Road Agent/Fire Chief Henry). Burr Phillips reviewed the progress on this project. The Committee has been meeting for about six months; he provided a document on the project along with diagrams for the Board to review. Burr explained that the Committee had come up with five options for locating the Shed: two locations on the Gray's Inn property, one location at the Transfer Station, the Meloon Road Landfill site and purchasing land from Robert Hanson's estate. The Gray's Inn property was the preferred location and building it on the knoll up behind the Town Offices (aka "up back") seems the best option. The Transfer Station would involve Bartlett in the process; the Meloon Road Site isn't big enough and purchasing land from the Hanson estate isn't a viable option. Siting the building on the Gray's Inn property behind the knoll and beyond the wetland involves more work and makes it more difficult for future development possibilities. Access to the knoll site would be through the expanded Fire Department yard. Burr included expansion options such as recreation courts and expansion of the town offices. The favored siting provides the most flexibility for future use of the site. The new Public Works site goes through the trails so there will be movement of the trail and Burr noted that with the reworking of the recreation trail they could make it ADA compliant. The plan doesn't disturb future development of the site. Burr also planned for possible residential development. Chairman Funicella noted that the Board had previously discussed siting the Sand & Salt Shed on the Gray's Inn property but did not agree to a specific site; he'd like a motion to specify the site for the record. Selectman Mason noted that the location does appear to be the most logical and best use of the land. As far as concerns to its visibility, there is a large buffer of trees that will be left in place. **Selectman Davis, seconded by Selectman Mason, made a motion to approve the Gray's Inn site as specified on Burr Phillips' drawing (as presented 11/5/09) as the site for the Public Safety Facility and the Sand & Salt Shed. The motion passed unanimously.** This site will be pinpointed on the warrant. There will be 10,000 yards of material removed from the site so the buildings won't sit on top of the land; Burr has paid particular attention to the layout of this project. He had Mike Couture, a professional Architect and an engineer, look at the site and he came back with an estimate for the "Cadillac model"; it was very expensive so the Committee went back and asked for the "Chevrolet version". Burr presented the architect's drawings; this design meets Jackson's present needs and allows for expansion. Chairman Funicella is very impressed with the work the Committee has done. Burr discussed how the funding would work. Conesco went back and reworked the plans and this had gone out to bid to a number of contractors. The estimator did a great job so we shouldn't have a lot of surprises on costs. Road Agent/Fire Chief Henry went to LA Drew to find out the cost for moving the majority of the soil; the plan is to find out the cost to have them do all the moving versus having the Highway Department do the work. Road Agent Henry anticipates a good savings (estimated at \$200,000) by using Jackson's own Highway crew to do the work.

Sarah Clemons asked Burr if this is the same location folks went out to look at last year, it is. Phil noted that when we looked at it last year the project was much bigger.

Thom Perkins feels the Committee has done good work and would like to know if they have considered using an earth berm. Burr noted the plans call for cutting into the knoll so there will be a natural berm when the building goes in. Thom also noted that the plan seems to indicate that there would be covered machinery facing the road; he'd like the structure sited so the equipment isn't visible; Burr assured Thom the berm would prevent folks from even seeing this building.

Martha Benesh asked for clarification as to where the road to any possible development would be. Burr noted that the road would utilize the old tennis courts and cut up to the location chosen for further development.

Phil Davies noted the Committee would be meeting again on November 18th at 9 a.m.

b) Highway Department Report There have been a lot of maintenance repairs completed since the last Board meeting. The baseball dugout is essentially renovated with only some finish work to complete. Road Agent Henry would like to know how the Board wants to handle parking in the field by the river. The chain didn't get put back so there have been a lot of cars parking there. This is the water supply secondary to the hydrants. There are two signs posted about it being a fire lane. Road Agent Henry would like to know if the Board thinks he should eliminate parking down there altogether. The people who use the soccer field were upset with the area chained off as they felt there wasn't enough parking for them. Selectman Mason believes it would be nice for folks to be able to park down there but at the same time the town has to keep the Fire Lane open. Fire Chief Henry would like to let folks use it as long as they don't block the Fire Lane; if we have a fire and need to utilize the river the Department would lay hose all the way down the road so who ever is parked there would be stuck until the Fire Department is done. Previously parking for the soccer games filled it and would have prevented us from getting to the water. Fire Chief Henry would like to give it a try and only chain it off if folks don't adhere to the Fire Lane. Sarah Clemons would like to know how much money came from the

APPENDIX C

Lila Pond Fund for the baseball dugout; at this time we don't know how much the dugout renovation will cost but she left \$30,000. Sarah wants to make sure there will be an accounting of where these funds go. The Board affirmed that there will be a record. The Dodge is down: Road Agent Henry is going to use his car but he doesn't think a mileage charge will adequately reimburse him for what it's actually going to cost him. Chairman Funicella is concerned that folks will see Road Agent Henry filling up and wonder why he can do that. Road Agent Henry noted that when his grandfather was working for Jackson he used his own vehicle and the town paid for repairs, tires, fuel and oil. A stipend was suggested until Jackson gets a new vehicle but Selectman Mason thinks Jackson should just buy a vehicle. He feels that's a better solution than an employee thinking s/he isn't getting properly reimbursed. It was noted that when the new Police vehicle comes in the Highway Department can take over that vehicle; Jackson has never bought a vehicle for the Highway Department's use. Road Agent reminded folks that he'll be using a Jackson town vehicle once the snow flies. **Selectman Davis, seconded by Selectman Mason, made a motion to approve paying for Fire Chief/Road Agent Henry's fuel when he uses his Personally Owned Vehicle for Jackson work (he will fill up at the Wildcat Service Station). The motion passed unanimously.** Sarah Clemons asked if Fire Chief/Road Agent Henry keeps a log of his mileage for work: Fire Chief/Road Agent Henry noted he has in the past. Selectman Mason reminded Sarah that the Board has already voted on how this is going to be handled. There is a lot of concern with Sarah's innuendos. The Board has made its decision and we don't want our employee to have to write all that down. Sarah apologized if she was making an insinuation. There was a Road Agent meeting in Moultonboro where it was explained that the State has Mutual Aid for Highway Departments, which is similar to Fire Department Mutual Aid. Jackson would pay to become a member, it costs only \$25 and Road Agent Henry believes it would be a great idea to join. Jackson won't be required to accept calls. **Selectman Davis, seconded by Selectman Mason, made a motion that Jackson join the Highway Department State Mutual Aid. The motion passed unanimously.** Road Agent Henry wants a specialist to come in to talk with the Board about salt and sand use - how it damages the environment and how to best use these products; the experts are saying sand is worse than salt. Chairman Funicella noted that wouldn't be for a Board meeting; that would be something scheduled for their Friday morning meeting.

c) Fire Department There was a structure fire at the Wildcat Tavern. Four firefighters were injured. It was noted that in twenty years there have been no injuries and we had four at this one; it was a freak situation. The Selectmen and the town of Jackson as a whole were thanked for their support in observing the laws regarding fire safety; the Department's work saved the building.

All attendees were reminded to turn their cell phones off or to silence them or put them on vibrate.

4. Building Permits: Jack Dever, Jackson Building Inspector

a. Jackson Ski Touring Foundation (Map R17 - Lot 10) - Parking Lot Thom Perkins noted that he has a difference in opinion with Burr Phillips. Burr believes this needs to go to the Zoning Board of Adjustment. Burr noted that the trails are allowed in the River Conservation District, but the parking lot isn't a permitted use in the Conservation District. Selectman Mason noted that since recreation is allowed and we can't have recreation without somewhere for folks to put their vehicles so it is a logical extension as long as the land disturbance isn't a problem for the floodplain and the Department of Environmental Services says it's okay. The landowner next door would prefer no parking lot of course but she also thought her land was about fifteen to twenty feet bigger. While that did turn out to be supportable, the Ski Association is not impinging on the property and made a lot of changes to alleviate many of Burr's concerns. Martha Benesh asked if the work is going to be within fifty feet of the river; Selectman Mason noted that doesn't matter as long as they don't change the elevation of the property or do anything to increase flood waters there. Selectman Davis asked how many cars would be accommodated and Thom noted there would be space for a maximum of fourteen. Thom pointed out that the Ski Association is going to use its own land to park folks who want to go into the woods; this is not a commercial parking lot. Chairman Funicella noted with the letter from the landowner who has a lot of concerns that he would like to have this go to ZBA. Selectman Mason noted just because the landowner has a lot of concerns doesn't make her right. Burr recommends that this go to the ZBA; a parking lot is not a recreational use. Thom noted the document doesn't say parking is not permitted; Burr agrees that's true but the document does list what is permitted and it doesn't list parking lots as a permitted use; while Burr also agrees with Selectman Mason's comments Burr suggests the parking lot be put outside the Conservation District. Chairman Funicella noted there are abutters with concerns and they have taken the time to write these letters; he doesn't see how the Board can approve this when there are concerns. The Board needs to vote to either accept the application or to send it to the ZBA. Chairman Funicella feels sending this to the ZBA would protect the town and the Jackson Ski Touring Foundation. Selectman Mason made a motion to approve the application for a parking lot but there was no second. **Selectman Davis, seconded by Chairman Funicella, made a motion to send this application to the Zoning Board of Adjustment. The motion passed 2-1-0 (Mason in the negative).** Thom noted that the Foundation fully intends to plow the area this winter; it's their land and they can do what they want to do with it; Thom feels that he's been told he can't plow his own land. The construction season will be over for the year before this gets through the ZBA.

b. Norris-Baker, Carolyn (Map VI, Lot 31) - Certificate of Occupancy This was approved and signed as recommended.

c. Curtis-McLane, Bruce (Map R12, Lot 23) - Certificate of Occupancy This was approved and signed as recommended.

d. Salvage, David (Map R12, Lot 174) - Building Permit Extension This is a home on Hemlock Hill. **Selectman Davis, seconded by Selectman Mason, made a motion to extend the permit as recommended. The motion passed unanimously.**

e. Pine Cone Properties, LLC (Map 12, Lot 168) - Replace deck & support joists This was approved and signed as recommended.

f. Koepfel, Fritz (Map VI, Lot 37) - Replace Foundation, relocation, renovation & up-grade There is no record in the minutes to show that the Board voted on or signed the permit for this. It has been inspected. **Selectman Mason, seconded by Selectman Davis, made a motion to issue a permit for the project. The motion passed unanimously.**

g. Byrne, Brian (Fetterolf, William - VI, Map Lot 9) - Phase II Demolish & reframe roof This has been to the ZBA and approved. **Selectman Mason, seconded by Selectman Davis, made a motion to approve Phase II. The motion passed unanimously.**

5. Davis, Nancy & Dean - Driveway/Underground Cable Permit This is for the driveway where the Davises plan to build; there is a driveway

APPENDIX D

Present: Beatrice Davis Chairman, Gino Funicella, Dave Mason Selectmen

Visitors: Jackson Police Chief Karl Meyers, Road Agent Rob Hatch, Sarah Clemons, Dee McClave, Bob Davis, Thom Perkins, Anne Peterson, Bob Kantack, Andy Chalmers, Holly Lewis, Roger Garland, Dana Belcher

The Board was called to order at 4:06 p.m.

1. Approve the minutes of October 6, 2008 The minutes of October 6, 2008 were reviewed and approved as amended.
2. Vote to borrow Tax Anticipation Note of \$200,000 under RSA 33.7 which was voted by and accepted by the town in 1995 for an indefinite period of time Selectman Funicella, seconded by Selectman Mason, made a motion to authorize borrowing under a tax anticipation note of \$200,000 under RSA 33.7. The legislative grant of authority to selectmen required under RSA 33.7 was voted by the town in 1995 for an indefinite period of time. This motion makes this note available for use until June 30, 2009.
3. Dee McClave Public Assistance Officer (executive session RSA 91-A3 II)

The Board went into Executive Session at 4:13 p.m. in accordance with RSA 91-A3, II

The Board returned to Public Session at 4:32 p.m.

4. Rob Hatch; Road Agent (Thom Perkins; Parking lot on Carter Notch Road) Road Agent Rob Hatch noted that he met with Thom Perkins regarding a parking lot on Carter Notch Road. Rob has concerns regarding maintaining it for the winter and with drainage. Thom came up with a course of action, he understands Rob's concerns and plans to address them and Rob feels the project should move forward. Thom doesn't think this should be any problem but Chairman Davis noted the project uses town land for a private enterprise. She wonder what would happen if another neighbor of town land wanted more parking could they just come to the Selectmen and ask for it. Selectman Mason thinks this is no different than providing parking up at the Falls. Thom will use a private plow person to keep it clear; access to this area has been a problem for the skiers and townsmen have also expressed a desire to have access to the area during the winter. The town has some social responsibility to provide for this. Rob expressed a concern should folks park there overnight but the police can assist with that. Selectman Mason, seconded by Selectman Funicella, made a motion to allow Jackson Cross-Country to construct a parking lot at the top of Carter Notch Road as long as they address the concerns raised by the Road Agent. Selectman Funicella would like to know if anyone will be able to park there or if folks have to have a ski pass; Thom noted they won't be patrolling who parks there. The motion passed 2-1-0 (Davis in the negative). Rob reviewed the work completed in the past two weeks. Work continues on the vehicles in preparation for the winter; the new truck was supposed to be ready today but there is an issue with the sander; the dealer is working with International to address this. Rob will have the figures for the transmission on the old truck in time for the budget season. Rob has met with Stephen Iisley, proposed seasonal employee, twice and the Selectmen will meet with him on the 24th at 10:30 to finalize the hiring process. The Fire Department is going up to the top of Tyrol next weekend and want to use the loader; Rob has discussed this with Fire Chief Dubie. Bob Davis asked if Black Mountain is going to be fixed before winter. Rob noted he plans to put gravel down soon.

5. Karl Meyers; Police Chief Chief Meyers reviewed calls for the past two weeks. One of the calls was for a burglary at a town business; \$1700 was stolen. Investigation has shown this was perpetrated by an ex-employee and a warrant has been issued for him. There was also another burglary from a town business of \$7200; it's known who did this but at this time we are unable to prove it. Chief Meyers has asked the Chamber of Commerce to remind folks to be careful with their money. The sign at the end of Carter Notch Road has been stolen; Selectman Mason asked where the town stood on eminent domain for that piece of property and it was explained that Mrs. Pike had agreed to let the town use the turnaround so the town dropped the pursuit of eminent domain. Selectman Funicella asked how a criminal check is done; Chief Meyers noted the person involved has to sign-off on a waiver. He explained if the person refuses to sign-off that's a sign there's a problem. He has checked with the state and they think anyone working with or for the town should have a criminal check, including volunteers.

6. Shawn Bergeron, Andy Chalmers Building permits: Holloran - Recommended approval, Savage - Recommended approval please see memo regarding valuation, Lavoie - Recommended approval, Peterson - Recommended approval foundation only please see 4 building permits for signatures. Discussion of items: Lewis, Landess, Eagle Mountain House Andy Chalmers noted the permits are pretty straight forward. One is being held as the value paid on the permit was for \$200,000 but the value is closer to \$400,000.

Andy recommended that the Lewis permit from 2005 not be renewed. The inspectors haven't been called to look at it, if an inspection isn't done he can't arrive at the appropriate size or value. Holly Lewis noted the figures for square footage are from the log home company, in 2005 she asked about inspections and was told by the building inspector that a final inspection had been completed. She has renewed every July and had planned to be finished this year but the rain hampered their progress forcing her to request another renewal. Selectman Mason asked if there is a problem with having an inspection and Holly noted there was no problem; these rules weren't in place when she got her permit. It was reiterated that an inspection needs to be done before the permit can be renewed. Holly noted she has six pieces of sheetrock to put in and she's done. The wires are run through the logs and she doesn't have to have a licensed electrician do the work as it's her own home. Holly will contact Andy to arrange an inspection and the Selectmen will issue a permit based on the value of the work. Holly will meet with Andy following the meeting to discuss any other inspections she'll need.

The Landess property is a prime example of why doing these inspections is important. They have built within the setbacks for the River Conservation District, the neighbors and a private road. They have also built well outside the footprint. The owners can apply for an equitable waiver from the Zoning Board of Adjustment, stating they didn't know they were violating the setbacks. It was noted Mr. Landess is a building inspector so he did know and the permit clearly states he couldn't build in the setbacks. If they don't get the waiver then the property needs to be returned to its original status. The Selectmen are going to issue a letter letting the Landesses know they are in violation and give them the



GEORGE N. CAMPBELL, JR.
COMMISSIONER

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

District 1 Office, 641 Main Street, Lancaster, NH 03584 (603) 788-4641



JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

DRIVEWAY PERMIT

To: Thomas Perkins
Jackson Ski Touring
PO Box 216
Jackson, NH 03846

City/Town: Jackson
Route/Road: Carter Notch Rd (N231
Patrol Section: 113
Tax Map: 17
Lot: 10
Development:

Permit #: 01-231-4644
District: 01
Permit Date 1/29/2009

Permission is hereby granted to construct (alter) a driveway, entrance, exit or approach adjoining Carter Notch Rd (N2310041), pursuant to the location and specifications as described below. Failure to adhere to the standards and engineering drawings previously approved shall render this instrument null and void. Failure to start or complete construction of said facility within one calendar year of the date of this permit shall require application for permit extension or renewal in accordance with the Driveway Access Rules. Facilities constructed in violation of the permit specifications or the rules, shall be corrected immediately upon notification by a Department representative. Any cost by the State to correct deficiencies shall be fully borne by the landowner. The landowner shall defend, indemnify and hold harmless the Department and its duly appointed agents and employees against any action for personal injury and/or property damage sustained by reason of the exercise of this permit.

Drive 1

Location: Approximately 0.3 miles south of Moody Farm Road on the east side of Carter Notch Rd (N2310041).

GPS: 44.1695 N 71.19151 W.

Specifications: This permit authorizes a gravel access to be used as a Recreational Parking drive. Any change in use, increase in use or reconstruction of the driveway requires reapplication.

The right-of-way line is located 24.75 feet from and parallel to the centerline of the highway. The entrance shall be graded so that the surface of the drive drops 10 inches at a point 20 feet from Carter Notch Rd (N2310041) edge of pavement.

The driveway shall not exceed 15 feet in width.

Drive shall be located approximately 25 feet north of pole # NECOOP / 3 / 188 / 9 / NET & T.

Other Conditions:

No structures, including buildings, permanent or portable signs, lights, displays, fences, walls, etc. shall be permitted on, over or under the Highway Right of Way.

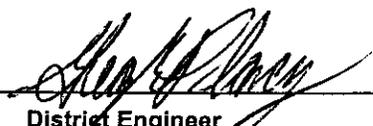
No parking, catering or servicing shall be conducted within the Highway Right of Way.

The applicant shall comply with all applicable ordinances and regulations of the municipality or other State Agencies.

The Department has relied on the title and subdivision information provided by the landowner. The Department has not performed additional title research and makes no warranty or representation concerning landowner's legal right to access. In the event of a dispute about the landowner's legal right to the access provided herein, the landowner will defend and indemnify the Department.

The existing drainage shall be maintained.

Copies: District, Town, Patrolman

Approved 
District Engineer
For Director of Administration

Appendix F Abutters:

R17 #9

Winthrop S. Walker Trust
c/o Edward R Rodenbach TTEE
2 Greenwich Plaze
Greenwich, CT 06830

R17 #11

Parkman D. Harding
PO Box 69
Jackson, NH 03846

R17 #8A

Ben Miller
PO Box 285
Jackson, NH 03846

R9 #16

Milton B and Denise C. Sachse
36 Jean St
North Attleboro, MA 02760