

**TOWN OF BARTLETT PLANNING BOARD  
PUBLIC HEARING**

*August 5, 2013*

**Members Present:** Chairman David Publicover; David Patch; David Shedd; Margaret Lavender; Lydia Lansing.  
**Members Absent:** Julia King.

Also present were Daryl Mazzaglia and Norman Head.

Chairman Publicover opened the meeting at 7:05 pm.

**1. Continuation/Final Approval: Red River Properties Development Corp., Highland Road.** File: 2013-1184. Application for amendment to subdivision plan to reduce a previously-approved 8-unit subdivision to 4 units. Tax Map 6SACOR, Lot 037HRO.

The applicant is still waiting for the engineer to complete revisions to the plans that were requested by the board. Motion to continue to the August 20 work session made by Lydia Lansing; seconded by Margaret Lavender. Vote: All in favor.

**2. Discussion with Daryl Mazzaglia from the Conservation Commission:** Ms. Mazzaglia was before the board to discuss a conservation easement granted by Joe Berry on behalf of his Attitash Mountain Service Company (AMSCO). The easement was accepted by the town as part of a wetlands mitigation and is monitored by the conservation commission. Ms. Mazzaglia's concern was with the public access and parking area which the easement required Mr. Berry to provide. She said she found both the access and parking area very difficult to find, even after being shown to her by Sheila Duane. She provided photographs of the area. Ms. Mazzaglia said there was a small parking area cleared of trees, but without Ms. Duane's direction she would have never known vehicles could drive to it. In addition, the area was posted with old signs on trees saying danger, keep out, and no hunting. Ms. Duane said the signs had been placed there by a previous owner and they were not part of the conservation easement. However, she said they would be agreeable to removing the warning sign on the tree and installing additional directory signs stating that the conservation area was 500' ahead. The board noted that the danger sign may have been placed due to the steep drop-off into the gravel pit pond (which the board noted is a potential safety issue).

Ms. Mazzaglia provided copies of the easement language for the board's information. The requirements of the easement appeared to be, in part, that the land will stay in its natural form, year-round access and parking area will be provided for the general public, and a sign placed indicating it is conservation land. Doug Garland said it was his understanding that well-marked trails and an information kiosk were also required. A review of the easement language indicated a kiosk would be permitted, but was not required, and there did not appear to be any obligation to build trails. Ms. Mazzaglia said the easement referenced "intent" a lot, and wondered whether that could be used as a catalyst to persuade Mr. Berry to better fulfill his obligations. She asked what help the planning board could provide in the issue. The Chairman reminded Ms. Mazzaglia that the conservation commission monitored the easement and the planning board was not the party to enforce the conditions. He advised if Mr. Berry doesn't meet his obligations then it becomes a civil matter between the grantor and the grantee. It was also noted that Mr. Berry would most likely be before the board in the future regarding the next stage of his Stillings Grant development and it was discussed whether approval for the upcoming development could be contingent on him satisfying the requirements of the conservation easement.

One item discussed in depth involved the fact that the conservation land was on the other side of Razor Brook. Since Mr. Berry was required to provide access to the land, would he also be required to provide a footbridge over the brook so that people could safely get to the land? Ms. Mazzaglia said a representative from the Upper Saco Valley Land Trust had indicated that requiring a bridge would not be out of the question. The issue of providing access vs. allowing access was discussed. Some board members felt strongly that a bridge should be required as a

safety issue; others felt this was a natural wilderness area and people out hiking expected to cross streams all the time without the benefit of bridges. Alternate accesses to the conservation land, such as via the ROW off Cobb Farm Road, were also discussed. After the discussion had ended, a 2006 copy of the conservation easement plan map was located which showed the road crossing the brook. The plan was given to Ms. Mazzaglia to make a copy. It was suggested she talk to Joe Berry directly and let him know she had spoken to the planning board and show him the plan and discuss it with him. The Chairman also provided Ms. Mazzaglia with the names of several organizations to contact for guidance, including the NH Municipal Association, Society for Protection of NH Forests, and the Land Trust Alliance. David Shedd noted the fact that Mr. Berry still had outstanding issues with his Alteration of Terrain permit and had not dealt with the reclamation of the gravel pit, which may explain his reluctance to let the public onto the property. This elicited a question from Ms. Mazzaglia as to who would be held responsible if somebody got hurt. She noted the town holds the easement and there was a sign present saying the Stilling Homeowner's Association was not responsible for any injury. The Chairman said the liability goes with the landowner. David Shedd expanded on this by saying there was a new law in effect which stated that if landowners kept their land open to the public that the state would step-in on the landowner's behalf should an injury occur and the landowner would not be held liable. David Patch, a Fish and Game commissioner, confirmed this by saying that Fish and Game had sponsored the legislation.

Doug Garland said he was pleased to see that the Conservation Commission was on the case and thanked Ms. Mazzaglia for her efforts in following-up with this project.

**3. Rules of Procedure:** The board reviewed comments offered by the Local Government Center after their review of the proposed Rules of Procedures. The comments dealt mainly with the role of planning board alternatives. The document will be revised accordingly and a vote to adopt is proposed to be taken at the next work session.

**4. Review and Approve Minutes:** The minutes of the July 16, 2013 meeting were reviewed. Motion to approve the minutes, as written, made by Lydia Lansing; seconded by David Patch. Vote: All in favor.

**5. LA Drew gravel pit discussion:** The board briefly discussed the proposed expansion of the LA Drew gravel pit. Following a question from Doug Garland, the Chairman explained that if gravel pits are not addressed or allowed under a town's zoning ordinance, then state regulations take affect which allow them in a commercial zone through a variance. Mr. Garland noted the land Drew is looking to expand onto is not zoned commercial. He said the old pit would need to be closed and a new one opened under the new regulations; however, even a new one may not be allowed under Section 155-E:4-a of the gravel ordinance which stipulates that drainage shall be maintained so as to prevent the accumulation of free-standing water for prolonged periods.

Doug Garland also mentioned that Glen Builders had supposedly applied to DES to keep the grandfathered status on their pit on West Side Road. There did not appear to be any record of this pit and it was not visited during the site visit conducted last year with Mary Pinkham-Langer; however, David Patch recalled shooting in the pit around 1966-1967. Mr. Garland said Selectmen Administrative Assistant Lynn Jones also had some recollection of it and Mr. Garland will check with her to determine the pit's status as to when and if they paid any yield tax. David Shedd suggested Mary Pinkham-Langer should also be asked if she has any knowledge of the pit and volunteered to follow-up and make a call to her.

**6. Mail and Other Business:**

Correspondence on the agenda was reviewed.

A motion was made by David Patch; seconded by Lydia Lansing to change the date of the September public hearing to Tuesday, September 3, 2013 since Monday is the Labor Day holiday.

With no further business, a motion to adjourn was made by Lydia Lansing; seconded by David Shedd. Vote: All in favor. The meeting adjourned at 8:15 p.m.

Respectfully submitted,  
Barbara Bush, Recording Secretary