

TOWN OF BARTLETT PLANNING BOARD

PUBLIC HEARING

August 1, 2016

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

Also present: Mark Lucy of White Mountain Survey Co., Joe Berry and Sheila Duane of AMSCO; Wes Smith of Thorne Surveys; Roger Lemay; James Wilson; Norman Head.

The meeting was opened at 6:02 pm by Chairman Philip Franklin, who briefly reviewed the agenda. He requested that if people wanted to speak to the board that they come and sit at the table so as to be heard by the board and picked-up by the recording machine. He noted that the first item on the agenda involved an Attitash Mountain Service Company (AMSCO) project in Stillings Grant, Mr. Franklin disclosed he was an abutter to this project and also served as director/secretary on the Stillings Grant Association. Due to this involvement, Mr. Franklin recused himself from the board and handed chairing duties over to Vice-Chairman David L. Patch.

1. Public Hearing: 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.

Mark Lucy presented. He said this application had originally been submitted in 2014, when it was accepted as complete. He provided half-size sets of plans so board members could refer to sheet numbers during his presentation. Mr. Lucy described Block G as being 76.5 acres in area and comprising of 40 units which averaged 1.9-acres per lot. He provided copies of the road waivers that were requested for the construction of Cave Mountain Road, saying he didn't recall whether the board ever formally approved them. He was advised they were voted-on and approved in June 2014. Mr. Lucy asked to be provided with written documentation of the board's decision at that time. He said the plans provided to the board consisted of two sets with each set containing seven sheets. One set was what would be recorded, and the other showed the physical features of Block G such as topography, the 4k area set aside for suitable effluent disposal, etc. Mr. Lucy described Cave Mountain Road as being approximately four-thousand-foot long. He said it backed onto itself in a loop layout to provide emergency vehicle turnaround and thus did not require a cul-de-sac. Mr. Lucy said road cross-sections and profiles were all complete and the plans were ready to be handed-off to the town's consulting engineer, Burr Phillips, for his technical review.

Mr. Lucy then reviewed a cut-sheet which detailed the plan notes. These notes included survey monumentation notes which described the type of survey monuments required and the locations they will be set at, and grading and drainage easement notes. Mr. Lucy said they had a fairly good indication of where the waterline, culverts, drainage, etc. will go but acknowledged that locations could differ a little when construction begins due to encountering unknown subterranean conditions in the field. He said the final locations of these items will be recorded as permanent easements on a subsequent as-built plan. Mr. Lucy then read a list of permits approved by the New Hampshire Department of Environmental Services (NHDES). These included subdivision approval for the conceptual 1989 master plan, and a groundwater discharge approval which allowed many of the lots within the Stillings' Grant development to collectively gather their effluent and discharge it into community leachfields located in the common open space. Scott Grant asked whether that permit ever ran out. Mr. Lucy advised it was constantly being monitored and water samples taken from monitoring wells were submitted to the state every five years for testing. He said it was not so much a matter of having to reapply for the permit as it was to keep the permit active. David Shedd said he believed the lots in Block G would have individual septic systems. Mr. Lucy confirmed the Block G lots would have on-site systems. Other approvals from DES included a community water system permit which will be expanded and upgraded as the blocks are built-out; a wetland permit for the overall project which was now known as a wetlands and non-site specific wetlands permit. Mr. Lucy said this permit had been amended over time and described how, early on, the developer had worked out a method with the DES whereby sixty acres of wetlands along Razor Brook and other associated wetland areas, were set aside as a "wetlands bank." These sixty acres will never be developed and exceeded by ten-times what the anticipated wetlands impact due to the installation of driveways, drainage, road development, etc. would be. It is also known as a "wetlands mitigation plan." For example, if a driveway crossing impacted 100 sq. ft. of wetlands, then 1,000 sq. ft. would be set aside as compensation in the wetlands bank. Mr. Lucy said this "bank" was monitored frequently to ensure it was not being overdrawn.

Mr. Lucy said this summed-up the substance of what they have been working on for the past few months. Vice-Chairman Patch asked if the board had any further questions before he opened the public hearing portion of the meeting. David Shedd asked Mr. Lucy whether fire protection was included as part of the community water system. Mr. Lucy said yes, and explained that as part of the fire department approval originating under former fire chief Roger Labbe, this phase will trigger the need for a cistern or some type of large-volume capacity storage at the high point of the property. Mr. Lucy said wells supplying water to the cistern will ensure it is always full. Mr. Lucy added that piping throughout the development is of the correct size so the fire hydrants can draw water right out of the cistern. David Shedd asked whether the water system approval will eventually be shown on the plan. Mr. Lucy said it would.

Mr. Lucy said his intent was to get to the point where the board was comfortable enough to consider granting conditional approval at the September work session. He said some of the conditions of approval would be a water system approved by the DES, as well as subdivision approval for each individual lot. David Shedd asked why Mr. Lucy was asking for conditional approval and whether it was something the board was obligated to give. Mr. Lucy agreed that the board had no obligation to grant conditional approval, but that it was a highly-regular thing to ask for. He asked Mr. Shedd what his concerns were. Mr. Shedd said he would rather the applicant explain instead why conditional approval was needed. Mr. Lucy said the water system layout was yet to be designed and they had yet to file for subdivision approval. He reminded Mr. Shedd that back in June, the planning board had set a September deadline for the applicant to show that progress had been made on the plans. Mr. Lucy said they had worked hard to achieve that deadline, and he was now here with all the requirements necessary for conditional approval to be considered. Mr. Shedd acknowledged Mr. Lucy may have indicated he was coming in to ask for conditional approval, but reminded him the board never assured him that it would be forthcoming. Mr. Lucy agreed nothing was guaranteed. When applicant Joe Berry again asked Mr. Shedd what his concern about conditional approval was, Mr. Shedd responded by asking what the purpose of coming-in for conditional approval before final approval was. Mr. Berry reiterated Mr. Lucy's remarks about the board being anxious to see what progress had been made. He said they had worked very hard to achieve what the board wanted, and it was now a matter of timing to get everything completed. Mr. Shedd told Mr. Berry if it was a matter of timing, the board would be willing to work with him and to give him enough time as was necessary. He asked Mr. Berry how far along he was with the state septic approvals. Mr. Lucy interjected to say that it was subdivision approval, and they were yet to apply for it. Mr. Berry explained that they wouldn't file with the state unless the board had okayed everything at the town level as the state likes to see that local boards are satisfied and have signed-off on their level before they proceed with their own extensive state review. Mr. Berry said he wasn't going to spend a lot of time and money on a very expensive water system if the town hadn't conditionally approved the project to signify that their regulations had been complied with to that point. Mr. Lucy explained the situation further by saying, "What if I came in tonight with all the state approvals and said, here is the plan. What choice would the board have then?" He said it was a very costly process to go back to the state and get an amendment once their approval had been granted, and asked the board to look at the practicality of the process and how it works.

At this point, Vice-Chairman Patch suggested that the applicant continue on with the process and to get as much done as possible and get everyone's concerns answered. Then, when we get to the end of the timetable, see who still objects, who has questions or concerns, and deal with it then. Mr. Berry said in all his years as a developer he never had a situation before where a board refused to grant conditional approval. Vice-Chairman Patch acknowledged it was not something we regularly do and straight approval is normally granted, but agreed this was a bigger, more-complicated project and said he understood Mr. Berry's reluctance to expend a large amount of money if there was no certainty of approval. Sheila Duane advised she had been a member of the Conway Planning Board for many years where conditional approval was routinely granted. She reminded the board that when conditional approval was granted, it listed conditions precedent and conditions subsequent which were very specific and which everyone agreed-upon upfront. She said the application then went through the process and final approval was not granted until every condition had been met. Mark Lucy also added that these written conditions are binding and can't change. He said conditional approval had a shelf life of one year, but that the applicant had the option of requesting an extension. He acknowledged that Bartlett had a lot of new board members who were perhaps unaware of how the conditional approval process worked, but assured them it was not a scary thing. He said he was of the opinion that he had given the board everything it wanted or needed, and now it was time to move forward to the more rigorous and costly state review.

Vice-Chairman Patch then opened the hearing to public comment. Abutter James Wilson asked several questions including why Block G was being developed before Block F; what the estimate construction timeline was; when the new cistern is built will the water system for the entire development be upgraded or only Block G; expressed concerns about heavy construction equipment causing dust and damaging Parker Ridge Road; and inquired where the project plans could be viewed. Mr. Berry answered Mr. Wilson's questions by saying there was no requirement that blocks be developed in sequential order and it was just happenstance that Block G was being developed before Block F. He said while he hadn't given much thought to a timeline, it was market-driven based on the three type of home sites being offered: expensive ones with exceptional views, ones with average views, and affordable lots. It depended on what consumers wanted. Mr. Berry said the entire subdivision would be tied into the new water cistern and that the number of dump trucks carrying construction material would hopefully be kept to a minimum. He said the design of Cave Mountain Road involved of a lot of cut-and-fill and the material excavated during that process would be used on-site to construct the road, so the number of trucks bringing construction material to the site should be reduced. Mr. Wilson was finally advised that plans could be viewed at the planning board office which is staffed on Monday and Thursdays between 9 am and 4 pm. With no other questions forthcoming, the Vice-Chairman closed the public hearing and asked if the board had any further questions.

Joe Berry revisited David Shedd's concerns about granting conditional approval. He said he realized Mr. Shedd was not speaking on behalf of the board and again asked what the basis of his concerns was. Mr. Shedd responded that the board really wouldn't have any say about the size of the lots, no say in the design of the septic systems, etc. He asked who would come-up with the list of conditions that would be part of the conditional approval? Mr. Lucy said that was something the engineer was normally paid to do, but if the board wanted to develop a list itself, that they were welcome to do so. David A. Patch asked whether Block A received conditional approval, saying that would show a pattern if it did. Vice-Chairman Patch said while he wasn't completely sure, he believed it did. Peter Gagne indicated his preference would be to grant conditional approval rather than to keep continuing the application. David Shedd asked if Mr. Lucy was planning on asking for conditional approval at the next meeting. Mr. Lucy said if everything was in order, he would be doing so at the September work session. He acknowledged, however, that this was a busy time of the year for Burr Phillips and it depended on whether his review was completed by then. Mr. Shedd asked whether the granite bounds would be set before then. Mr. Lucy said the corner and road ROW monuments can't be set yet as they would be destroyed by the road construction. When Mr. Shedd noted that was a requirement of the subdivision checklist, Mr. Lucy said the board needed to recognize that there are certain practical steps that need to happen. He said the corners of Block A were all set after the road was built and their locations were documented on the recorded as-built plan. Vice-Chairman Patch said setting the corner monuments would be one of the conditions-subsequent of the conditional approval, should it be granted. It could also be a condition of the road bond.

At this point, the Vice-Chairman called for a motion to continue this application until the September public hearing. Mr. Lucy confirmed that meeting would take place on the first Tuesday of the month, since the first Monday was Labor Day. Vice-Chairman Patch said the board would be voting to change the date to Tuesday, September 6th later on in the meeting. A motion was made by Scott Grant; seconded by David Shedd to continue the application to the September public hearing. Vote: All in favor.

Chairman Franklin returned to the board.

2. Public Hearing, Range View Cabins LLC (Roger & Maureen Lemay), 1069 US Route 302, Bartlett. File: 2016-1217. This is an application to amend a previously-approved and recorded subdivision plan to permit a single driveway to serve three dwelling units. The amendment would involve the granting of a waiver by the planning board. Tax Map 3RT302, Lots 285L00 and L01.

Wesley Smith of Thorne Surveys presented. The Chairman recalled the history of this application and advised how a lot merger and 3-lot subdivision had previously been approved by the board after a driveway permit had been issued by the NHDOT. The DOT later reneged on that approval and the applicant is now back before the board seeking to amend the previous plan and to request a waiver to allow a single driveway to serve three dwelling units. Mr. Smith explained that he was presented with a driveway issue when the selectmen's office would not approve a building permit for the third dwelling on this property. Mr. Smith said he approached the DOT to get them to revise the permit, but they declined to do so. The DOT did, however, agree that the wording on the driveway permit they had issued was confusing when it

stated in one place that the approval was for a “shared driveway” and then in another place it described the development as “single family residential.” Mr. Smith said the DOT did not revoke the permit, but now that the two lots are merged they only want one driveway to serve the three proposed units on the property. Mr. Smith said the DOT will issue a revised permit pending planning board approval and a recorded plan showing a single driveway, which is why he is now back before the board.

The board reviewed the plan present by Mr. Smith. The Chairman asked Mr. Smith whether the DOT had any concerns that the driveway was less than 200-ft. from the abutting Gene Chandler driveway. Mr. Smith said the new driveway was just shy of 200-ft. and was almost located in the center of the road frontage, which the DOT felt was a much better design. Scott Grant asked whether the driveway being removed would be re-seeded and grassed. Mr. Lemay advised it would be grassed over, and that he would plant a row of trees as well which will look nicer.

The Chairman called for a motion to accept the application. Motion made by David L. Patch; seconded by David Shedd. Vote: All in favor. The public comment period was opened and then closed when no comments were forthcoming. A written waiver request dated July 19, 2016 was read and discussed. The waiver stated, “*We respectfully request a waiver to have 3 units access Route 302 from 1 driveway entrance. The section we request a waiver from is in the Town of Bartlett Subdivision Regulations, Section III, Access; Item E: Driveways.*” After a short discussion, a motion was made by Richard Stimpson; seconded by David L. Patch to grant the requested waiver. Vote: 6-1-0, with ex-officio member David A. Patch citing his affiliation with the selectmen’s office and voting no. Norman Head spoke from the audience and asked whether the selectmen are required to accept the planning board’s decision to approve this waiver. David L. Patch noted the selectmen always have the right to disagree and appeal the board’s decision, and the applicant then has the potential to go to the ZBA. Wes Smith said he just noticed that the centerline-centerline distance between the two former driveways still showed on the plan and he would like to remove that notation and provide a slightly-amended mylar to be recorded.

The Chairman asked if the board had any further questions. With none, he called for a motion to approve the application. Motion made by Peter Gagne; seconded by Scott Grant. Vote: 6-0-1, with David A. Patch abstaining.

3. Minutes: The minutes of the July 19, 2016 meeting were reviewed. On page 3, fifth line down, David A. Patch asked that the wording “Route 16 and 302” be changed to read “Route 16 and/or Route 302.” On page 4, last bullet, he noted a typo where, “The Chairman indicate..” should read, “The Chairman indicated ..” In the same bullet, Peter Gagne advised it was he, not the Chairman, who suggested inviting local engineers to attend a meeting to talk about zoning amendments. On page 3, second paragraph, line 7, David Shedd advised the correct RSA number he cited was RSA 477:45, not RSA 477:7. A motion to approve the minutes, as revised, was made by Scott Grant; seconded by David A. Patch. Vote: All in favor. David Shedd asked about the availability of draft minutes and whether they were posted on-line in draft form. He was advised the minutes were available in draft form five business days after the meeting, and that they were not posted on-line until after they were approved.

4. Mail and Other Business:

- The mail listed on the agenda was reviewed.
- The Chairman made a motion to change the date of the September public hearing from Monday, September 5 to Tuesday, September 6 to avoid conflict with Labor Day. Motion seconded by Rich Stimpson. Vote: All in favor.
- David Shedd asked the Chairman whether he had written the letter to the Municipal Association regarding AMSCO’s boundary-line adjustment involving the common land. The Chairman advised he had not yet done so. Mr. Shedd asked that when the letter was written, whether it could be provided to the board for review before it was sent out. The Chairman agreed to do so.

With no further business, a motion to adjourn was made by Scott Grant; seconded by Rich Stimpson. Vote: All in favor. The meeting adjourned at 7:36 p.m.

Respectfully submitted,
Barbara Bush
Recording Secretary