

**TOWN OF BARTLETT PLANNING BOARD  
PUBLIC HEARING**

**June 2, 2014**

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

Also present were Burr Phillips of Civil Solutions; Mark Lucy of White Mountain Survey and Engineering, Inc.; Bob Tafuto of Ammonoosuc Survey; Norman Head; Irene O'Donnell.

Chairman David Publicover opened the meeting at 7:05 pm.

**1. Voluntary Merger of Lots: Paddle Peaks LLC, 1361 US Route 302:** File 2014-1195. Application for a voluntary merger of lots. Tax Map 5VILLG-MAI-710 and 5VILLG-CHU-10A.

The Chairman questioned whether it was permissible for the applicant to merge a commercial lot with a non-commercial lot. Doug Garland said he believed it was allowed if both lots were contiguous and owned by the same person prior to zoning being enacted. In this case, John Murphy owned both lots. David Patch agreed with Mr. Garland's assessment, and said the grandfathering went with the sale of the property from Murphy to Paddle Peaks, since both lots were purchased at the same time. The Chairman asked if there were any further questions. With none, he said it appeared these lots were eligible for merging and called for a motion to approve the application. Motion made by David Patch; seconded by Margaret Lavender. Vote: All in favor.

**2. Continuation/Final Approval: Peter and Adina Gagne, Thorn Hill Road:** File: 2014-1194. Application for a two-lot subdivision of a 12.16-acre parcel of land on Thorn Hill Road. One lot will be 2.01 acres, leaving 10.15-acres in the other parcel. Tax Map 1THORN, Lot 054R00.

The Chairman noted this application was waiting for the second meeting before approval. Julia King raised concerns expressed by Doug Garland at the last meeting regarding erosion where it was reported boulders were rolling down the hill into the town ditch. Mr. Garland said that at one point things were pretty haphazard, but that a lot of work had since been done at the site, and he felt most of the issues had now been resolved. He was not certain the driveway complied with the driveway specs yet, but noted at some point it would need to. The Chairman asked if there were any other questions or concerns. With none, he called for a motion to approve the application. Motion made by David Patch; seconded by Julia King. Vote: All in favor. A mylar had been provided for recording.

**3. Continuation/Final Approval: Attitash Mountain Service Company (AMSCO), Block G, off Parker Ridge Road, Stillings Grant.** File: 2013-1187. Application for subdivision of Stillings Grant Block G into 40 residential units. Tax Map 5STLNG, Lots G00-0.

The Chairman noted a letter from AMSCO wherein they advised the approval deadline was expiring on June 2, 2014 and requested a 6-month extension until December 2, 2014. A motion was made by Doug Garland; seconded by Richard Stimpson to grant the request. Vote: All in favor.

Burr Phillips and Mark Lucy were present to discuss the five waivers which had been requested against the 2005 road specs for the construction of Cave Mountain Road. Each waiver was discussed in detail, with Mr. Lucy explaining why it was required, and Mr. Phillips responding with his opinion of each request. Mr. Lucy advised that Burr had requested pretty-detailed plans be drawn up, which included a proposed road profile with the grades labeled, as well as a proposed grading plan which reflected the requested waivers. These plans had been prepared and were presented at the meeting.

The first waiver was requested because the profile of the existing ground headed uphill so steeply that adhering to the 2005 specs would cause the first 1,200± feet of the road to be cut deeply into the hillside, resulting in excessive excavation. Mr. Lucy had requested a waiver to allow a continuous grade in excess of 6% to extend 1,100 feet,

versus the 1,000 feet as required by the 2005 standards, and to allow a continuous grade in excess of 10% for approximately 900 feet instead of the 500 feet stipulated by the 2005 standards. It was noted that no part of the road exceeded the maximum grade of 12% as specified in the 2005 regulations. This request was discussed at great length. Plans provided by Mr. Lucy, which used colored lines to compare the road being built with and without the waivers, were viewed with Mr. Lucy indicating the areas along the road where the grades and fill areas would be affected by the waivers. It was acknowledged that if this road was being designed from scratch, its location could be such that it did not take such a steep route up the hill. However, given that the location had previously been established and approved under the 1989 master plan, these waivers were considered a reasonable solution to enable the road to be built within the existing ground profile.

The board discussed the possibility of changing the location of the road. Mr. Lucy said, while he hadn't really looked at it, he would guess that would cause the lot layouts to change, and a lot would depend on topography and wetlands. David Shedd asked Mr. Phillips, from his perspective, was it better to proceed on the basis of the 1989 layout and do the best they can with the design, rather than look to change the horizontal layout? Mr. Phillips said yes. During a discussion about driveways and wetlands crossings to access building sites, Doug Garland asked Mr. Lucy whether it was his opinion that the applicant was probably going to go for town approval at some point in time, or whether it was going to remain a private road. Mr. Lucy said "looking for town acceptance at some point down the road." Mr. Garland asked that would mean the town would be asked to plow it, and Mr. Lucy agreed. Mr. Garland said that makes a big difference. Margaret Lavender asked whether Parker Ridge Road was a town road and was told it was, but it had been built to current specs. Mr. Garland, while hesitant to say so definitely, indicated the selectmen would probably not be likely to recommend the town accept responsibility for the road when the vote came-up at town meeting. He said the more waivers that were granted, the more likely this could be.

The proposed road crosses over a ravine, which appeared to be a major reason the waiver was required. The board had a lot of questions regarding the amount of fill required to fill the ravine, and it was asked whether a bridge could be built to span the ravine. Mr. Lucy advised that would be an expensive undertaking, as it would need to be 250 foot long. The board agreed it was probably not a feasible option. Mr. Lucy said while a lot of fill would be required in the area, the maximum depth would be less than 30 ft. The Chairman asked what impact the fill would have on surrounding wetlands. Mr. Lucy said enough wetlands had been mitigated to cover all work associated with the development of Block G, including construction of the road.

The second waiver involved site distance and requested a reduction between the looped intersection and the nearest curve. The applicant was proposing a distance of 57 ft., versus the 75 ft. minimum required by the 2005 road standards. The 1989 road specs had no requirement for this distance. Mr. Phillips said he was not opposed to this waiver since the profile and grading appear to provide more than adequate site distance. The board expressed no concerns.

The third waiver asked for the inclusion of guardrails at the ravine crossing to reduce the impact to wetlands. Without guardrails, the slopes would need to be wider and shallower to allow vehicles to regain control should they run off the road. With guardrails, the side slopes could be steeper and encroach less into the wetlands. Mr. Phillips' review letter indicated he was not opposed to guardrails in this instance, but noted there may be opposition from the town in the event the road became a town road due to issues such as maintenance, etc. Mr. Lucy said the board had asked that the list include all the waiver that may be needed, as he couldn't come back and ask for them afterwards. He said he had included this one, but after hearing previous feedback from the board which indicated the town's resistance to guardrails, he was no longer requesting this waiver and the road shown on the plans had been designed without guardrails. The board still discussed the pros and cons of guardrails, and whether the advantage of having lesser wetland impact outweighed the fact they were not wanted by the town. It was noted they did not eliminate impact to the wetlands, but simply reduced it.

The fourth waiver involved monumentation along the road rights-of way. The 2005 specs require the use of 7/8" hollow iron pipe monuments, and the applicant was proposing to use 5/8" solid rebar with an aluminum cap. The board had no concerns with this waiver when it was learned that solid rebar monuments are more expensive, more

accurate, and longer lasting. The Chairman asked Mr. Phillips why the 2005 road specs did not specify the use of rebar monuments? He said that is how the regulations have always been, and they had just continued.

The last waiver requested alternate road cross-sections where it was proposed to decrease the distance between the shoulder of the road and the ditch from 10 feet, as required by the 2005 standards, to 5 or 6 feet. A diagram was provided. This would bring the cut slopes in closer to the road and result in a reduction in the amount of excavation and disturbance of earth. Mr. Phillips explained the reason for the steeper 10-ft. ditch was to make the ditch deep enough to drain the road gravel, while not exceeding a 4:1 roadside slope. He said if the board was willing to grant this waiver, his recommendation would be for the installation of an underdrain directly below the ditch. When the Chairman asked about maintenance and longevity of the drain, Mr. Phillips said if it was wrapped in geotextile fabric it should be virtually maintenance free, requiring only periodical cleanings, and should last for many years.

After listening to this detailed discussion, the Chairman asked members if they had a good understanding of the waiver requests, and if any of them were cause for concern. Doug Garland said number one would probably cause him the most concern and asked Burr if there was no better way to deal with the grade. Burr said not without re-aligning the road, which doesn't seem an option since the location was fixed by the master plan. Margaret Lavender said he agreed with Burr's recommendation that an underdrain be included if waiver five was granted. Mr. Lucy indicated he was hoping for a vote from the board tonight so he could move ahead with the permitting process. The Chairman said Mr. Lucy had been given a pretty good sense of the board's feelings on the waivers, and suggested Mr. Lucy re-submitted the waiver requests showing the deletion of the guardrail waiver and amending waiver #5 to incorporate the addition of underdrains. When this was done, the board could likely make a vote at the June 17 work session. Mr. Lucy indicated he was fine with that, and will forward the revised waivers.

The Chairman said since this was a continuation of the public, he asked if there were any questions or comments from the public. With none, he called for a motion to continue the public hearing to the July 7 meeting. Motion made by Richard Stimpson; seconded by David Shedd. Vote: All in favor.

**4. 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.

No new information had been provided regarding this application as the applicant as still waiting to hear back from the fire chief regarding fire suppression and whether a dry powder/chemical system was acceptable. A motion to extend the decision deadline to the July 7 meeting was made by David Patch; seconded by Margaret Lavender. Vote: All in favor.

**5. Request for Community Acknowledgement Form related to FEMA Letter of Map Amendment application.** This request involves property owned by Charles Olsen, located at the end of Intervale Lane. The land sits right on the Saco River, and a portion is currently shown by FEMA to be in the regulatory floodway. Ammonoosuc Survey applied for a Letter of Map Amendment (LOMA) on behalf of Mr. Olsen to have that designation removed. Part of the application process required the Official Community Representative designated by FEMA, in this case David Publicover, to officially acknowledge that the request had been received and reviewed, and to provide a certification that no fill had been placed on the property. A letter from the selectmen was also reviewed in which they advised they had been having a lot of correspondence and discussion with Mr. Olsen and his survey company, Ammonoosuc Survey, regarding his application for a building permit on the property and its location as it pertained to the floodplain. They reported there were still unresolved matters with the building application and urged the planning board to consult with the selectmen prior to approving anything.

Mr. Publicover said at this time he felt uncomfortable signing this request, as he had no evidence or guarantee that fill had not been placed and he had no background information on the property. He said he had visited the site and found some areas to be hummocky and other areas to be flat and sandy, which did not look like native material. Bob Tafuto of Ammonoosuc Survey explained the history of the property and said a septic system had been

designed and approved prior to the Shoreline Protection Act being implemented. An area out of the floodway and suitable for building had been located on the lot, but unfortunately Mr. Olsen then went ahead without permission and clear-cut, bulldozed, and graded all the topsoil into a pile. Construction was halted when the economy suffered a turn-down, and now Mr. Olsen was wanting to go ahead with building his home. Mr. Tafuto said he instructed Mr. Olsen to re-spread the topsoil out, which was done. He also described how Tropical Storm Irene had eroded at least 25-ft. of the Olsen property along the Saco River, and the area had changed from what was previously mapped. Mr. Tafuto said he believed the deposit of sand was river sand dumped by Irene. He said Mr. Olsen was legitimately trying to acquire a LOMA, and said the application Ammonoosuc submitted represented that none of the town's regulations were being violated. He added that the onus for the accuracy of the information on the form fell on his company, not Mr. Publicover as the official community representative.

The board discussed this situation at length. Doug Garland noted there was no way of knowing what the topography of the property was in the first place, which he felt was reason enough to deny it. The Chairman said he was curious to know whether the floodmap represented the current condition of the property, or does it represent conditions prior to Mr. Olsen doing his cutting and clearing. Mr. Tafuto said it was prior. Burr Phillips advised he had seen at least three different floodplain maps showing the floodplain elevations, and indicated he would be uncomfortable saying which one was correct, describing it as a moving target. Mr. Tafuto said the topography had been generated by his firm, who had done a lot of work to find the elevations and identifying an area where Mr. Olsen could build his home. He agreed Mr. Olsen had done a few things wrong and without permission, but said he did not feel that should warrant denying him the right to use his land.

The Chairman said he would like to contact FEMA to confirm that he is actually the official community representative, and to gain some further information on the issue. He said the worse-case scenario would be that a re-survey of the property would need to be done. He would also require an affidavit from Mr. Olsen or Mr. Tafuto stating that no fill had been placed on the property. Mr. Phillips and Tafuto suggested Mr. Publicover speak to Jennifer Gilbert from the Office of Energy and Planning and provided her contact information. Given Mr. Publicover's concern about officially signing the community acknowledgement form, a motion was made by David Shedd; seconded by David Patch, that the Chairman not sign the form until approved by the planning board.

**6. Review and Approve Minutes:** The minutes of the May 5, 2014 meeting were reviewed. Motion to approve the minutes, as written, made by Doug Garland; seconded by David Shedd. Vote: All in favor. The May 20 work session was cancelled due to the lack of a quorum.

**7. Mail and Other Business:**

- A letter from the selectmen regarding the alignment of Juniper Road was reviewed. Mr. Garland explained the road was off by approximately 4 feet, and an as-built plan would need to be submitted.
  - The Alteration of Terrain permit granted to L.A. Drew for their existing gravel pit drew a comment from David Shedd, who had been tasked with following-up on the pit, that it was a big job and he had asked for assistance from Margaret Lavender. The whole issue of gravel pits caused discussion as to the town's regulations and inspections of gravel pits. It was again noted that they were neither allowed nor disallowed under any of our ordinances, and reclamation and bonding procedures were not clearly set forth. David Shedd said he would like to find a way to allow the gravel pits to continue operating. Doug Garland agreed there needed to be some kind of allowance for them, but indicated they would need to be regulated as to where they could be located. David Patch made the comment that the site for a gravel pit would depend on where the gravel deposits were located. Mary Pinkham Langer will be contacted for advice.

With no further business, a motion to adjourn was made by David Patch; seconded by Doug Garland. Vote: All in favor. The meeting adjourned at 9:30 p.m.

Respectfully submitted,  
Barbara Bush

Recording Secretary