

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

February 2, 2015

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

Also present were: Shawn Bergeron; Bob Tafuto; Scott and Amber Grant; Mark Dryjas; Joe Berry; Sheila Duane.

Chairman Publicover opened the meeting at 7:07 pm.

1. Public Hearing: William Duggan, Cobb Farm Road. File 2015-1203. Application to subdivide a 2.94-acre parcel on Cobb Farm Road into two lots, containing approximately 1.47-acres each. Tax Map 5COBRD, Lot 35W1.

Bob Tafuto presented and provided a full set of plans. The Chairman noted the board had reviewed the application at the previous work session. Mr. Tafuto explained the property was a flat piece of land which consisted of Group 1 soils. Doug Garland asked if the property was in the floodplain. Mr. Tafuto advised it wasn't, but that the parcel the lot came out of did go down to the river and was partly in the floodplain. Elevation-wise, he said this particular lot was approximately 15-ft. above flood level.

The Chairman asked if the board had any further questions. With none, he called for a motion to accept the application. Motion made by Julia King; seconded by David Patch. Vote: All in favor. The meeting was opened for public comment. With none forthcoming, the session was closed. The Chairman called for a motion to continue the application to the February 17 meeting. Motion made by Julia King; seconded by Rich Stimpson. Mr. Garland said he had one final question and asked whether there was a stump-dump on the property. Mr. Tafuto said there was not, though there could be one on Bert George's property, which this lot came out of. Vote taken to continue the application: All in favor. Mr. Tafuto provided a mylar to be recorded when the application is approved.

2. Public Hearing: Robert J. Tafuto & Andrew P. Fisher, Jericho Road: File 2015-1204. Application to subdivide an 8.13±-acre parcel of land on Jericho Road (fka Jenks Hill Road) into 4 lots as follows: Lot 1 = 1.82 acres; Lot 2 = 2.02 acres; Lot 3 = 2.85 acres and Lot 4 = 1.44 acres.

David Patch advised that he was an abutter to this project and asked if he should step down. Doug Garland said he would prefer that he did not vote, but would like him to remain to answer any questions they may have. The Chairman called for the record to show Mr. Patch had recused himself.

Bob Tafuto presented and provided revised plans. The Chairman noted the application had been reviewed at the work session. Mr. Tafuto said the plans which the board reviewed at the work session had been developed for submission to the state, and showed wetland setback lines which made it a little confusing. These lines had now been removed on the revised plans. Mr. Tafuto also presented a waiver request for a High Intensity Soil Survey (HISS) on the basis that the wetlands and hydric soils were all delineated by wetland/soil scientist Greg Howard and the site contained mostly Peru Group 3 soils. The Chairman noted this was one of the concerns raised at the work session, especially regarding Lot 4 whose density was fairly close at 115%. Mr. Tafuto presented a copy of the wetlands map prepared and stamped by Greg Howard which identified the two type of soils contained in the wetlands as Pillsbury and Peacham. The soils had been identified from the Carroll County maps, as well as the new USDA website. Mr. Tafuto said test pits also verified the state's information. David Shedd, who acts as the town's test pit inspector, noted that he was not a soil scientist and was not qualified to verify that soils are a certain type. Doug Garland said he did not trust either the USDA nor the state's information. Chairman Publicover explained the methods used by officials to determine the soil types, such as aerial photo mapping and field checking. He said a HISS would typically be required when a property exhibited multiple soil types, and that he had a high level of confidence that the soil information provided by the wetland scientist was correct. Doug Garland asked if a HISS could be requested on a small portion of the property, notably Lot 4. The Chairman said he suspected we could, but only if there were obvious discrepancies displayed by the vegetation. Additionally, a test pit had been conducted on

the lot which had provided soil information.

The Chairman called for a motion to accept the application. Motion made by Rich Stimpson; seconded by Julia King. Vote: All in favor. The Chairman then opened the public hearing. Abutter Scott Grant stepped forward to view the plans. He said he had no problem with the property being subdivided, and agreed the soils were exactly the same as his were, across the street. Mr. Grant noted when he subdivided his land a few years ago he was required to do a drainage study, and asked whether one was being required in this case. He was told his subdivision required a drainage study as it was much larger, and was uphill with the potential of shedding water onto the lower lots. Mr. Grant then asked if there would be any affect on a culvert located near a driveway in the turnaround. Mr. Tafuto said there were no wetlands near the culvert and that the soil surrounding it was very permeable, allowing the water to just drain away. The Chairman asked if there were any further questions from the public. With none, the public comment period was closed. A motion was made by Margaret Lavender; seconded by Doug Garland to continue the application until the February 17 work session. Vote: All in favor. Mr. Tafuto asked if the board was going to vote on the waiver request. A motion was made by Doug Garland; seconded by David Shedd to accept the waiver. Vote: All in favor. A mylar was provided for recording once the application was approved.

3. Preliminary Discussion with Attitash Mountain Service (AMSCO) re proposed equal-area boundary-line adjustment of 0.09-acres between Tax Map 5STLNG, Lots A42 and A 38 at Stillings Grant: Joe Berry asked if the board could proceed to the next item on the agenda, since Sheila Duane had not yet arrived. The Chairman agreed.

4. Bergeron Technical Services: Determination of site plan review, Grant's Supermarket: Shawn Bergeron presented and explained how Grant's Supermarket were proposing to add an 8-ft. extension to the front of the store, and he was before the board for a determination as to whether site plan review would be required. He said the extension would act as a cover and storage for shopping carts, would improve the outside appearance of the building, and would provide customer safety by shedding ice and snow to the side of the building. Margaret Lavender and David Shedd asked about parking requirements, which prompted ZBA member Julia King to advise that Mr. Bergeron had already been before the ZBA. At that time, parking had been one of the issues considered prior to a variance being granted to permit the extension to proceed. Ms. King said the expansion would result in the loss of one parking space. Mr. Bergeron said Bartlett's parking requirements are based on the number of patrons/staff involved, not on the square footage of the building. He said the expansion would result in no increase in intensity of use. Parking was also available on the adjoining lot-of-record, which was a separate lot but owned by the same person. He advised that Fire Chief Pat Roberts had been apprised of the expansion and had offered no objections.

Doug Garland stated he had no problem with the expansion and felt it was a good idea as it would improve the appearance of the building, however he would like to see something done to clean-up the ugliness of AC vents on the roof. Mr. Bergeron agreed to come-up with a concept that would improve the aesthetic of the roof. After further discussion, the Chairman said the question before the board was whether site plan review would be required where the board would get to review aesthetics, parking, traffic flow, intensity of use, etc. Mr. Bergeron said he was agreeable to participating in a site plan review. With that said, a motion was made by Margaret Lavender; seconded by Doug Garland that site plan review would be required for the expansion at Grant's Supermarket. Vote: All in favor.

5. Item No. 3 revisited: With the arrival of Ms. Duane, the board returned to an informal discussion with AMSCO as outlined in Item 3. Joe Berry presented and said the lots in question were on Parker Ridge Road where he was proposing a simple boundary-line adjustment to remove 25-ft. of land from the common area and adding it to Lot A42, then removing 25-ft. of land from neighboring Lot A38 and placing it in the common area, resulting in an equal-area adjustment. Mr. Berry was asked why the adjustment was necessary. He said as build-out progressed, it had been realized that the logical location for a house on Lot A42 would require approximately 25 feet more on the north side, due to proper driveway access and view potential. Lot A38 already had an established house location on the southern portion of the parcel and would not be affected by the adjustment. This was basically a three-lot adjustment, involving the common land and the two building lots. Mr. Berry said AMSCO currently owned all the parcels involved. The Chairman asked whether the lots involved were served by individual septic systems or a community system. Mr. Berry said they all had separate tanks which were tied into a central system.

The board discussed the appropriateness of changing the configuration of the common land, with some members stating it was ridiculous to be able to move around property which was established and accepted as part of the approval process. David Shedd felt changing the common land boundaries could set a precedence and asked what would prevent Mr. Berry from requesting additional adjustments in the future. Sheila Duane reminded the board that a certain amount of common land was set aside during the approval process, and this adjustment did not change the amount of land, just the configuration of it. The Chairman noted the applicants were only here to make the board aware of the pending adjustment, and said arguing about the merits could wait until an official application had been submitted. He suggested it may be beneficial if Mr. Berry could obtain a letter from the Stillings Grant homeowner's association giving a sense of their feelings on the issues. Mr. Berry said that could be done.

6. 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.

A motion was made by David Shedd; seconded by Julia King, to continue the public hearing for this application to the March 2, 2015 meeting. Vote: All in favor.

7. Continuation/Final Approval: Red River Properties Development Corp., Highland Road (Mark Dryas). 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.

Mr. Dryjas presented and provided revised plans. The Chairman noted the board had proposed conditions regarding individual fire-suppressant to the fire chief for his approval. After conferring with Concord, the chief had responded in a letter which listed several conditions under which he would approve the proposal. The Chairman asked Mr. Dryjas if he had received and read the chief's letter and were the conditions acceptable to him. Mr. Dryjas said that he had read the letter and accepted the conditions. He said since he would normally use Bergeron Technical Services to design his sprinkler systems, but since the fire chief was requiring Bergeron to also review and approve the systems, Mr. Dryjas asked whether that would be a conflict of interest. The board said it would, and informed him the system would need to be designed by an independent party.

The Chairman provided a Notice of Decision for the board's reviews. Two conditions were attached to the notice, those being 1) the fire chief wanted to inspect the driveways and test drive a fire-fighting vehicle upon them prior to approving them, and 2) that all units shall conform to the requirements set forth in the chief's letter of January 7, 2015. The Chairman said while these were the only attached conditions, he also noted the two previously-granted waivers which allowed the lower driveway to serve three residences and for a portion of the drives to be in close proximity to each other. He reviewed the plan to verify the waivers had been noted on it. Mr. Dryjas was reminded that the mylar for recording would need to be at the correct scale, which would possibly fit on two sheets. Mr. Dryjas said he was aware of that, and suggested the smaller scale plan also be included to provide an overall view of the project. The board agreed with this suggestion.

The Chairman asked if there were any further questions of suggestions on the wording of the Notice of Decision. Julia King asked about Condition 2, and whether the fire chief was going to do an inspection to make sure the requirements had been met. The Chairman referred to the chief's letter which stated that Bergeron had to approve the plan before a building permit would be issued, and then the chief and Bergeron would have to sign-off on the actual construction inspection before an occupancy permit was issued. He noted that nothing was put in the Notice of Decision about the conditions being written into the homeowner's covenants. He said it was the planning board's job to set the conditions, and it was Mr. Dryjas' job to make sure any prospective purchaser knew and understood them. He said if someone bought a lot and afterwards professed that they were not aware of the conditions, that it would be Mr. Dryjas' responsibility and Mr. Dryjas who would be "on the hook." Doug Garland asked about bonding for the road construction, but he was reminded that these were driveways, not roads, and bonding was not required.

Mr. Dryjas said he felt the conditions being proposed for his subdivision sounded more appropriate for commercial development. The Chairman answered that normally the board wouldn't pay this much attention to driveways, but that it was Mark's decision to go the route of driveways instead of roads. Mr. Dryjas said he was referring more to the one involving fire suppressant, and asked whether that was going to be the "norm" for all future subdivisions. Doug Garland advised him that a new state law says that planning boards can no longer require a developer to install fire suppression systems, but they have the right to deny the application if an adequate system is not provided. The board should not grant approval to anything that creates a public safety issue. Mr. Garland said he wanted Mr. Dryjas to fully understand that he was voluntarily submitting/agreeing to installing these fire suppressant systems. The Chairman explained that the proposed lots were a long way from any feasible water source that could be used for fire fighting, and if Mr. Dryjas was not agreeable to the individual systems that his only other option would be to build a cistern.

In reviewing the conditions, the Chairman asked whether the wording of No. 1 should be amended to specify that building permits will not be issued until the fire chief inspects and approves the driveways. The board agreed, and the wording was amended. Doug Garland suggested the wording of No. 2 be similarly amended, as he felt anything

that made wording black-and-white made it clearer for the selectmen to act on. David Patch pointed-out the chief's letter required that condition, and the letter was cited in the wording of the condition. Mr. Garland agreed to let the wording of Condition 2 stand. Mr. Patch further pointed-out that any imposed conditions have to be met, otherwise the application could be deemed null-and-void. The Chairman read the regulation pertaining to revocation of a subdivision approval, which said an approved and recorded subdivision may be revoked by the Planning Board, in whole or in part, under certain conditions including when any requirement or condition of approval has been violated or when the applicant has failed to perform any condition of approval within the time specified or within four years. He wondered whether a time limit could be placed stipulating when construction of the driveways would need to be completed. Doug Garland said the term "substantial improvements" was an arguable point, and he would like to see it made clear what needed to be accomplished before a subdivision approval could be declared null and void. The board discussed what constituted "substantial improvement" and also discussed what could be done to ensure that somebody didn't build a house only to find that the driveways had not been approved. The Chairman suggested stipulating that lots can't be sold until the driveways were approved. David Patch said the driveway issue wasn't a sticking point with him, but that he wouldn't object to the condition being added. Doug Garland told Mr. Dryjas that he could do a build-out and build the driveways in increments, which meant the whole length did not have to be constructed all at once. For example, he could build a drive to the first house to enable it to be sold to then finance the rest of the project. Mr. Dryjas agreed that is probably what he would need to do.

The Chairman asked if there were any more questions. With none, he called for a motion to approve the amendment to the Red River subdivision as set forth in the Notice of Decision with stated conditions, as revised. The motion was made by David Shedd; seconded by Julia King. Vote: All in favor. After the vote, Doug Garland stated he thought he was voting to approve the conditions stated in the Notice of Decision, not voting to approve the whole application. He said he did not vote to grant the earlier road waivers, and would not vote to approve the subdivision. The Chairman asked if anyone else was under the impression they were only voting on the conditions. Nobody else did. Mr. Garland withdrew his yes vote. Revised vote: 6-1-0.

8. Review and Approval of Minutes: The minutes of the January 20, 2015 meeting were reviewed. The Chairman requested the wording of Item 2, paragraph 2, line 10, be revised to read, "... the town already required compliance with state building codes." Motion to approve the minutes, as amended, made by Richard Stimpson; seconded by Margaret Lavender. Vote: All in favor.

9. Mail and Other Business:

- The Chairman followed-up on the right-to-know request from Atty. Britain regarding the Drew gravel pit by advising that a letter had been sent to Atty. Britain advising that there was no permit as the pit was grandfathered. David Shedd advised he had heard that the cease-and-desist order was lifted.
- The Chairman asked Doug Garland whether the wording for the warrant article the selectmen were proposing for the 2015 town meeting was finalized and available for the board's review. Mr. Garland said there was still a little time left, and he would provide the board with it as soon as it was available.

With no further business, a motion to adjourn was made by Julia King; seconded by David Shedd. Vote: All in favor. The meeting adjourned at 8:47 p.m.

Respectfully submitted,
Barbara Bush
Recording Secretary