

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

October 7, 2013

Members Present: Chairman David Publicover; David Patch; David Shedd; Doug Garland; Margaret Lavender.

Members Absent: Julia King (with late notice); Lydia Lansing.

Also present were Mark Lucy of White Mountain Surveys; Joe Berry, Shield Duane, and Irene Donnell of AMSCO; Atty. Ken Cargill of Cooper Cargill Chant; Norman Head; Jessica Wilson; Christopher Fithian.

Chairman Publicover opened the meeting at 7:05 pm. He advised he would not be available for the October 15 work session.

1. Public Hearing: Attitash Mountain Service Company (AMSCO), Blocks F & G, off Parker Ridge Road, Stillings Grant. File: 2013-1187. Application for subdivision of Stillings Grant Blocks F and G into 57 residential units. Block F will contain 17 units and Block G will contain 40 units. Tax Map 5STLNG, Lots F00-0, F00-1, G00-0.

The Chairman advised this was an application to develop Blocks F and G into 57 units under the terms of the master plan approved in 1989. Mark Lucy presented and provided copies of the subdivision plan which the board reviewed. The Chairman expressed a point which he had raised before, in that the boundaries of Blocks F and G had changed since the master plan was approved. He asked Mr. Lucy whether he was also requesting a boundary-line adjustment between Blocks F and G at this time. Mr. Lucy said he was not, but agreed the boundary lines had changed with Block F getting larger, increasing from 26.20 acres to 30.1 acres and Block G becoming smaller, decreasing from 76.5 acres to 66.2 acres. The Chairman also inquired about a short spur road coming off Cave Mountain Road that was shown as Hart Ledge Road on the master plan, but not shown on this one. Mr. Lucy said it was absorbed into Block C, notably C37, some years ago.

The Chairman noted it appeared the entire area of Blocks F and G was above the 800' elevation and it was discussed whether the Ridgeline Ordinance applied to the project. Doug Garland believed it did. Later in the meeting, Mr. Berry said that the ridgeline issue had come up during the 2005 discussions, at which time it was thought it did not apply. He said he had conducted a balloon test at that time to be certain the project wasn't visible from Route 302, and that he would be willing to conduct it again, if necessary.

The Chairman advised the letter discussed last meeting, which was going to be sent to town counsel regarding the appropriate road standards, had not been sent. After reviewing the letter, several members had raised questions which the Chairman felt were involved-enough that they could not be included until they had been discussed further with the board. The points raised were discussed, and the Chairman will draft a revised letter for review at the October 15 work session. David Shedd noted that he had not seen a copy of the letter Atty. Cargill had sent to be included in the board's letter to town counsel. The Chairman said it had been emailed to members, but that he would provide a copy for the next meeting. There was discussion as to whether town counsel should read the board's letter first and make a decision before being influenced by the opinion of Atty. Cargill. Atty. Cargill spoke from the audience to confirm that his letter would be forwarded to town counsel, as he had requested.

The Chairman asked Mr. Lucy whether there were any detailed road plans, such as grading, included with the application? Mr. Lucy said detailed earth moving plans had been submitted as part of the Alteration to Terrain permit. He was asked whether those plans were sufficiently-detailed enough to determine if the road complied with the road standards. Mr. Lucy said they were, for the 1989 specifications. Mr. Lucy agreed to provide the board with copies of the plans for the next meeting. The Chairman reviewed the application to ensure it complied with the submission requirements for a preliminary plat. The 1989 subdivision checklist was used and, after review, it was felt not enough of the requirements had been met to allow the application to be accepted and to hold a public hearing tonight. The Chairman said since there was an approved master plan in place, he was willing to discuss the outstanding items to get them on the table to help move the application process along. Doug Garland, David Patch, and David Shedd all indicated that they would like to move the application process along as well. Some of the items

that still need to be shown on the plan include septic locations, utilities, lot lines, metes and bounds, setback lines, etc., and the checklist called for plans to be drawn at a 1:100' scale.

Mark Lucy said he was looking for some substantial discussion tonight, and pointed-out the board was asking for a preliminary plat showing fifty-seven lots with metes and bounds, but that no firm decision had been made as to how many lots would be allowed on Blocks F and G. He said there was a distinct possibility that the board wouldn't accept fifty-seven lots, and he needed some guidance before expending a great deal of effort to do that work. After discussion, the board agreed that a preliminary plat could be submitted that did not show the metes and bounds. A waiver request for such would also need to be submitted, and before the board voted to accept the application it would vote on the waiver. It was also suggested to Mr. Lucy that Blocks F & G be expanded to fit on one sheet at a 1:100 scale and to omit the surrounding blocks that were already developed. Mr. Lucy asked to confirm that he could use the 1989 subdivision regulations, and whether they included the street regulations. The Chairman asked the board if there was any debate against the preliminary plat being submitted under the 1989 subdivision regulations. There was no opposition, but Doug Garland said so long as that did not insinuate that the 1989 road specs could also be used. He said the 2005 standards clearly needed to be used to build the road, although he was unwilling to discuss the subject at this time until we heard back from counsel. He said if detailed road plans had been submitted and accepted by the board back in 1989, then he would be willing to accept them now, but in lieu of that he felt the current standards should apply. He acknowledged the 2005 standards were much stricter, and indicated he would be willing to consider granting waivers. David Patch agreed that questions regarding the road standards should be addressed by an attorney. The Chairman asked Mr. Lucy whether the earthmoving plan previously mentioned was actually part of the master plan or whether it was just part of the Alteration of Terrain permit. Mr. Lucy said it was used to determine the cut-and-fills, grading, and drainage easements shown on the master plan.

The Chairman asked Mr. Lucy to make a case as to why the board should accept the boundary-line adjustment between F and G, and why Lot G shouldn't be held to 40 units as designated on the master plan. He asked whether the applicant was claiming a vested right to be able to keep the same number of units and move the block boundaries around, or whether it was a planning board decision as to whether to allow that. Mr. Lucy responded that that was a legal issue. Atty. Cargill was asked the same question and he declined to address it at this time. David Shedd noted the map submitted with the application was the same map the board had discussed during preliminary discussions. He confirmed with Mr. Lucy the lot configuration was the same. He said he didn't understand how legal counsel could come to a public hearing and not address the very issues which the board had raised concern about. He said the master plan was the result of a lot of hard work, and was an agreement between the developer and the town. He said he sensed the developer feels he has the right to go ahead and make changes, regardless of what the planning board might have to say about it. Mr. Shedd repeated he didn't understand why counsel was not willing to discuss why the applicant thinks he can change the boundaries when there is a master plan agreement.

The Chairman reiterated the issues to ensure everyone had a clear understanding of them. He said Block F is now smaller. He agreed 17 units could still go in that smaller area, saying if the board had wanted to reduce that number it should have been done at the time the boundary line adjustments were made, but that wasn't done. He said the 17 units in Block F and the 40 units in Block G were allowed given the boundaries shown at the time. It becomes another issue to try fit lots into an area they would otherwise not fit into, because of the consequences of those previous actions, i.e., the boundary-line adjustments. The Chairman said if 17 units can't fit into what is left of Block F, then that is something the applicant just has to live with. Doug Garland made a suggestion that the applicant could modify and revise the master plan. However, this could likely kick-in the 2005 road standards.

David Shedd asked what the difference was between the terms "lot" and "unit" and how it affected the septic approval. David Patch, who was on the board at the time of the master plan approval, advised that each block was approved for a certain density. He said in this case, lots and units were considered the same thing as the developer didn't know whether he would be offering single-family homes, lots, or condos. The board allowed him to put a certain number of lots or units on each block, and how they was configured internally was up to him.

The Chairman expanded on Mr. Patch's explanation by saying that in terms of the septic density, it was based on the capacity of the entire property. Mr. Shedd asked if it was correct to believe that the board now has nothing to say about the size of the lots? The Chairman said even in 1989, zoning required a minimum lot size which he assumed to be 30,000 sq. ft., as it is today. Mr. Shedd asked whether the amount of set-aside common area possibly reduced that area, and whether 30,000 sq. ft. was not needed. Mr. Garland said it was likely wasn't required on this particular development. Joe Berry asked to clarify the issue and said the 500-acre parcel was approved by the state for subsurface disposal for 262 three-bedroom units. Due to lots being merged and the way the area is being developed, the number he is now proposing is down to 186. Mr. Berry said some of the units will be served by on-site septic systems and the rest by a community leachfield.

Doug Garland expressed to Mr. Berry that he was uncomfortable not raising an issue which he wanted to bring out in the open. He said it had to do with the mitigation for the conservation area, which he didn't feel had been completed. Mr. Lucy explained that wetlands had been mapped by a certified wetlands scientist and the impact and mitigation area covered the entire development. Mr. Garland asked if Mr. Lucy could provide him with a map which shows the wetlands that were mitigated against. Mr. Lucy agreed to do that. Mr. Garland said he didn't believe, at this point, that the mitigation has been completed. He didn't believe the safe public access and signage to the parking lot and conservation area had been satisfied, based on what had been conceptually talked about with the selectmen. Mr. Garland said access to the area was not user-friendly when there were signs up saying "No Trespassing" and he would like to see signs erected saying "Conservation Area This Way." The Chairman informed Mr. Berry that although the planning board does not have any role in the enforcement of the easement, if the conservation commission brings it up as an issue during this application, then the board would be involved and it could become a potential problem. Sheila Duane said the road had been repaired after Tropical Storm Irene and some direction signs had already been installed on trees, but advised she will talk to the conservation commission to discuss their concerns. Ms. Duane then confirmed her understanding of the board's directive that a written waiver request will need to be submitted for anything that was not shown on the preliminary plat. The scale requirement was specifically mentioned with the board suggesting 1:200 or 250'. Mr. Lucy said in respect to drainage, until he knew what road standards were going to apply he couldn't very well show drainage to any knowledgeable extent and asked if that would be a justification to request a waiver to not show drainage just yet. Doug Garland suggested the easiest route would be to accept the new road standards and request waivers from that.

The Chairman noted the board had a 30-day time limit to either accept or refuse the application. A discussion on procedures followed with Mr. Lucy eventually suggesting that the applicant request a waiver of the time limit. The Chairman asked if there was a motion to grant the request to waive the 30-day time limit for accepting or refusing the application. The motion was made by Margaret Lavender and seconded by David Shedd. Doug Garland asked if the motion should state a time limit as to how far we were waiving it to. This was discussed with Mr. Berry, who suggested it be for an unspecified time. The motion was amended to reflect the 30-day time limit was waived with no specified time. Vote: All in favor. A motion was then made by Doug Garland; seconded by Margaret Lavender that the public hearing be adjourned and continued until the November 4 meeting. Vote: All in favor. Mr. Lucy advised he would not be available for the November 4 meeting, but his colleague, Jim Rines, would be representing the applicant.

2. 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.

This application is still waiting for the fire chief's review. A motion was made by Margaret Lavender; seconded by David Patch, to continue consideration of the application to the October 15 meeting. Vote: All in favor.

3. Review and Approve Minutes: The minutes of the September 17, 2013 meeting were reviewed. In Item 2, last sentence, Doug Garland requested the term "2013 road standards" be changed to "hybrid standards". A motion to approve the minutes, as revised, was made by Doug Garland; seconded by David Patch. Vote: All in favor.

4. Master Plan Revisions: The Master Plan was discussed. Norman Head provided updated verbiage for the Bartlett Historical Society and Margaret Lavender gave a draft copy of transportation.

5. Mail and Other Business:

Copies of five Notices of Intent to Excavate forwarded by the selectmen's office were reviewed.

David Shedd shared Mary Langer-Pinkham's understanding that the Glen Builder's gravel pit was mainly a processing area. It was asked whether a site visit by the board would be in order and this will be discussed at the next work session.

With no further business, a motion to adjourn was made by Margaret Lavender; seconded by David Shedd. Vote: All in favor. The meeting adjourned at 8:50 p.m.

Respectfully submitted,
Barbara Bush
Recording Secretary