

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

November 7, 2016

Members Present: Chairman Philip Franklin; David L. Patch; David A. Patch; Scott Grant; David Shedd; Richard Stimpson; Peter Gagne. **Members Absent:** None.

Also in attendance: Joe Berry and Sheila Duane from AMSCO; Andrew Fisher of Ammonoosuc Survey; Greg Grinnell; Norman Head.

The meeting was opened at 6:00 pm by Chairman Philip Franklin, who reviewed the agenda. David Shedd asked him about the wording for Item No. 3 on the agenda, the build-out of Block G at Stillings' Grant. The wording indicated this was an active application which was being continued while awaiting completion of a review by the town engineer, and that no action was anticipated tonight except for a vote to continue until the December public hearing. Mr. Shedd said that wording would appear to preclude the board having the opportunity to discuss the application tonight. The Chairman explained how, as a resident of Stillings' Grant, he gets a lot of questions from other residents asking whether "this was going to be talked about tonight, or not talked about tonight" so the agenda item had been modified for the benefit of those interested parties. Joe Berry asked to address the board. He said this was a unique situation and described how this was a very busy time of year for the engineers who had big projects and more-urgent items on their plate to complete before winter. Mr. Berry said he did not want to pester them and advised he had no problem with the board continuing the application. After a short discussion, the Chairman requested the item be placed under a line at the end of the agenda. He called for a motion to continue the discussion of the Block G application indefinitely until the technical review was completed, with the understanding the applicant would let us know ahead of time when they would be coming back in so the item could be returned to the top of the agenda with the current items. Mr. Berry said while he was not sure, he hoped that would happen within the month. Motion made by Scott Grant; seconded by David Shedd. Vote: All in favor.

1. Public Hearing: Attitash Mountain Service Co. (AMSCO), Parker Ridge Road, Stillings' Grant. File: 2016-1218. This is an application for an equal-area boundary-line adjustment involving 3,875 sf (0.09-acre) between Tax Map 5STLNG, Lots A38, A42, and CL-MAS (common land).

The Chairman said he would recuse himself from participating in the discussion due to the fact that he was an abutter and also served on the Stillings' Grant Association. He asked Vice-Chairman David L. Patch to assume chairing duties. Joe Berry and Sheila Duane then presented the BLA application and provided plans. Mr. Berry gave a brief overview of the history of this application by saying he had come before the board a few years ago to introduce the concept of what they wanted to do. He said they then came back a second time when one planning board member questioned abutter notification and whether a precedent was being set. Mr. Berry said AMSCO owned all the land involved in the BLA, and felt this was a straight-forward application. He disagreed with the assertion that this was setting a precedent and said by no stretch of the imagination was that the case: just because the planning board does one boundary-line adjustment, that does not set the tone for the next one. Mr. Berry indicated he would like to finalize this application tonight so that construction of the driveway can commence.

The Vice-Chairman asked if there were any questions from the board. David Shedd questioned Mr. Berry's comment about not setting a precedent. He said Mr. Berry had never adjusted common land boundaries in Stillings' Grant before, and he had no recollection it ever being changed anywhere else. He said he didn't quite understand how Mr. Berry could say it wasn't setting a precedent. Mr. Berry answered by repeating his earlier statement that one boundary-line adjustment did not impact the next one, especially where all parcels involved were owned by the same party. He stated this should be one of the easiest applications to ever come before the board. Mr. Shedd asked Mr. Berry whether he was aware of our zoning's description of what open space entailed, and how it was supposed to be permanently-designated space. Mr. Berry indicated he knew what the zoning required. He said the open space set aside for public enjoyment in this development was 187 acres, which is far more than any other development in town. The equal-area adjustment now being requested involved less than one-tenth of an acre, which Mr. Berry felt was an insignificant amount. He said he thought we were well past the situation of questioning the legality of changing boundary lines, and

recalled when they came in a few years ago that the board had sought legal advice from town counsel, who had come-up with the exact same conclusion as Atty. Cargill, counsel for the applicant. David Shedd said he did not believe that was correct, and questioned Mr. Berry's statement. Mr. Berry said his comment was absolutely correct, and that the minutes will reflect that. Mr. Shedd asked the secretary if town counsel had ever been consulted, as claimed by Mr. Berry. The secretary said legal advice had been sought from town counsel a few years ago when a boundary change was being discussed between Blocks F and G. The Chairman stepped-in as a matter of reference and advised the board had also contacted the Municipal Association about the propriety of adjusting the common land boundary. He recalled that two lawyers had responded with their opinion that the board was within its right to make a decision in this matter, and neither indicated it was an improper thing for the board to do.

Vice-Chairman Patch, who is a Fish & Game commissioner, advised he had also asked the opinion of Fish & Game attorney Paul Sanderson. Atty. Sanderson is a selectman and selectmen's representative on the planning board in the town he lives in, and had formerly worked for the Municipal Association for twelve years. Mr. Patch said Atty. Sanderson had indicated this was a good example of something a planning board can and should do, as it caused no harm and the lots involved were all owned by the same entity. Atty. Sanderson said where he was still working for the Municipal Association, he would advise the board members that they were well within their rights to approve this as it had no negative impact on anyone, did not block off wildlife corridors, and there was still the same amount of common land set aside. He believed it did not set a precedence since it was the board's responsibility to make a decision on a case-by-case basis. Mr. Berry agreed and repeated this was a very minor adjustment involving less than one-tenth of an acre out of 186-acres. The impact it created was also minor as it did not involve septic and it was not a case of good land being given-up for bad land, being that the land involved was of equal value. Mr. Berry said this was the fourth time they had come before the board and said he hoped this time, legalities notwithstanding, that common-sense would prevail. Mr. Shedd and Mr. Berry then engaged in a short exchange where they expressed their opinions of what the terms "minor impact" and "common sense" meant before Scott Grant indicated he would like to weigh-in.

Scott Grant asked Mr. Berry why this boundary adjustment was necessary. Mr. Berry said so as to not challenge a setback. Mr. Grant then noted that Mr. Berry owned the common land until the last lot in the development was sold, and asked what would prevent adjustments occurring in the future if Mr. Berry retained ownership of the last lot. He offered a scenario whereby an owner of one of the abutting lots may not have purchased that particular lot had they known the abutting boundary was going to be changed, or may have purchased the adjusted lot if the BLA produced better views, for example. He wondered how the owners of the two lots between those now being adjusted felt. Mr. Berry said the planning board's boundary-line adjustment procedures involved notifying abutters who then had the opportunity to express concerns or opinions at the public hearing. Mr. Berry said if anyone had serious objections, then he would work with them and try to accommodate their concerns. Peter Gagne asked the Chairman and the secretary whether they had received or heard of any abutter objections. Both said they had not. The Chairman acknowledged people were aware of the application and had spoken to him about it, but he had heard no negative feedback or issues from the Stillings' Grant neighborhood. He said he had encouraged people to attend the planning board meetings. Peter Gagne noted despite having that opportunity, nobody had ever been present at any of the meetings. The Chairman further shared that as a resident of Stillings' Grant, he had no objections to the adjustment and would vote to approve it if he had the opportunity to do so.

At this point, the Vice-Chairman asked if the board had any further questions. With none, he opened the public hearing, which was subsequently closed when no public comments were forthcoming. He then asked if there was a motion in favor of this boundary-line adjustment. A motion was made by Peter Gagne; seconded by Richard Stimpson to approve the proposed boundary-line adjustment. Vote: 4-2-0, with David Shedd and Scott Grant voting no. Mr. Berry thanked the board for their time and provided a mylar for recording.

2. 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.

Plans for this application are still in the process of being reviewed by the town engineer. As noted at the beginning of these minutes, the application had been continued indefinitely until the review had been completed.

The Chairman stepped back to the board and thanked Vice-Chairman Patch.

3. Public Hearing: Beechwoods at Intervale Phase II, Route 16A. File: 2016-1216. Application to amend a previously-approved and recorded subdivision plan. Tax Map 1RT16A, Lot 218R00.

Andrew Fisher of Ammonoosuc Survey Company presented and provided plans. He said the only change to the previous approved subdivision plan was the shifting of Unit 23 to a new location. Unit 23 had previously been located between Units 22 and 24, but the area had ultimately proven unsuitable to serve septic requirements for three units, which resulted in the need to move Unit 23 to another location. Mr. Fisher said the revised plan reflected no increase to the overall density or use. He said in the Phase II development, the original building locations were shown on the recorded plan, but the plan did not show metes and bounds as that information will be shown on the recorded as-built plan. Mr. Fisher noted the state had not required a new subdivision application and had simply amended the old one, a copy of which was provided. The board reviewed the plan.

Selectmen's representative David A. Patch asked Mr. Fisher whether there was enough room at the new location for Unit 23 to get a driveway in, so to avoid having to use a section of the road as a drive. Mr. Patch said the selectmen had a potential worry that using the road as indicated on the plan, could hinder fire apparatus turning around. Mr. Fisher said this could be done and explained several ways a small piece of driveway could be added to the end of the cul-de-sac. Both parties agreed this change could be reflected as part of the building permit. The Chairman asked if the board had any questions. Peter Gagne asked Mr. Patch about a letter Civil Solutions had sent to the selectmen regarding a road review, saying he wondered whether the letter should be considered when reviewing this application. Mr. Patch said the selectmen had not made any final decisions, but that none of the issues should affect what the planning board was looking at tonight. Mr. Gagne asked whether any building permits were being issued for Beechwoods at the moment. Mr. Patch said none were being issued for Lots 22 through 33 in the upper section until the road issues were straightened out. A short discussion ensued about whether the remaining Beechwoods land would be developed. Mr. Fisher said the area contained wetlands and Greg Grinnell noted there were only a few potential sites available. Mr. Fisher said he didn't foresee any further development happening, but the option wasn't being totally excluded.

The Chairman called for a motion to accept this application. Motion was made by Scott Grant; seconded by David A. Patch. Vote: All in favor. The public hearing was then opened. Peter Gagne said his only comment was that in the future it would be nice to see the infrastructure in place before any further building permits were issued. This comment resulted in the board engaging in a long discussion about topics that were not relative to the approval of this application. The Chairman ended the discussion by closing the public hearing and asking if there was a motion to approve the application. A motion to approve was made by David L. Patch; seconded by Rich Stimpson. Vote: All in favor. Mr. Fisher said he would deliver a mylar for recording.

4. Review and Approve Minutes: The board reviewed the minutes for the October 18, 2016 meeting. The Chairman noted what he thought was a typo on page 1, Item 1, Site Plan Review for Festival Fun Parks, where the word "workampers" was used. The secretary said this was a legitimate and accepted term to describe seasonal workers who travel from job-to-job and live on-site in campers. The Chairman suggested the word be surrounded by quotation marks. He asked if there were any other questions or comments on the minutes. Hearing none, he called for a motion to approve the minutes. A motion was made by Scott Grant; seconded by David Shedd to approve the October 18 minutes, as revised. Vote: All in favor. After the vote, Peter Gagne said he had missed an error in the minutes under Other Business where it was indicated he would be absent from the December 20, 2016 work session and the January 3, 2017 public hearing. Mr. Gagne said he would not be at the December public hearing, but could probably make the January one.

5. Zoning Ordinance amendments: The board re-reviewed a short list of preliminary items for consideration as zoning amendments, which had also been discussed at previous meetings. The Chairman said he would like the board to vote to support the wording of the amendments, as set forth in the October work session minutes and repeated below.

The first item on the list involved a new state-mandated RSA which will come into effect next year involving ADUs. The revisions agreed to by the board, so far, included the following: (1) Change the term for this type of accommodation from the current "accessory apartment" to the new statutory term of "accessory dwelling unit." (2) Limit the number of bedrooms allowed to two, and impose a maximum limit on the total size of the ADU to 800 sf. (3) For purposes of minimum land area requirements, increase the requirements for a 2-bedroom ADU to 2/3rds of that required for a 3-bedroom dwelling unit, while leaving a one-bedroom ADU as 1/2 the density of a 3-bedroom dwelling unit. (4) An ADU will not be counted towards the two-dwellings-on-a-driveway regulation. (5) Owner-occupancy of either the primary dwelling unit or the ADU will not be required. (6) Stand-alone ADUs are permitted so long as they are under common ownership as the primary dwelling unit and are on the same parcel of land.

It was decided to wait to support the wording for this amendment until a seminar being offered by the NH Municipal Association on November 14 had taken place. This was so that any items identified at the seminar which were part of the state-mandated RSA could be included, if necessary.

The second item involved the number of dwelling units allowed to be served by a single driveway. The board decided that increasing the number from two to three (3), was appropriate. This number would not include ADUs. If more than three were needed, the request would need to be considered under the provisions for a waiver. The Chairman call for a vote to support the wording of Article No. 2. Motion was made by David L. Patch; seconded by Richard Stimpson. Vote: 5-2-0, with David Shedd and Peter Gagne voting no.

After the vote, it was discussed whether the vote should be included in the warrant article to indicate to the townspeople how the planning board felt. A motion was made by Scott Grant; seconded by Peter Gagne to show the voting results. Vote: All in favor.

The third item involved reducing the front residential setback for single or duplex homes on a single lot along Routes 16, 302, and West Side Road from 115-ft to 60-ft. This would result in the front setback being in conformity in all districts, but would not prevent people from still having a 115-ft. setback if they wished to preserve the commercial aspect of their property. The Chairman noted at the last meeting David Shedd had requested more time to consider this article and asked if he was now all set. Mr. Shedd indicated he was now fine. A motion to support the wording of Article 3 was made by David L. Patch; seconded by Peter Gagne. Vote: All in favor.

The Chairman addressed the issue of tent sales and how long the tent could remain up for, which had been brought-up by Peter Gagne at previous meetings. At that time, Mr. Gagne was told he was welcome to provide wording if he wished the board to consider an amendment. Mr. Gagne said while he still believed long-standing tent sales circumvented the intent of the zoning ordinance, he was not pursuing the issue.

6. Structure Consulting for Verizon Wireless, Attitash Mountain Village chimney tower. File: 2016-1221. The board reviewed an application to upgrade equipment on a Verizon Wireless stealth tower located within a chimney at the Attitash Mountain Village hospitality building. The upgrades included replacing remote radio heads and supporting equipment. Since these upgrades would not change the appearance of the existing tower and would not be visible due to being located inside a chimney, a motion was made by Richard Stimpson; seconded by David A. Patch that the upgrades being proposed by Verizon Wireless conformed to the standards

of the Bartlett Telecommunications Ordinance. Vote: All in favor. A letter will be forwarded to the selectmen advising of the board's findings.

6. Mail and Other Business:

- Items listed on the agenda were reviewed.
- An email from Robert King, Emergency Management Director, requesting the planning board's participation at two upcoming meetings on November 14 and 28 to discuss updates to the Bartlett Hazard Mitigation Plan was reviewed. The Chairman advised this participation was required to enable the Emergency Management program to procure FEMA funding. Scott Grant offered to attend the two meetings mentioned, and David Shedd agreed to be a back-up attendee.

With no further business, a motion to adjourn was made by David L. Patch; seconded by Richard Stimpson. Vote: All in favor. The meeting adjourned at 7:48 p.m.

Respectfully submitted,
Barbara Bush
Recording Secretary