

ATKINSON PLANNING BOARD
Atkinson, New Hampshire
Public Hearing Meeting
Wednesday February 16, 2011

Present: Sue Killam, Chairman; Regular Members: Tim Dziechowski, , Ted Stewart , Bill Bennett, Ex-Officio, **Alternate:** John Wolters; Mike Turell

Ms. Killam called the meeting to order at: 7:36 p.m.

Correspondence

End of the month expenditure

Incoming

- 1) Sumner to the Town – *RE: Town Meeting of the Warrant Article 211-2 and the definition Trucking – proposal of several challenges RSA 31:39 and the difficulties in enforcing it.*
- 2) *ZBA – granting a Special Exception – 6 Indian Ridge - Wetland Variance 37 Boulder Cove Road*
- 3) Notice from Town of Haverhill – frontage – Merwall Ave/Grand Ave
- 4) Notice from Town of Haverhill – March 8, 2011 – Request to build 4 multiple buildings on Grand Ave.
- 5) Letter from Mr. Witley to be read later in the hearing
- 6) 16 Industrial Way – new owner completed site plan from 1998
- 7) Keach Nostrum – Advanced Design Construction – project from 4/7/2008 has satisfied the requirements and request the release of the bond \$38,232 plus interest

Ted made the motion to release the bond to Advanced Design Construction of \$38,232 plus interest and to be put in front of the Board of Selectmen. Mike seconded the motion and the Board voted unanimously

- 8) Letter for a request for a Voluntary land merger – Leonard and Joan Hall, 14 Winslow Drive, Map 13 Lot 26 14 Winslow & Map 13 lot 25 Winslow - Mike read the statue – no Public Hearing necessary – discussion on tax loss to Town – whether can build on lots, structure/dwellings on lots

Mike motioned to grant the lot merger and that it is not in violation of the Voluntary Land Merger regulations. Ted seconded the motion and the Board voted unanimously to approve the merger

- 9) Copy of a Letter from the Conservation Commission to the ZBA regarding 35 Boulder Cove and their support – to date the ZBA has not approved request

Outgoing none

Minutes to be read at next meeting.

Ted Stewart stepped off the Board to join the audience

Public Hearing 7:59 pm

Hampstead Area Water Company , Site Plan to show the location of a proposed Pumping Station on land owned by Settler's Ridge Condo Association, off Pope Road, Map 12 Lot 1 in the RR Zone

Sue read the list of abutters, the following were present:

Carol DiMigglio, representing the Condo Association
Josh Manning
Ted Stewart, representing the Stewart Family Trust

Sue updated the audience and the Board members – a revised Site Plan was sent to Aaron LaChance (February 3). The Board received a Review letter from Stantec dated February 14, 2011.

Question of Jurisdiction

Charlie Lanza, representing HAWC, appeared before the Board to address the issues Stantec found deficient.

Item #1 Concern on the Professional Engineer's Stamp – Charlie requested a waiver

Item #3 Construction Details in Section 690 of the SPDR – pre construction standard per the Road Agent (*note – HAWC has a standing bond with the Town) Ted Stewart, as Road Agent, stated it would be fine.

Sue asked Charlie to put the plans in writing

A member of the audience as an owner of a Settler's Ridge condo, requested that the utility pole be moved from the middle of the lot to the edge and lines run under ground.

Sue reviewed the procedures for the audience as to how a Public Hearing is to be held.

Item #13 Buffer zones requirements – Charlie requests a waiver for a 71' 9" buffer instead of a 100' - there is a natural buffer – Sue stated Charlie would have to do a formal request of the Board

Item #25 Final Plans should bear all applicable Professional endorsements - Charlie stated that final plans will have all necessary stamps.

Item #26 Waivers be in writing to the Board and drawings to be included

The Board asked Aaron what his view was and he felt that the plans fall closer to being ready for Jurisdiction. Julie LaBranche of the Rockingham Planning Commission sent in a letter as to their recommendations and received satisfactory answers to her memo.

John Wolters asked Aaron about the erosion control. Aaron stated that grading was a 2:1 slope and that there were notes and details added and he felt comfortable.

Bill Bennett asked Charlie about the liability risk to children and the water level. Charlie stated that water level doesn't stay at that level for very long and there is a 2 foot overflow. It is monitored and that the back flush is approximately 20 mins. John asked Aaron about the overflow to which Aaron replied that he wasn't familiar with this process and Charlie stated the back flush would only be done Monday through Friday during business hours. The back flush is done less often in the winter as the water demand is less. Charlie stated that there was heavy vegetation and that there would be silt fencing during the construction process.

Tim made the motion to take under Jurisdiction. Mike seconded the motion and the Board voted 4 in favor and 1 abstaining to take the plan under jurisdiction.

Discussion on back flush and the retention pond and over flow; HAWC prefers to do the back flush manually as they have had issues in the past with valves sticking. The discharge basin is approved by DES. Concerns expressed on children of the condo complex.

Sue opened the floor to the Public

Karen DiMigglio asked about Liability Insurance which HAWC has, and had a list of concerns on behalf of the Village at Settler's Ridge Condo Association and presented them to the board

- 1) Review of the drainage basin and the procedure as well as the insurance rider
- 2) Electrical Service line - remove electrical pole and service line - underground– Charlie to talk to UniTel in regards to the relocation Aaron added that there was a 3-4' separation of other utilities
- 3) Dig Safe - tracer tape Provide as built drawings and a copy for the Condo Association
- 4) Pump House – code compliant. Sue stated that the Building Department would have the necessary documentation at the time of construction
- 5) Settler's Ridge be added as insured with the HAWC Insurance policy - land owner and easement Holder – not a Planning Board issue
- 6) Bond provided for building – Sue stated that that issue was already address and that HAWC has an standing Bond –
- 7) Provide written plan for Back wash system – Sue stated that this was not a Planning Board issue

Karen sat with Josh Manning and Charlie Lanza and reviewed issues the Condo Association had.

Charlie stated that the issues would be addressed if not already addressed.

Julie LaBranche presented the Board with new Procedural requirements under Chapter 674 Local Land Use Planning & Regulatory Powers Site Plan Review Regulations- Section 674:44 – sub-section III e 1 & 2)

Julie explained that the Board must find that the request meets one of the two standards. Sue read new statue. Sue wants to have the Board comfortable since it is new territory. Julie explained that each waiver should be acted upon separately for the Site Plan as indicated in SP 1 - 310:2 part A

Sue read a request for Planning Board to grant a waiver from the Atkinson's Site Plan regulations 690:1. Sue read the statute under Commercial where non-residential use abuts a residential area as pertaining to buffers. In this case it is Conservation land that is abutted and it is also protected by the Department of the Interior, per Tim Dziechowski because of the funds it was purchased with. Julie explained that it has to be recorded in a brief statement as to how it meets the standard.

Tim made a motion to "Grant a waiver under 690:1 Buffers from 100' down to 71.9' because the abutting property is protected Conservation Land which will never be use for residential construction so the intent of the ordinance is still met even if the waiver is granted." Mike seconded the motion and the Board voted unanimously in favor of the waiver

Second waiver request under Atkinson's Site Plan regulation 910:4, which is referred to find relief from the requirements to provide a Professional Engineer's stamp. Sue read from last minutes. Discussion on whether it is an engineered plan. Julie asked for some clarification as to the DES approval and the stamp on a public water supply and that there is two types of components. First there is the construction component which Aaron refers to and the second, is the water supply's component which the DES approves. Julie asked what dictates an engineer's stamp, if it is the size of the project. Bill and John feel that there should be a stamp since the Town's engineer's feels it is needed. Sue asked Aaron what makes him feel that a stamp is necessary, to which Aaron stated the settlement basin needs calculations. Also, under the Town's regulations it is required. Sue stated that the new RSA requirements is a factor in the decision making. Sue read the RSA again. Tim stated that under the first provision the only hardship is expense and Tim doesn't feel that that is a valid hardship and under the second is that the Site Plan is so simple to which Aaron has confirmed that there is enough to warrant a stamp. Mike feels that the plans don't require a stamp and that 910:4 is vague. Bill feels that it shouldn't be waived.

Mike made a motion that "we don't grant the waiver request for relief under 910:4" Bill seconded the motion and the Board voted unanimously to deny the request

The third waiver request to wave the following from Atkinson's Site Plan regulation 620:3 - to provide relief from drainage calculation as part of the Site Plan. Charlie stated that Aaron had recommended that no drainage calculations were needed. Sue read the regulation. Sue stated that the way she looks at it is a site that would have a lot of impervious surface i.e. parking lot, large building with a flat roof and that it

doesn't really pertain to this site. Discussion on if there was a flood. Julie asked about the back wash retention basin in extreme precipitation events would it receive water. Charlie stated that it wouldn't collect a whole lot due to its location, slope and design. Bill asked about the body of water downhill from the site and it was stated that it was Stewart Farm pond. Aaron was asked if it was necessary and Aaron stated that it was not required.

Tim made the motion that "we grant a waiver from Site Plan 620:3 Storm Drainage because the specific circumstance of the site there is insignificant storm run-off from impervious surfaces to be a factor in this site under RSA 674:44 II e 2 Mike seconded the motion. The Board voted unanimously in favor

The applicant would like to request conditional approval based on three things, 1) adding a note that they work with the Road Agent, 2) add the waiver notes to the plan and 3) add the Engineers stamp presuming there are no plan changes . all permits have been received.

Mike made a motion to approve "the application of the Hampstead Area Water Company conditionally upon receipt of all the appropriate engineer and professional stamps on the final plan, notes regarding the two waivers that were granted by the Board tonight and a note on the plan specifying that the Road Agents review and approval of any pre-construction road crossings." Tim seconded the motion and the Board voted unanimously in favor

Ted notified the Chair that he had to leave the meeting.

Public Hearing 9:11pm

James Lavelle for Gary Witley submission of an Application for Consideration and Approval of a proposed 2 lot subdivision of a 35.85 A lot, into a 2 A lot and the remaining 33.85 A with existing dwelling on property located at 46 Main Street, Map 4, Lot 16, RR2 Zone

Sue stated that in 2009 Mr. Witley had a Site Plan that was conditionally approved by the Board for a plan that was titled "Lot line change and sub-division Plan" and the conditional approval letter was generated in October 30, 2009 from the Planning Board to Mr. Whitley and his neighbor. There were some title issues. Mr. Witley came before the Board in 2010 and asked for a continuance, which was granted (6 months). During the last 6 months, Mr. Witley has decided to drop the lot-line adjustment portion of his plan and has submitted a brand new plan with new abutter notifications and legal notifications. Now Titled "Sub-division" plans. Sue read a letter from Mr. Witley that requested that the request to withdraw his prior Application . Sue stated that the Board address the prior application before moving to the new Application.

Tim made motion that at the request of the applicant, that the applicant withdraw the original Application for subdivision (ref SA 200909176) without prejudice. Mike seconded the motion and the Board voted unanimously in favor

Sue read the list of abutters, the following were present:

Gary Witley
Gail Witley

2 lot subdivision- 1 lot to be 35.85 A and the seconded to be 2.00A dually noticed .

Tim Lavelle, representing Gary Witley, is proposing to make 1 2A lot that will encompass an existing house and garage on the lot. There were 2 test pits 50' apart in a 4k area with a well on page 4 of site plan. The 33A lot is presently serviced by the Hampstead Area Water Company, off site water. The new lot has no water at this time. A new line would have to be brought in or a well drilled. 2A lot has no wetlands and 200' of frontage, has an existing driveway entrance. All questions from the Town's engineer and the Rockingham Planning Commission have been answered. With the new lot there is no cross deed as part of the condition for approval.

Sue made a note that usually there is a fee collected at the time of submission for an Engineer to review the plans and since this was essentially the same plan and calculations as seen and approved previously, Sue did not collect the fee since it had already been review and Sue wanted To know if the Board was okay with that. The lot line was moved but the calculations stayed the same.

The previous conditions were:

- 1) have the neighbors sign the application - no longer necessary
- 2) the final plan to be accompanied by deeds to reflect the lot line changes - is no longer necessary
- 3) Certification from the surveyor that monuments have been set - still required
- 4) additional notes defining sideline setback conditions - per Mr. Lavelle on sheet 3 is show with a 30' minimum with a set of ** and lower on the plan set the asterisks explain the sideline setbacks.

State subdivision # is only for the 2A lot

The 2A lot's structures are to be razed and a new dwelling built later. The existing dwelling never met the setback requirement as the building was built in the 1700's .

5) letters of approval from Stantec and RPC - Julie asked if Lot 4-17 next door, does it have a private well and if that was taken into consideration. Mr. Lavelle stated that there was a well radius on the plans and none was located on Lot 4-17 within that radius. Discussion on wells, wetlands and any other items and no well within 75' of the proposed septic system.

Mr. Witley has an approved septic for the new lot. Mr. Lavelle has a letter dated 12/2009 and that Stantec request stamping on the final drawings. Mr. Lavelle to amend note #3

Tim made a motion to take it under Jurisdiction. Mike seconded the motion and the Board voted unanimous to take the plan under Jurisdiction.

Tim asked if it was eligible for expedited approval. Sue read Subdivision 530:4 to expedite when there are less than 4 lots.

Sue asked if the audience had any questions. Margaret Bibbins, of 5 Maple Avenue, asked if this subdivision would affect her in any way. Mr. Lavelle stated no. Sue stated that the 2A lot is to the front and will not affect in the back part of the lot near her land.

Tim made a motion to grant approval of the subdivision conditional on note 3 being changed to reflect date of the wetland mapping and all the required stamps on the final plan set. Mike seconded the motion and the Board voted unanimously in favor

Gail Witley would like to request a copy of the plans to review the plans with her lawyer. Sue stated that it's not final until everything is finalized. Ms. Witley requested a copy any way. Mr. Lavelle stated he would accommodate her if she spoke with him in the hallway.

New Business

Tim wanted to have the Board to look into Incentive Zoning and whether it is possible to leverage for Open Space. The Town has 3-4 large lots that will eventually be sold if and when the economy turns. Tim stated that they do this in Salem and would like to look it. Julie stated that it is doable. That a trade would be a start, that for every 5% one unit is given, or an easement along a small parcel of land. Julie to get information for the Board for the next meeting. A term of Distributive Density and your assuring land.

NRI

Sue has made some mark ups and is up to page 35 and will give to Julie. Sue stated that some of the charts confuse her. Sue gave an example. Julie to talk to Sue via the phone.

Discussion on the Land Use Tax history - Julie is waiting on the outcome of vote -

CTAP monies were used on NRI - and the remainder was used for the Existing Land Use Chapter and the Community Facilities Chapter.

Dispense of Work Shop on March 2nd

Tim formally moved the motion to dispense with the Work Shop meeting on March 2nd. Mike seconded the motion and the Board voted unanimously

No hearings scheduled and next scheduled meeting will be March 16, 2011

Tim asked about the Zoning book on the website as a .pdf and it is from 2008. and it is out of sync with the paper copies the Board has. Tim to sit with Sue to review it. The RPC has it in Word and will send it

Mike made a motion to adjourn the meeting. The motion was seconded by John and the Board voted unanimously to adjourn.

The Planning Board meeting was adjourned at 10:00 p.m.

Respectfully submitted by Patty Power