

**TOWN OF BARTLETT PLANNING BOARD  
WORK SESSION**

***September 17, 2013***

***Members Present:*** Chairman David Publicover; David Patch; David Shedd; Doug Garland; Margaret Lavender; Lydia Lansing; Julia King. ***Members Absent:*** None.

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; Sophie Duane Leavitt.

Chairman Publicover opened the meeting at 7:03 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 fire chief's review is still delayed due to injuries suffered in a recent ATV accident. Being that the delay was no fault of the applicant, the Chairman proposed a motion be made to grant an extension of the approval deadline for two more meetings, until October 15. Motion made by David Patch; seconded by Margaret Lavender. Vote: All in favor. A motion was made by David Patch; seconded by Margaret Lavender, to continue consideration of the application to the October 7 meeting. Vote: All in favor.

***2. Preliminary Conceptual Consultation: Attitash Mountain Service Company (AMSCO), Blocks F & G, off Parker Ridge Road, Stillings Grant.***

The Chairman noted the applicant had previously been before the board in April for an initial preliminary conceptual review, at which time the board requested additional information on two issues relative to road standards and density. He noted correspondence, dated March 18, 2013, had recently been received from Atty. Cargill addressing those issues, and invited Atty. Cargill to present his case further.

Atty. Cargill apologized for the March 18, 2013 date shown on his letter, and indicated that was an error and the date should have read September 9. He said the purpose of the letter was to clarify the status of the Stillings Grant master approvals as discussed at the April, 2013 meeting. He provided copies of the overall Master Plan that was approved on September 5, 1989, which depicted nine blocks identified as A-H & J. He said there was no Block I to avoid confusion with the Roman numeral I. The plans included sewer and water easement plans and road grading and drainage plans.

Atty. Cargill advised that in 1989, the master plan was approved for a phased development at Stillings Grant which depicted the general layout of roads and the number of lots that would be permitted in each block, and was based on the standards in effect at that time. An agreement was made that the developer would come to the board with detailed build-out plans for each block as they were developed. He said the number of lots approved in 1989 was based on overall density and not minimum lot size. He spoke of the project's vested rights and said NH courts had determined that those rights stay with the project itself, even if the ownership changes. This was to enable the developer to make long-term decisions based on the master approval that was granted early in the process. It also protected the developer from any subsequent changes to a town's ordinance which could eliminate lot density after the project had commenced, and after a substantial investment had been made in infrastructure. Atty. Cargill said he read the April minutes where the board spoke of requiring road waivers to the 2005 road standards for the construction of Cave Mountain Road, but he advised that no waivers would be necessary as the road could be constructed to the 1988 road standards which were in effect when the master plan was approved.

Addressing the number of lots in Blocks F and G, which was also discussed at the April meeting, Atty. Cargill said the boundary-line adjustments that were mentioned did not change the master plan. He said they could have changed it had that been made a condition of the boundary-line approvals, but that was never done. He said, more importantly, the land remaining in Block F after the boundary-line adjustments still accommodates 17 units, the number of units approved in 1989 which was based on the 1989 density standards. These were the same standards in effect at the time of the boundary-line approvals. Similarly, Block G still supports 40 units. Several members expressed concern about the reconfiguration of Blocks F and G, and the number of units being proposed in each and felt the developer should not be able to take lots from one block and add them to another. The Chairman said he had a problem with taking the originally-designated Block G and putting more units in it. Atty. Cargill said Blocks F and G were contiguous blocks, and all they were doing were configuring them without increasing the overall density. He noted the board had the power to amend the master plan if that was what it took to achieve this. Mr. Berry interjected to say their formal application would be asking for the same number of units in F and G as were approved in the master plan in 1989. Doug Garland asked Mr. Lucy about wetland mitigation for Blocks F and G. Mr. Lucy explained the area that was required to be set aside in a conservation easement is based on how much anticipated residential impact there was going to be in the development. It was either a 10:1 or a 30:1 ratio; i.e., a 100 s.f. or 300 s.f. impact to the wetland required 1,000 or 3,000 s.f. of easement land respectively, depending on the type of wetland. The Chairman confirmed with Mr. Lucy that the impact and mitigation was for the entire development. Mr. Lucy further advised that in 2005 when this project started to warm-up again, he met with the Wetlands Bureau who requested that the developer anticipate the maximum amount of wetlands to develop all the lots and this is what the conservation easement size is based on.

The discussion turned to road standards, with the Chairman noting the board still did not have a copy of the "development standards" referenced in Atty. Cargill's letter. Atty. Cargill's letter said these development standards include a specification that "road construction geometric and physical standards shall be as incorporated and noted in the subdivision regulations amended to March 7, 1988" (the 1988 road standards"). Doug Garland reminded Atty. Cargill of a note on the plans which said that roads would be developed to standards "then existing." He said he took that to mean the standards existing at the time the road was built, otherwise the note would have said "now existing." Atty. Cargill pointed out if that was the case, that road standards could be changed to such an extent as to make the roads unbuildable as approved on the master plan. He said he interpreted the note to mean the road would be built to the then-existing road standards, that is, the standards existing at the time the master plan was approved. David Shedd explained that what Mr. Garland was referring to was a note on the plan for approval of Blocks B & C that said the road would be brought up to town standards "then existing" before ever becoming a town road. Atty. Cargill said that was not a condition of subdivision approval, but had everything to do with when-and-if the road was ever accepted as a town road. He noted it had since been determined that was not a proper restriction to place on a plan since it was up to voters at town meeting to decide whether roads were accepted by the town. Mr. Shedd advised that the same language was included in recorded documents titled "Conditional Preliminary Approval of Stillings Grant Subdivision". Atty. Cargill explained that at the time of approval, the original developer, Cave Mountain Associates, had agreed to upgrade the initial portion of Stanton Farm Road that was town-owned, and those references were limited to that portion of the road only, and were not applicable to the overall private roads within the development.

Mark Lucy then approached the board. He said the 1989 road standards were very good and produced a high-quality road. However, since there had been some discussion as to which road standards would apply to the construction of Parker Ridge Road, he had produced a concept that melded the 1989 road regulations with the 2005 regulations in effect today by taking the good standards from each. He provided road profiles and cross sections of a proposed "hybrid" road and compared in detail the different aspects he had taken from each. The board listened to what was being proposed, but the Chairman advised this was only a preliminary conceptual consultation and any decision would have to wait until after the application was formally submitted. At that time, the board could entertain the idea of a compromise to adopt the "hybrid" road by either using the 1989 standards and exceeding them, or using the 2005 standards and consider granting waivers.

After further discussion, it was decided to seek the advice of town counsel as to which road standards would be applicable to this project. The Chairman said he will draft a letter explaining the board's point of view as well as the applicant's, and circulate it to board members for review. Atty. Cargill requested permission to add a supplemental letter of explanation to the board's letter, and it was agreed he could do that. Mr. Lucy was asked in the event town counsel agreed that the 1989 standards applied to the construction of Parker Ridge Road, would it be built to those standards or to the newly-proposed "hybrid" standards? Mr. Lucy said it would still be built to the hybrid standards.

The applicant submitted a formal application for this project during the meeting, which will be heard at the October 7 public hearing.

**3. Review and Approve Minutes:** The minutes of the September 3, 2013 meeting were reviewed. A motion to approve the minutes as written was made by Julia King; seconded by Lydia Lansing. Vote: All in favor.

**4. Master Plan Revisions:** The Master Plan was discussed. The Chairman said contributions had been received from the school and for town-owned land. Norman Head, representing the Bartlett Historical Society, spoke to the board relative to the society's contribution to the master plan by saying it was not a town-recognized organization. The Chairman said it would be fine to just update the verbiage to let people know where historical information on the town could be found, such as on the society's web page.

**5. Mail and Other Business:**

A copy of a letter sent to Bearfoot Creek LLC by the Selectmen on 9/6/13 regarding a fire hydrant and storage tank issues at the Bearfoot Creek development as reported by the fire chief, was reviewed. It was decided to ask advice from the Municipal Association to see whether the board had any "teeth" in this matter, or whether it was the responsibility of the developer or the homeowners' association.

With no further business, a motion to adjourn was made by Lydia Lansing; seconded by Julia King. Vote: All in favor. The meeting adjourned at 8:40 p.m.

Respectfully submitted,  
Barbara Bush  
Recording Secretary