

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

July 5, 2017

Members Present: Chairman Philip Franklin; David Shedd; Peter Gagne; Scott Grant; Kevin Bennett.

Members Absent: David L. Patch; David A. Patch (both with notice).

Also present: Kevin Tilton of HEB Engineers; Kyler Drew of Triple K Properties; Joe Berry; Sheila Duane; Rob Kantack; Burke York.

The meeting was opened at 6:00 pm by Chairman Philip Franklin, who reviewed the agenda.

1. Public Hearing: Triple K Properties, Ltd. and George L. O'Brien, III & Terry Wentworth, Drew Lane. File: 2017-1230. This is an application for a boundary-line adjustment to convey 0.09-acre of land from the O'Brien/Wentworth property to the Triple K property. Tax Map 1RT16, Lots 105L10 and 093L10.

Kevin Tilton and Kyler Drew presented. Mr. Tilton described how a corner of a large building on the Triple K property encroached over the boundary onto the O'Brien/Wentworth property and this boundary adjustment was necessary to correct that problem. The building had been in-place since 1989, but a recently-conducted survey had discovered the discrepancy. Mr. Tilton said the boundary was being moved just far enough into the O'Brien/Wentworth property to clear any setbacks and to keep the building entirely on the Triple K property. The Chairman asked whether both properties were zoned commercial. Mr. Tilton said the selectmen had clarified that both were residential, even though a grandfathered commercial use took place on the Triple K property.

After the board reviewed the plan, the Chairman asked if there were any questions. David Shedd said he did not have a real problem with this particular adjustment being made for the sake of the building encroachment, but since both properties were residential he asked Mr. Drew what would prevent him from trying to adjust the boundaries between the gravel pit and their abutting residential property, Lot 93L20, in the future. Mr. Shedd said the fact that we were allowing the boundary to be adjusted now could set a precedent and give Mr. Drew the reasonable expectation that future adjustments would be allowed since it would be hard to grant one and deny another. Mr. Drew said that was something he had not given any thought to since he was well aware that our zoning ordinance did not allow the gravel operations to expand onto any of the abutting properties. Mr. Shedd said he would like to see language on the plan which made it clear that the gravel operation was not to extend onto the adjacent field lot. He said he was not trying to impose language on Mr. Drew, and asked for his input as to what language he would be comfortable with. Mr. Shedd indicated he would be unwilling to vote to approve the application without the language added. The board discussed the situation at length, to include what any language should say or whether it was even necessary or appropriate, given the fact that the gravel pit could not expand onto Lot 93L20. In the event the gravel operation ever ceased and the lot reverted to a residential area, then an adjustment or merger with the abutting residential parcel should be allowed. Some members felt any future boundary adjustments should be dealt with on a case-by-case basis. Mr. Shedd did not agree with this scenario, and further expressed reservations as to whether this was actually a grandfathered pit, as determined by the selectmen. It was eventually decided to not add the language requested by Mr. Shedd.

The Chairman called for a motion to accept the application. Motion made by Scott Grant; seconded by Kevin Bennett. Vote: 4-1-0 with David Shedd voting no. Mr. Shedd later changed his vote to yes, when he realized this was a motion to accept and not to approve. Final vote: All in favor. The Chairman opened the public hearing. With nobody in the audience to speak, the public hearing was closed. The Chairman then called for a motion to approve the application. Motion made by Scott Grant; seconded by Kevin Bennett. Vote: 4-1-0, with David Shedd voting no. Mr. Tilton will provide a mylar for recording and plans for the file.

While Kyler Drew was still in attendance, Scott Grant took the opportunity to ask him about an ongoing issue between Triple K and the Lower Bartlett Water Precinct. Mr. Grant asked whether it was correct that Triple K were being denied the right to crush gravel at their pit, which necessitated the gravel being transported to the Howard (Allen) pit on Route 302 for crushing purposes. He asked who was responsible for this decision: the

state, the precinct, or Triple K. Mr. Drew indicated this was correct and that the directive had come from the water precinct. Mr. Grant asked why the precinct was doing this. Mr. Drew said the bottom line was because they contend Triple K's 1984 excavation permit did not specifically say they could import material to their site, so the precinct was now denying them the right to do so. Mr. Grant asked if a reason had been given, or whether it had simply taken 35 years for them to figure it out. Mr. Drew said it had taken a long time, but he guessed it took a new superintendent coming-in a few years ago to make the decision. The Chairman asked whether it was an aquifer issue that the precinct was concerned about. Mr. Drew said he believed it was; that they were concerned about water quality. When asked by Scott Grant, Mr. Drew said the groundwater in the area flowed at a very high rate, the pit was downstream from the precinct's wells, and there had never been water quality issues in the past. He said the precinct tests the water in the wells, and even tested the water in the excavation pond, and none of the testing showed there has even been any problems. Mr. Grant asked whether the state had looked into these issues. Mr. Drew said not that he was aware of. He mentioned that when their last Alteration of Terrain permit was submitted to the state, the precinct had objected and tried to stop it, but it was approved despite the objection based on data the state had in its file and their knowledge that no previous problems had ever been identified.

Scott Grant stated that the planning board had jurisdiction over gravel pits in town, but acknowledged that the water precinct also had their own zoning ordinance, which was implemented prior to the town adopting theirs. He said he would like clarification as to which entity had the ultimate say, and would also like the superintendent and precinct commissioners to come to the next meeting to share their side of the story. To that end, he made a motion which was seconded by Peter Gagne, to extend an invitation to the precinct to come to the July 18 work session. Vote: All in favor. The Chairman further suggested that the Municipal Association be asked their opinion on the question of whether one ordinance superceded the other.

2. Preliminary conceptual review: York Land Services. Preliminary informational discussion on a proposed 7-lot subdivision of 76 acres of land on Cobb Farm and Stanton Farm Roads. Tax Map 5COBRD, Lot 045RWO.

Burke York was before the board to discuss a proposed 7-lot subdivision of the remaining land formerly belonging to James Howard on Cobb Farm and Stanton Farm Roads. The property is now owned by Attitash Mountain Service Co. Mr. Burke noted the board had recently approved a two-lot subdivision on the property for Mr. Howard, and now AMSCO was proposing to subdivide the remaining 76 acres into six building lots on the south side of Razor Brook. He said the seventh lot north of the brook, which would contain the remaining 46 acres, would remain undeveloped at this point. He said two driveways would each serve three lots, with one drive coming off Cobb Farm Road and the other coming off Stanton Farm Road. Mr. Burke asked whether the board felt a HISS study would be required. The board reviewed the plan which showed the lots ranged in size from 1-1/2 acres to 4-1/2 acres, that all benefited from good gravelly soil, and all adequately met MLAR requirements. Based on this, David Shedd said he did not see a need for a HISS.

The Chairman recalled that during the public hearing for the previous Howard subdivision, one of the abutters made a specific point of mentioning a water course which flooded and crossed some of the associated land and asked Mr. York if he picked-up anything on that. Mr. York said when speaking to other neighbors, the only time they had seen that happen was during Tropical Storm Irene when the Saco River backed-up. Mr. Burke said he would be submitting a formal application shortly.

3. Continuation/Final Approval: Attitash Mountain Service Co., (AMSCO), Block G, Stillings Grant: File: 2013-1187. This is an application to reconvene review of a continued application to subdivide Block G into 40 residential units. Tax Map 5STLNG, Lot G00.

This application has been continued indefinitely until a review by the town engineer review is completed.

4. Review and Approve Minutes: Since two members in attendance tonight would need to abstain from a vote to approve the June 20 minutes because they were not present at the meeting, the Chairman suggested that review and approval of the minutes be delayed until a quorum of members who actually attended the meeting was present.

5. Mail and Other Business:

- The board reviewed any mail listed on the agenda.
- The Chairman asked the secretary to provide a copy of the language which was proposed last year for a zoning amendment to change the definition of a lot, saying he would like to discuss it at the work session.
- Burke York and the board discussed ADU and septic requirements for one of his upcoming projects.
- Peter Gagne asked about ROW access to a non-commercial parcel behind Glen Sand & Gravel.

With no further business, a motion to adjourn was made by Scott Grant; seconded by Peter Gagne. Vote: All in favor. The meeting adjourned at 7:05 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary