

**TOWN OF BARTLETT PLANNING BOARD  
PUBLIC HEARING**

**July 1, 2019**

**Members Present:** Scott Grant; David L. Patch; David A. Patch; David Shedd; Kevin Bennett; Barry Trudeau; Kevin McEnaney. **Members Absent:** None.

**Also Present:** Philip Franklin; Sue Franklin; George Howard; Hannelore Chandler; Nancy Keleman; Joe Berry; Alec Tarberry; Sheila Duane; Andrew Fisher; Shawn Bergeron; Steve Johnson; Norman Head; Anne Kroger Grant.

Chairman Scott Grant called the meeting to order at 6:00 pm, and invited George Howard to lead all present in the Pledge of Allegiance. The Chairman then reviewed the items on the agenda.

**1. Public Hearing, Bartlett School District, School Street, Bartlett Village.** File: 2019-1254. This is an application for a boundary-line adjustment to convey 0.11-acres from the former St. Joseph Church parcel to the main school parcel with the purpose of establishing new 15-ft. perimeters around the existing church on the north, south, and east sides. Tax Map 5VILLG, Lots MAI-BES and STA-RCC.

The Chairman said he would open the public hearing. Phil Franklin presented and said he was representing the Bartlett Historical Society (BHS), who are hoping to buy the church property from the Bartlett School District for use as a museum. He said the BHS does not own the church property at this time and this application was filed under the name of the school district, but the chairman of the school board, Nancy Keleman, had asked him speak on their behalf. Mr. Franklin placed a plan on view in front of the board which had been prepared by Burke York of York Land Services out of Berlin. The plan showed the boundary adjustments being proposed. Mr. Franklin gave a brief history of the church and said the BHS had been working with the school district to complete the sale of the church property, including a designated amount of land around the church itself, for the purpose of saving, renovating, and reopening the church building as a public museum and headquarters for the society. He said the St. Joseph Church was a historic building which was listed on the state registry for historic places, and was also recognized by the NH Preservation Alliance as one of the designated 2017 Seven to Save buildings. Mr. Franklin said the church itself was in dire need of repair and advised the BHS was willing to undertake the efforts necessary to restore the church to its former beautiful condition.

Mr. Franklin said this application was one of two which needed to be approved before they could officially purchase the church from the school district. He said the second one, which is not under the purview of the planning board, is for a variance change-of-use from the ZBA. He said he held off submitting the ZBA application until he knew the outcome of tonight's meeting. On the plan, Mr. Franklin pointed-out where the proposed boundary adjustment was occurring, and where the boundaries of the overall school and church parcels were. He also showed where the parking lots were located, the location of the existing cesspool, and identified the surrounding abutters. He acknowledged this is a non-conforming lot as it exists today, and the boundary adjustment will make it even more non-conforming. Mr. Franklin said apart from the main 0.11-acre, or 4,741 sf area being removed from the church property, three other very small adjustments were being also being made, two of which would add slightly more land to the church lot on the east and south sides. He indicated which boundaries were being affected on the plan. He said one of these adjustments was so tiny it only involved one square foot. Mr. Franklin said the school owns all the parking lots and lastly advised what the distances were between the church and the school buildings and the church and the road. He asked if the board had any questions regarding where the property lines were before proceeding any further.

David Shedd asked about the parking lot to the south of the church which had originally been a part of the church property, and asked whether that had been separated by a boundary-line adjustment. Mr. Franklin said he wasn't sure; it could have been done when the property was conveyed from the Roman Catholic Bishop of Manchester to the school in 1999. He noted it was marked as Parcel 1 on the plan, while the church lot was marked as Parcel 2. Mr. Franklin said, as he had mentioned before, this entire lot is already a non-conforming lot and acknowledged this boundary-line adjustment is making even more non-conforming, but regardless of which way it is looked at, it is

still non-conforming whether the non-conformity is large or small. Mr. Franklin said one question which may be asked was why the church lot is being sized the way it is. He said it was basically because in discussions with the school board, this is the extent of land they were willing to give to the BHS as part of the sale. He said the BHS had asked the school for a 10-ft. septic easement off the north boundary for the purpose of future septic requirements, but this had been denied. Mr. Franklin said the church was served by a cesspool which was located on the northern side of the building. This cesspool was inspected by septic engineer Walter Lancaster who found it to be a stone-lined working cesspool which only needed a cleaning and a new top. Mr. Franklin said should this cesspool ever fail, Burke York felt state approval could be obtained for a low-volume replacement system within the 15-ft. setback. He said the design would probably require a state-issued variance, which is one of the reasons the 10-ft. septic easement had been requested to make this variance easier to obtain. Also sought from the school board was permission to use the 0.11-acre area to satisfy future density calculations for any replacement system. Mr. Franklin said the school board had granted permission for this, but the selectmen had informed him that using off-site density was not allowed. Mr. Franklin addressed a rumor he said was circulating around town that the large oak tree behind the church had been cut down to make room for a septic system. He said this was entirely untrue, and the tree removal and septic system had nothing to do with each other. Mr. Franklin concluded his presentation by saying another idea, but one which had never been discussed during a full school board meeting, was to keep the 0.11-acre area as part of the church parcel and for the BHS to allow the elementary school to use it however they needed. Mr. Franklin said he believes it is intended to be used as a playground for the pre-school.

The Chairman asked if there were any questions from the public. Nancy Keleman spoke and said the school had purchased the church property with the intent of using it as a parking lot. She said for years the school board had submitted a warrant article to save the church, but the town had always said no until last time when they voted to save it. She said the BHS had then come to them with an offer to restore it for use as their headquarters. She said during these discussions the school board decided on the 15-ft. buffer around the church so they would have more land for their own use. She confirmed that the 0.11-acre area was to be used as a playground for the preschoolers as it would enable the students to walk straight out their door onto the play area. Ms. Keleman asked the planning board to look favorably on this boundary-line adjustment and approve it. George Howard spoke and asked the board to look at this application from the town's perspective. He said, years ago, Bartlett was a vibrant little village which offered a lot of services to its residents. He said over the years, through economic reasons and town government actions, most of those services are now on the list of prohibited commercial activities and nothing is being done to attract these services back and to keep the viability of the village going. He asked whether this is what the town really wants, or do we want a town that provides services for its people. Mr. Howard said the school had a certain responsibility as well, as they were part of the village and asked how much parking they really needed. Mr. Howard agreed that we wrote the rules, but that doesn't mean the rules can't be changed, and a lot depends on how they are interpreted and what the benefit would be. He said this museum is the first thing to come along which serves something new. He urged the board to look at this not just as a single application, but how it would be an overall benefit to the town and suggested the board needed to do its job and get this project done. Mr. Howard recalled how it took a warrant article to allow railroads in town back in 1991, and said if that is what it takes to make this museum a permitted use, then get started on it now. The Chairman drew the board's attention to their copy of a letter Mr. Howard had provided earlier.

Norman Head rose and said his question was really one of protocol. He said he thought the protocol was that the board discussed things among themselves, first; then the hearing was opened to the public since the board discussion may stimulate questions from them; then after the public indicated they had no further questions, the public comment period was closed and the board deliberated further. The Chairman informed Mr. Head he wanted to hear from the public first, and that the public hearing had not been closed and the audience still had the opportunity to ask questions. David Shedd said he also had a procedural question and asked whether we could vote to accept this application tonight, but could not vote to approve it the same night. David L. Patch informed him that boundary-line adjustments could be accepted and approved in one meeting, while subdivisions took at least two. Mr. Franklin agreed that was how it was done during his tenure as the planning board chairman.

The Chairman asked if there were any other public comments. With none, he asked if there were any further board comments. Kevin McEnaney said he really wanted to see this work, and suggested we shouldn't be looking at it solely as a commercial venture in a residential area. He said the church was a historic building which was being put to good use as a museum and would be a tremendous benefit to the town. He said he recognized the non-conformity of the land and building, but it is what it is. He felt since it will never be conforming that the board needed to work with what they had and find a way to make this work as it would be a travesty to not allow this project to proceed in one way or another. David Shedd asked Mr. Franklin what happens if the ZBA denies the change of use. Mr. Franklin explained that the ZBA can look at it two ways. One, they leave the lot as a residential lot and change the designation of the church to a commercial museum or, two, they can make it a commercial-designated lot and then make it a museum. He said either way, they needed a variance since a commercial lot requires frontage onto Route 302, which the church lot does not have. He answered Mr. Shedd's question by saying if the ZBA denied them, that they would have to re-evaluate the situation and make some decisions since they could not afford to own and take on the liability and responsibility of a building which they could not use as they wanted to. Barry Trudeau, saying he was the new guy, asked what was preventing the board from approving this application right now. When several people present said, "nothing," Mr. Trudeau suggested we just do it and let them go to the ZBA, rather than wasting any more time. David Shedd asked what the consequences would be if the historical society failed to exist some point in the future; is the school district putting any requirements on the sale whereby they would have the right of first refusal should that happen? Nancy Keleman said they had addressed that issue. The Chairman asked her if she could explain what that decision was, but Ms. Keleman said he could explain it since he was also a member of the school board. The Chairman advised should the historical society fail, the building would go back to the town to take care of, since the school was in the business of education, not real estate. Mr. Franklin also advised that back when the sale between the diocese and school occurred, the diocese had imposed provisions that the building would not be sold and used for certain activities which went against their Christian doctrine, such as sex or pornography, demonic worship, etc. David Shedd said the fact that the building would go back to the town makes it an easier decision for him to approve this.

David L. Patch said he had been on the board for a long time and was not a big fan of waivers, preferring to stick to the regulations which had been voted on by the town and which were pretty clear. However, he said this would be a very good thing if we could make it work. He added that if we do approve it, we're not playing favorites but we're helping the entire town. He said it was not as though we were helping a developer make more money by granting a waiver to allow extra lots. Mr. Patch said this actually improves the village, helps the historical society, and saves a historic building. Furthermore, if the board did not approve this he was quite sure the school would tear the church down which could cost taxpayers \$100,000 and he felt it was the responsibility of the planning board to save taxpayer's money, if at all possible. He said, as a planning board, the best decision they could make was one which impacts the fewest people negatively, and the most people positively. He said, in this case, he can't think of a negative impact and believes as a public official, sometimes you have to use good judgment and common sense and do what was best for the public in general.

The Chairman asked whether there was a motion to approve this application. Nobody made the motion, but Kevin McEnaney shared that he considered the museum to be an educational component of the school by teaching students about Bartlett's history. He said if the Chairman was looking for a motion, that he would make one to approve. Barry Trudeau said he would second it. The Chairman asked if there was any further public comment. Phil Franklin said there is a lot of excitement within the school regarding the museum and offering educational opportunities is certainly one of the BHS's intentions. David A. Patch, saying we needed to make a motion to accept the application, made a motion to do so, but the Chairman said he had not closed the public hearing yet. David Shedd said he wanted to go back to the subject he spoke of earlier, partly because he still doesn't understand it. He questioned the land which we are referring to as the a playground area (shown as hatched on the plan) and asked would it not require something in the nature of a lot consolidation to be added to the school property. He cautioned about proceeding in such a way as to create a new lot. This resulted in a discussion as to whether a lot was being created. The Chairman stated that the school had taken over the church property and merged it with itself by deed, since it was its own entity and could do whatever it wanted. He even recalled that lawyers had been involved with this at

great expense to the school. Phil Franklin suggested that perhaps the “lot” could be dealt with at a separate time, and Andy Fisher commented from the audience that it was confusing and it sounded as though the board was creating a new lot. According to the plan, no new lot was being created. At this point, with no further public comments, the Chairman closed the public hearing.

David A. Patch made a motion again to accept the application. Seconded by Kevin McEnaney. Vote: All in favor. Kevin McEnaney then made a motion to approve the application. Seconded by Barry Trudeau. Vote: All in favor.

**2. Public Hearing: MacKeen Attitash Realty Trust; Attitash Mountain Service Co., Ltd.; and Bruce M. Sather & Denise A. Peters, Parker Ridge Road, Stillings Grant.** File: 2019-1255. Application for a boundary-line adjustment to divide Lot A50 in half and add one half each to the two abutting lots, Lots A49 and A51, while eliminating Lot A50. Tax Map 5STLNG.

Joe Berry presented and explained that two property owners on Parker Ridge Road were looking to purchase a vacant lot located between their properties with the intent of splitting the lot in half and adding half each to their own respective lots. The board had previously reviewed the plan and had no problems with the concept. David A. Patch made a motion to accept the application; seconded by Kevin McEnaney. Vote: All in favor. The Chairman opened the hearing to public comment. There was nobody present to speak to the application and the public hearing was closed. A motion to approve the boundary-line adjustment was made by Kevin McEnaney; seconded by David L. Patch. Vote: All in favor. The Chairman signed the mylar for recording. Mr. Berry asked that the plan not be recorded until the sale was finalized and said he would advise when that happened. While Mr. Berry was present, the Chairman asked him how the review of Block G was going. Mr. Berry said it was going well, and steady progress was being made.

**3. Continuation of discussion relative to site plan review determination for Moat Mt. Brewery, Limmer Lane.** Andy Fisher of Ammonoosuc Survey, Shawn Bergeron of Bergeron Technical Services, and brewery owner Steve Johnson presented. Mr. Fisher said he did not have a copy of the previously-approved plan from January, 2013, but provided one which he said, to the best of his knowledge, reflected everything that would have been shown on that earlier plan. He recalled he was before the board a few weeks ago seeking a determination as to whether site plan review would be required again because an expansion of the brewery building ended-up being larger than it should have been. Mr. Fisher offered an explanation of this by saying the plan submitted for the original 2012 site plan meeting showed an area off the back of the building which he would consider as being for possible future expansion, although the area was not labeled as such and nor did it show any square footage of the expansion. He said at the last meeting the board had questions regarding the building permit, location of the silo, and parking spaces and requested that representatives of the brewery come back to answer those questions.

The Chairman asked if there were any questions. David Shedd asked Shawn Bergeron if he had anything to add. Mr. Bergeron said back in early 2013, Ammonoosuc Survey had obtained site plan approval for the conversion of the old Limmer barn to the Moat Mountain Brewery. He said at the time of that approval the plan showed an unmarked area which was intended for future expansion, although that area did not give any specific dimensions. Mr. Bergeron said it was his firm who prepared the building permit for the expansion and who had added the notation on the back that the addition proposed is as shown on the site plan approved by the Bartlett Planning Board. However, Mr. Bergeron said on that same building permit application, the correct dimensions of the addition were supplied as well as an up-to-date plan. Mr. Bergeron said things were done very much up-front and there was nothing concealed. He said while it is unfortunate that there was a break-down in certain areas, at the end of the day the enlarged addition met every requirement in terms of use and setbacks. He said while the wording on the application could have been better, the dimensional information provided was accurate.

David Shedd indicated he did not necessarily have a problem with the addition, although he agreed the language on the building application could have been a little bit better. He said what he was concerned about was that the silo was located in the setback and greenspace and that parking was occurring in the greenspace. Mr. Shedd said the

board was interested to know how the silo came to be located where it was, and what steps were being taken to remedy the parking situation. Mr. Johnson explained that the silo shown on the original site plan was a differently-manufactured one which was not available when it came time for him to order it. Mr. Johnson said the replacement silo did not fit where it was originally planned and, in his ignorance, he simply placed it where he needed it to be without realizing it was in the setback. Mr. Johnson said the parking may seem a little crowded at the moment due to vehicles owned by construction contractors working on the expansion being on-site. He said during the winter months, people parked off the pavement to allow plowing to take place, and noted neighborhood people often used his parking area during the winter as well, when they were unable to navigate some of the steeper roads in the area when they were ice and snow covered.

David Shedd noted that one of the things he had asked Mr. Fisher to do was to provide a plan showing where the parking spaces were located. Mr. Fisher said he did not want to amend the original site plan too much, so provided an existing conditions plan which showed nine parking spaces, one of which was handicapped. He said this number exceeded the four spaces required under site plan review. David Shedd addressed a previous comment made by Mr. Johnson whereby he said he had acquired several residential properties abutting the brewery. Mr. Shedd said he wanted to make it clear to Mr. Johnson that these properties could not be used to diminish green space on the commercial lot. Mr. Johnson said he understood. The board went back to discussing the issue of the silo and Mr. Johnson apologized once again for his mistakes and said he took full responsibility. When asked if he was likely to move the silo, Mr. Johnson indicated that would be quite an undertaking. Mr. Shedd said while he was not inclined to advocate for additional site plan review, he said he didn't see how it could be approved while it was in the setback. David L. Patch said, technically, he believed the only thing the board was required to do at this time was to make a yes or no determination as to whether site plan review was required for the addition. He said if the silo was in the setback, then perhaps something could be worked-out to make it conform. The Chairman asked David A. Patch for the selectmen's input. Mr. Patch said the selectmen were in the process of sending a letter to Federal Spice addressing that issue. The Chairman said there were two issues; one being was site plan required for the addition, and the other was the silo being in the setback. He asked what the board should do about the silo situation. David A. Patch said the silo should be left up to the selectmen to resolve.

Shawn Bergeron said if the board determined that no further site plan review was required, that would get them over one hurdle. He noted the selectmen were sending some kind of correspondence which would require them to address the silo situation and said one of the things he was contemplating using was the provision in the zoning which allowed them to apply to the ZBA for an equitable waiver of distance. The Chairman asked how much larger the addition currently under construction was, compared to the site plan review discussion. Mr. Bergeron said it was approximately fifty percent bigger. Selectman David A. Patch advised the assessor had measured the new construction and found it to be 32x60, which was slightly smaller than the 35x72 asked for on the building permit. A motion was eventually made by David Shedd; seconded by David L. Patch that site plan review would not be required because of the larger-sized expansion. Vote: All in favor.

**4. Continuation/Final Approval: RSM Bartlett Properties, LLC, (Richard Girardin), 590 US Route 302.** File: 2018-1251. This is an application for a 14-unit subdivision (7 duplexes) on a 13-acre parcel identified as Tax Map 3RT302, Lot 53R00.

This application is still waiting for state subdivision and septic approvals. Additionally, the road design was being revised to relocate the catchbasins out of the road right-of-way. A motion to continue the application to the August 5 meeting was made by Kevin McEnaney; seconded by Barry Trudeau. Vote: All in favor.

**5. Continuation/Final Approval: River Run Co., Inc., Route 302/Haystack Loop.** File: 2018-1252. This is an application for a 3-lot subdivision of a 10.29-acre parcel of land. Tax Map 3ATTDV, Lot UND-D00.

This application is also waiting for state subdivision approval. A motion to continue the application to the August 5 meeting was made by David A. Patch; seconded by David L. Patch. Vote: All in favor.

**6. Mail and Other Business:**

- Any mail listed on the agenda was reviewed.
- Kevin Bennett addressed the number of parking spaces the zoning ordinance required Moat Mt. to have for site plan review. Mr. Bennett felt the number was too low, and suggested this was something which should be taken under consideration in the future.

There being no other business, a motion to adjourn was made by David L. Patch, seconded by Kevin McEnaney.  
Vote: All in favor. The meeting adjourned at 8.35 pm.

Respectfully submitted,  
Barbara Bush  
Recording Secretary