

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, AUGUST 21, 2013**

Members Present:

Sue Killam, Chairperson
Tim Dziechowski
Mike Turell
John Wolters
Ted Stewart
Paul DiMaggio, Vice Chairman

Other's Present

Julie LaBranche, Rockingham County Planning Commission
Aaron LaChance, Stantec Consulting Services, Inc.
Millennium Construction
Abutters of the proposed subdivision named The Hamlet at Page Farm
Abutters to the property located at 56 Island Pond Road

Call to order: Chairperson Sue Killam called the regular meeting of the Atkinson Planning Board, Wednesday, August 21, 2013 to order at 7:30 PM.

Correspondence:

Municipal Law Lecture Series – one is in Derry, \$35 per lecture or \$90 for all 3. Dates in Derry are October 2, 9 and 16 from 7 to 9. They are on Wednesday.

Letter from the Fire Department re: Hamlet at Page Farm

Letter from DES to the applicant regarding missing items on the application for the Hamlet at Page Farm

Revised Set of Plans and Revised Storm Water Management Report

PUBLIC HEARING:

1) Application for Subdivision and Cluster Subdivision presented by Millennium Engineering for Gordon P. Brown Family Revocable Trust, for Subdivision of 15.58 Acre parcel to create a lot of 2 acres with the existing house, and to create an 8 Lot Scenic Cluster Subdivision of the remaining 13.58 acres, located at 129 Main Street, Map 13 Lot 21 in the RR2 Zone. Continued from the July 17, 2013 meeting.

Abutters list: Norbert Gauren of Gauren Realty Trust; **Gordon P. Brown Revocable Trust, c/o Page Brown - present**, Kuldip and Pinderpal Baines; **Kathleen Sedkowsky**; Jesse Page Estates, Woody Wood, President, Lincoln Jackson; Robert and Julie Weaver – present; 138 Realty Trust, John Feuer, Trustee; West Environmental; Joseph Knowle; and **Millennium Engineering, Inc., present**.

Millennium Engineering, Inc. continued with the presentation. The first issue was the lot depth for lot 3 and lot 6. Millennium Engineering managed to shift the road without causing major problems. The open space calculations were changed a little. The other issue was that lot one did not have the perimeter buffer. The plan was changed so that lot one has the buffer. Another difference was the separation between lot 2 and the rest of the subdivision, a dimensional tie between lot 2 and the rest of the subdivision of 63.2 was added to the plan. Julie LaBranche had questioned the lot configuration. A lot sizing table was added to the plans.

The main difference between the first plan and the modified plan are: first, issues with the pipes which were originally under the road. Member Ted Stewart and Aaron LaChance worked with Millennium to get the pipes out of the road. The slope under the pipes was flattened and the pipes were raised up. The sumps have been eliminated. This could be an issue because roadway sand could cause failure to the pipes. Sumps will be added back to the catch basins in the plan to help push solids through the pipes. The pavement in the middle of the cul de sac has been removed. They have maintained a 24 foot width of pavement around the cul de sac in order to satisfy the Fire Chief. There are 2 waiver requests; one is for the 20 foot width around the cul de sac, however Millennium has maintained the 24 foot width. A catch basin has been added to catch some of the flow. A lot of the swale has been minimized. At present there is a 4 to 1 slope in the swale. Millennium Engineering is requesting a waiver for a 3-1 slope.

There are two more big issues. One is there is 100,000 square feet of disturbance and alteration of terrain. The second is at the meeting with the Department of Transportation, DOT requested a 100 foot long, 13 foot wide, paved deceleration lane with a 20 to 1 taper. Millennium wants a 15 to 1 taper. A 20 to 1 taper brings the deceleration lane right to a telephone pole, which would have to be moved. There are also issues with the driveway to the original farmhouse. It was designed 300 years ago, before motor vehicles; it is very steep and curvy. The Department of Transportation has requested changes to the driveway before they will give approval. Millennium has designed a new driveway. It requires moving a pole, which costs \$5,000. The new driveway will have a pitch of 7 percent instead of 30 percent, but it reduces visibility from the minimum requirement of 400 feet in one direction. The existing retaining wall in front of the house will have to be rebuilt and a pole may have to be moved. The design revisions bring the plan to over 100,000 square feet of disturbance. All site disturbances on the plan add up to over 200,000 square feet and Millennium would like to get a permit for everything at one time. Another issue is infiltration; there will be some infiltration systems added to the plan.

They are also working on the drainage system for the constructed wetland. The new storm water report that Julie LaBranche and Aaron LaChance will get will reflect the changes. There will be an easement in order for the Road Agent to access the constructed wetland and a 12 foot wide gravel road will be constructed and the grass will be allowed to grow up through it. The Fire Chief has required a second hydrant and the first will be moved closer. The easement for access to the constructed wetland will not go through the buffer.

Chairperson Killam read a letter from the Fire Chief requesting that he be informed if a waiver will be requested for department heads to review. It must be a written request. If it is granted, it will be put on the plan. Millennium Construction agreed. Member Dziechowski asked about the range in lot sizes. The smallest is about 15,000 square feet and the largest is about 56,000 square feet. Mr. Dziechowski asked about a shared septic system as opposed to individual septic systems for each lot. Millennium responded that it would be very difficult to get septic systems for each lot because of the lot sizes.

Member John Wolters asked about the backup generator. He reiterated that if the electric goes off, the homes at the bottom of the subdivision will have back up problems from the shared septic system. There are also issues with the septic pump chambers. Millennium informed the Board that those issues would be addressed. Aaron LaChance said there were 2 alternatives, a generator or a larger sump which can handle a capacity of at least two days.

A member of the audience asked why a deceleration lane is required. The engineer from Millennium explained that it would get traffic out of the way of traffic on Main Street; it would prevent collisions and improve the sight line because it is a high traffic road. Member Ted Stewart asked if the State is going to maintain the deceleration lane. Millennium did not know, he also pointed out that the deceleration lane would require that another portion of the stone wall be removed. Another member commented that traffic coming from the Town Center to Pages Lane accelerates rapidly. The speed limit is 35 miles per hour. Chairperson Killam stated that someone has to enforce the speed limit. The engineer from Millennium suggested better signage.

Mr. Weaver from the audience commented that he has lived there a long time and has never known of an accident coming out of the Brown's driveway and asked why they had to change the driveway. Millennium agreed that it was unfair. Mr. Dziechowski asked if Millennium had raised the issue that it was a scenic byway to the State. Another member of the audience commented that all the accidents at that location are the same. Someone driving drunk, speeding hits the crest of the hill, goes airborne and runs into the telephone pole. One other member remarked that the State has taken frontage from the farm twice and original pictures of the farm show a lot more frontage. Julie LaBranche has a new question, is it a scenic byway or a scenic road. It is a byway. There was concern about removing the stone wall. Millennium felt that once the project is completed, they may be able to move the stone wall back and realign it.

Julie LaBranche asked about the berm, the size of the stone, how it will be brought in to the area and if Millennium anticipated any problems in the constructed wetland. Mr. Stewart informed the audience that is the reason he wants access, in order to maintain the spillway so that the water will not overflow on the road. Millennium informed the Board that he could grant a secondary easement coming from a different direction allowing easier access by vehicle. It is flat and hard ground. Julie LaBranche asked if there would be overflow from the spillway to the home in back of the development. She is concerned about the frequency of 100 year storms. She suggested that Millennium make a calculation of the volume of water flowing to the culvert at the back of the development. At present it is a grass meadow.

Millennium responded that Town regulations require calculations for 25 year storms; and that most of the area in back of the development would be vegetated. Also, runoff from the roads and the roofs would be directed to infiltration. Julie LaBranche pointed out that the Planning Board must take into account properties abutting the subdivision. Millennium has designed for a 50 year event when they are only required to design for a 25 year event. He agreed to make calculations for a larger storm event.

Chairperson Killam asked if Millennium would like to continue jurisdiction to September 18, 2013. Millennium responded in the affirmative. The plan should be near completion by then. Waiver requests and homeowner documents will also be provided.

Member Mike Turell made a motion to continue jurisdiction to September 18, 2013. Vice Chairman Paul DiMaggio seconded the motion. All members of the Planning Board present voted in favor. Vote: 6/0.

2) Lavelle Associates for John Milone, Application for Amendment to Site Plan changing uses to a landscaping business and offices, on property located at 56 Island Pond Road, Map 20 Lot 2 in the Commercial/Industrial Zone and Commercial/Professional Zones.

Abutters: John and Concetta Milone, **Christine Cornelius - present**, Susan Saindon, Rockingham **Realty LLC, 58 Island Pond Road, - present**, Southern New Hampshire Commons LLC, Waterwheel Estates- Frank Leary President , Q&D Realty Trust (Dunkin Donuts) , and **Lavelle Associates - present**.

Mr. Lavelle gave the letter of intent to Chairperson Killam who read it to the audience. The letter of intent stated that the existing building will be used for professional offices. There would be 10 employees, the hours would be 7:00 am to 7:00 pm Monday to Saturday, 2-3 van deliveries per day using the existing building. Mr. Lavelle explained that it is possible that it will not be used for a landscaping business; the intent is to rent the building and maintain some landscaping equipment at the site. Most of the landscaping equipment will be kept on site.

Chairperson Killam informed the audience that a variance was granted from Article 5, Section 530:f7. The Zoning Board voted to approve the application to allow commercial use of the building within 150 feet of zone line of a residential district. The zone line goes through the building. The present plan is to utilize the building for commercial and professional offices. There will not be a lot of work going on in the building. Some vehicles would stay on site overnight. No tenants are lined up, because there is no occupancy permit for the building. They are requesting an occupancy permit. Mr. Lavelle would like to get an occupancy permit.

Chairperson Killam pointed out the property line in relation to the road. The property line is 40 feet from the pavement. Island Pond Road has been changed several times to flatten the curve. This complicates landscaping and parking in front of the building. Because of the changes to Island Pond Road, the building does not meet the 70 foot line from the road requirement, but it is about 100 feet from the pavement. Nearly everything on the site plan already exists with the exception of the proposed egress from the second floor. The catch basins, leach field, septic, and pump chamber already exist. Mr. Lavelle proposes to change the parking. There is also plenty of landscaping. A sprinkler system has been installed. The building has been upgraded and they are trying to bring it into compliance.

Chairperson Killam informed the Board that there are issues with parking in front of the building and in the 150 foot buffer. Mr. Lavelle explained that parking in the front and in the buffer would require a waiver by the Board. The other proposed parking meets planning regulations. A variance for the shed was denied by the Zoning Board, so the shed has been removed. The dumpster has been moved to the spot where the shed was, and it looks fairly good from the street. A spot has been designated for a tractor trailer to park where the prior owner had a storage container. The parking lot is paved. It was paved without obtaining a permit. The pines have grown so that a view of the commercial property is obstructed from the residence on the other side. They need 21 parking spaces. There are currently 24 parking spaces shown. Vice Chairman DiMaggio asked if it were possible to drive over the septic and pump. It is currently not paved. Mr. Lavelle said he believed that the septic and pump are not designed for that.

Chairperson Killam requested a motion to take the plans under jurisdiction.

Member Tim Dziechowski made a motion to take Lavelle Associates for John Milone, Application for Amendment to Site Plan changing uses to a landscaping business and offices, on property located at 56 Island Pond Road, Map 20 Lot 2 in the Commercial/Industrial and Commercial/Professional Zones under jurisdiction. Member Mike Turell seconded the motion Vote: 5/0/1 with Member Ted Stewart out of the room.

There are questions on the number of parking spaces. 21 parking spaces are required, there are 24 shown. Chairperson Killam had some questions about the pavement in the buffer. The Board discussed where to put the parking spaces. Mr. Lavelle tried to put a schematic on the existing pavement. The Board agreed that the appearance of the site had improved greatly in recent years and that the pine trees were a good addition. The Board discussed how much the pine trees would block the view for the abutters. The building has 2 floors; the upstairs is currently being used for storage. Mr. Lavelle explained that the number of parking spaces is computed by the square footage of the building. Mr. Lavelle informed the audience that if there is an issue with the parking spaces in the buffer zone, those spaces could be removed but he will be asking for a waiver for the parking space in front of the building. The consensus was for no parking spaces in the buffer zone with the exception of a parking space in front of the building. Julie LaBranche informed the board that page Z-47 shows the regulation. Chairperson Killam read the planning regulation, Site plan SP 11 Section 690 - Screening and Buffering. According to the regulations, there should be no parking next to the residential zone. Site plan SP 11 Section 690:5 prohibits loading and unloading in the buffer zone. A waiver from the Planning Board would be required. Mr. Lavelle responded that he would defer to Ms. Cornelius, the abutter in the residence next to the building.

Julie LaBranche read the zoning requirements for the parking in the front. They are: A 75 foot buffer is required of which 25 feet shall not be paved. Julie LaBranche informed the Board that the table is in pages Z47 and Z48; Article 530 of Zoning Regulations explains the requirements. Another stipulation states that in CI foot note 3 it states that the side yard setback abutting a residential district is 150 feet from the zone line. Mr. Lavelle informed the Board that he has a waiver from the Zoning Board of Authority for that. The septic system and the parking lot are not considered buildings. Vice Chairman DiMaggio stated that given the regulations and the history of the lot, it makes sense to grant a variance. Member Ted Stewart informed the board that according to the RSA, land abandoned by the Town for right of way use, it reverts to the abutter after 25 years. The original front yard lot line was the pavement line but the pavement was moved in the 1950's. The pavement is 22 feet wide.

Vice Chairman Paul DiMaggio made a motion that the Board establish a consensus that the 75 foot parking set back in footnote 3 in this particular instance is not applicable because when it was originally formulated it was assumed the road serving the parcel would be on the lot line which is not the case in this plan and therefore it should be treated as 100 feet from the building and parking should be allowed. Member Mike Turell seconded the motion. Chairperson Killam requested discussion.

Discussion: Julie LaBranche does not agree. Section 530 applies to the lot, and anything that happens inside the lot. An equitable waiver would make more sense. If there is a mistake, an equitable waiver allows the applicant to go to the Zoning Board to apply for a waiver. This protects the applicant. Mr. Lavelle said that the Zoning Board has seen the plans and the proposed parking spots and told him that the requirements were met. Mr. Lavelle stated that he is willing to go to the Zoning Board.

Vice Chairman DiMaggio stated that he would like to get a consensus from the Board that the intent is met, and then have a motion for the applicant to go to the Zoning Board of Adjustment and the issue is if Mr. Lavelle needed a waiver from the Zoning Board of Adjustment. Chairperson Killam asked if the Board would like to vote on the motion made by Vice Chairman DiMaggio. The motion regarding intent was reread to the Board.

Vice Chairman Paul DiMaggio made a motion that the Board establish a consensus that the 75 foot parking set back in footnote 3 in this particular instance is not applicable because when it was originally formulated it was assumed the road serving the parcel would be on the lot line which is not the case in this plan and therefore it should be treated as 100 feet from the building and parking should be allowed. Member Mike Turell seconded the motion. Chairperson Killam requested discussion. The Board voted 4 in favor 2 against, Chairperson Killam and Member Ted Stewart against. Member Stewart agrees that intent is met but not the requirements.

Vice Chairman DiMaggio asked if the Board will suggest that applicant take the plan to the Zoning Board with the Planning Board's affirmative input that intent is met. Vice Chairman DiMaggio requested a motion that Board suggest that the applicant take the plan to the Zoning Board with the Planning Board's affirmative input that intent is met.

Member Mike Turell made a motion that the applicant go to the Zoning Board with the Planning Board's affirmative input that the intent is met. Vice Chairman Paul DiMaggio seconded the motion. The Board voted all in favor. Vote: 6/0.

The Board questioned if the land in front of the lot where the road used to be revert to the abutter.

Mr. Lavelle asked if there were more questions regarding buffering requirements. Chairperson Killam asked if the Board was ready to open discussion to the audience. Member Ted Stewart pointed out that the imaginary line ran through the building and stated that this is another reason zone lines should follow property lines. Mr. Stewart also stated that the Zoning Board has to approve the buffer. Another issue would be the second story egress which is in the residential zone, but it can be moved. Mr. Lavelle informed the audience that the original building is over 100 years old, and a variance has already been obtained.

Chairperson Killam opened the discussion to the audience. Mrs. Cornelius passed around some photos. She explained that the residence abutting the property is an historic site and an archeological site. It should be protected as a quiet spot. It is the site of Moses Mill, where the waters of Hodge Pond run under the road into Hog Hill Brook. It has historically been a manufacturing site operated until 1920. Ms. Cornelius stated that any sound from the parking area goes directly to her house. She is a script writer and she needs the quiet.

Mrs. Cornelius pointed out that anything past the zoning line should not be used for commercial uses. Originally the Planning Board had requested that a fence be put in at the corner of the building so and no parking should be allowed past the corner of the building. Mr. Lavelle stated that he drew the parking places over the existing pavement. At one point there was a fence. Member Ted Stewart asked if it would be permissible to have a sign rather than a fence, so that area could be used for snow storage. Another suggestion was to mark the paving no parking. Vice Chairman DiMaggio suggested that the pavement should be torn up and the area landscaped right up to the 150 foot buffer, which is what the Town requires. Mrs. Cornelius suggested putting something on the pavement. A chain could be a reasonable compromise so that there could be easy access to that side of the building. Mr. Dziechowski asked what was hanging off the side and the Board discussed past nonconforming additions and changes to the building. Mrs. Cornelius showed the Board pictures of the additions to the side of the building that is in the residential zone, including a loading dock and ramp. Mr. Lavelle informed the audience that the property would be used for commercial uses only, there would be no industrial uses.

Ms. Cornelius also addressed the screening. The lower limbs of the pines have all been cut. She does not think there is enough screening. Mr. Lavelle informed the Board that Mr. Milone had informed him that he would be willing to add arborvitae or something that would be a better screen. Ms. Cornelius was also concerned about being buffered from Route 111. The Board discussed whether traffic could come in from Route 111. Mr. Lavelle pointed out that any access from Route 111 is too steep and is in the wetland buffer. Mrs. Cornelius reiterated that there should be some screening in the area of the mill ruins. The Board discussed where to put up screening and arborvitae. Vice Chairman Paul DiMaggio pointed out that there was about 35 feet to the lot line where arborvitae could be planted. Mr. DiMaggio also pointed out that the area on the east of the lot was never supposed to be paved according to the original agreement. Mr. DiMaggio read aloud an agreement signed by the Selectmen and the former owners which states that there was supposed to be no commercial activity beyond the zoning line... the agreement also stated that the paving will end outside of the 150 foot setback in accordance with the site plan. Member Ted Stewart said it was reasonable for the screening to go 75 feet in both directions along the parking lot and was a much better compromise than the chain link fence. Mr. DiMaggio stated that the chain and signage would also be needed. Mrs. Cornelius passed out more pictures. The building was originally a barn that belonged to the homestead where she currently lives. The consensus was that the arborvitae would be a good addition for both properties and that the current use would be much better than previous uses.

Chairperson Sue Killam left the meeting. Vice Chairman Paul DiMaggio took over the meeting. Mr. DiMaggio recapped the discussion. Mr. Lavelle will go to the Zoning Board of Adjustment. Arborvitae will be planted to the north and south of the existing building. Mr. Lavelle needs to get approval for more parking spaces. Mr. Lavelle informed the Board that

he did not think he could get approval from the Zoning Board for another space in front of the building. There is plenty of room on the lot for parking without the spaces in the 150 foot buffer.

Another question from the audience, Mr. Glen Diteulio, Rockingham Realty, asked about a protective well easement 75 feet from the corner of the lot. Also, if the present owner plans on storing de-icing materials. Mr. Lavelle responded that the present owner does not plan to use the property as a landscaping yard.

Mr. Dziechowski asked Mrs. Cornelius if she would like to join the Heritage Committee.

Mr. Lavelle requested a 30 day continuance.

Member Mike Turell made a motion to continue the hearing to the next regular meeting of the Planning Board on September 18, 2013. Member Ted Stewart seconded the motion. The Planning Board voted all in favor. Vote: 5/0 with Chairperson Killam absent.

New/Old Business Master Plan ongoing discussions

3) Continued from June 19, 2013: AMENDMENTS TO SUBDIVISION and SITE PLAN REVIEW REGULATIONS

The effect of the proposed amendments will be to:

Modify all SD (Subdivision) and SP (Site Plan) references to soils based lot sizing to refer to the latest site specific standards of the Society of Soils Scientists of Northern New England (see: www.sssnne.org) as recommended by NH DES and the Town engineering firm. These changes have already been incorporated in the Zoning Ordinance by passage of Warrant Article 2013-2.

Continued to the workshop meeting on September 4, 2013.

Next Planning Board meeting Wednesday September 4, 2013 (Workshop)

Member John Wolters made a motion to adjourn. Member Mike Turell seconded the motion. All members present voted in favor. Vote: 5/0/1 with Chairman Killam not present. The August 21, 2013 meeting of the Atkinson Planning Board was adjourned at 10:00 PM.