

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, SEPTEMBER 18, 2013**

Members Present:

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

Other's Present

Julie LaBranche, Rockingham County Planning Commission
Tim Lavelle, Lavelle Associates
Mike Pivero, Northern Realty Trust

Call to order: Chairperson Sue Killam called the regular meeting of the Atkinson Planning Board to order on Wednesday, September 18, 2013 at 7:44 PM.

Correspondence:

- Department of Transportation Driveway Permit Application for the Gordon Brown Revocable Trust on Rte 121 for a proposed subdivision;
- Email from the Trustee of Gordon Brown Revocable Trust - a draft of a scenic vista conservation easement;
- Department of Environmental Services dated September 11, 2013 - notification that they accepted an application for the permit program for 129 Main Street (Brown Development) for wastewater disposal at the subject property;
- Letter from the Atkinson Police Department regarding the Brown property; after reviewing the site plans on the property, please note the Atkinson Police Department has no concerns;
- Letter from the Atkinson Police Department regarding the Milone property at 56 Island Pond Road; reviewing the plans furnished by the Planning Board, the Police Department has no concerns with the plans as submitted;
- Letter from Attorney Kalman addressed to Michael P. Murphy Esq. of Regnante Sterio and Osborne LLP, re: the code enforcement case Town v. Northern Realty Trust, asking for clarifications from the property owners attorney regarding the site;
- Email response from Stantec to Tim Dziechowski regarding soil based lot sizing;
- Notice from Haverhill re: a meeting on October 1st regarding petition from City of Haverhill to amend their zoning code codes to allow medical marijuana dispensaries and treatment centers in business parks only;
- Haverhill Planning Board Meeting held on Wednesday September 11, 2013 regarding the Cogswell Street definitive plan, frontage waiver on Studley Street; medical marijuana zoning amendment special permit for 85 Water street, street name for Maynard Street and a street name change to for Old Newton Road to Dutton Road; and
- Memo from Keach Nordstrom Associates regarding completion of site work at 71 Route 111. Planning Board action is required to advise the Board of Selectmen with regards to the bond release. The property is owned by Rock Ridge Development. It is headquarters for the Busby Corporation. They were not able to complete all of the site plan details before winter. On September 11, 2013, the Planning Board received an email from Steve Chabot regarding final inspection. The letter states that he visited the site on that date and all improvements have been completed as shown on plans prepared by SFC Company. He recommended that the Town release the surety.

Chairperson Killam asked if there were discussion on the Memo from Keach Nordstrom Associates. There was none.

Member Mike Turell made a motion that based on the Memo from Keach Nordstrom Associates, the surety be released. Member Ted Stewart seconded the motion. Member John Wolters asked if it were common for the board to accept the engineer's opinion. The formal procedure is for the Planning Board to send a letter to the Selectman for them to act upon the vote. Vote: 6/0 with Scott Simons not voting.

Public Hearings:

1) Continued from August 21, 2013, 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.

Abutters list: Norbert J. Gauren of Gauen Realty Trust; Gordon P. Brown Revocable Trust, c/o Page Brown, Kuldip and Pinderpal Baines; Kathleen Sedkowsky; Jesse Page Estates, Woody Wood, President, Lincoln Jackson; Robert and July Weaver ; 138 Realty Trust, John Feuer, Trustee; West Environmental; Joseph Nowell; and Millennium Engineering, Inc. No abutters were present.

Discussion:

Besides a request for a motion for continuance the Board received a copy of an Alteration of Terrain Permit Application. Chairperson Killam asked if Julie LaBranche needs to see it. Julie LaBranche said she did not. The application goes to the state. A new copy of the drainage study and submission copies of the plan set were discussed at the last meeting.

The applicant is still waiting for state approvals and working on documents needed for final approval. The documents needed would be the conservation easement already discussed and Homeowner documents are also needed because the development will need to be a homeowners association since they have common facilities for a septic system. The applicants requested a continuance to the meeting of October 16, 2013 and they also requested that the Planning Board grant an extension of the 65 day application period. The 65 day application period runs out today.

The Board discussed how long to extend the application period. The Planning Board decided to extend jurisdiction to November 20, 2013.

Vice Chairman Paul DiMaggio made a motion to extend jurisdiction of the 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 to November 20, 2013. Member Mike Turell seconded the motion. Vote: 6/0 with Member Scott Simons abstaining.

The applicants, second request was to continue the meeting to October 16, 2013.

Vice Chairman Paul DiMaggio made a motion to continue the public hearing of the 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 to October 16, 2013. Member Mike Turell seconded the motion. Vote: 6/0 with Member Scott Simons abstaining.

2) Continued from August 21, 2013 - Lavelle Associates for John Milone, Application for an Amendment to the Site Plan changing uses to landscaping business and offices, on property located at 56 Island Pond Road, Map 20 Lot 2 in the Commercial/Industrial and Commercial/Professional Zones.

Chairperson Killam asked if it was Mr. Lavelle's belief that Mr. Milone does not want the landscaping business to be part of the application. Several members of the Board have driven by the site and there were trucks and landscaping equipment parked in the parking lot. Mr. Lavelle stated that it was his belief that Mr. Milone intends to use the building for commercial professional businesses and not for landscaping. Mr. Lavelle stated that he would go through the changes made to the site plan but would like to clarify whether Mr. Milone will use the site for a landscaping business. Chairperson Killam read the letter of intent which states that the building will be used for professional offices. Mr. Lavelle's belief is that Mr. Milone wants to rent the building out for income purposes, not for landscaping, and would like to request an extension to confirm with his client that the site would not be used for a landscaping business.

Chairperson Killam read the abutters list. Abutters: John V. Milone Sr., Concetta Milone, John V. Milone Jr., Christine Cornelius, Susan Saindon, Rockingham Realty LLC, 58 Island Pond Road, Southern New Hampshire Commons LLC, Waterwheel Estates- Frank Leary President , Q&D Realty Trust, Antonio Quadros, Trustee (Dunkin Donuts) , and **Lavelle Associates – present.**

Mr. Lavelle went over the revised plans with the Board. Rather than go through the hurdle of Zoning Board of Adjustment approval, Mr. Lavelle removed all parking from the front of the building and put in no parking signs in the front and on the side where parking has also been removed. The proposed deck on the second story in the back of the building was removed from the plan. A row of arborvitae will extend from the row of evergreens to the retaining wall in order to block sight of the building from the mill dam area. Another row of arborvitae will be placed in front of a row of hardwoods. The arborvitae will give Ms. Cornelius greater shielding from the site.

Mr. Lavelle stated once again that he would check with his client regarding use of the site for his landscaping business. Mr. Turell asked if parking the trucks used for the landscaping business be a violation. Mr. Lavelle reiterated that was why he wanted to clarify it. Presently, the plows are in the east parking lot and they are not supposed to be. Mr. Turell asked if Mr. Milone parked his trucks with landscaping lettering on them in the parking lot Mr. Turell then asked if it would be a violation if he parked one truck in the lot while he was in the building. Chairperson Killam stated that if he does plan to use the site for his landscaping business then the parking calculation might have to be changed. Mr. Lavelle responded that he didn't think one truck would be an issue, but he would have to check if Mr. Milone was intending to use the site to park landscaping equipment on a regular basis. Chairperson Killam stated that he has been using the site to store landscaping equipment and still is, so clarification is needed. Mr. Stewart asked if a conditional approval would be ok. Mr. Lavelle stated that he would strongly request an extension.

Chairperson Killam asked if the Board would like to grant an extension or give conditional approval. Some questions were raised about the trailer. Mr. Lavelle requested an extension to October 2, 2013. The Board agreed.

Vice Chairman Paul DiMaggio made a motion to continue the hearing for approval of the Application for Amendment to Site Plan changing uses to landscaping business and offices, on

property located at 56 Island Pond Road, Map 20 Lot 2 in the Commercial/Industrial and Commercial/Professional Zones to October 2, 2013. Member Mike Turell seconded the motion.

Julie LaBranche asked where the trailer would be parked and if Mr. Lavelle would return to the Board if there were changes in the use of the property.

The motion and second to continue the hearing for the above application was sustained. Vice Chairman Paul DiMaggio made a motion to continue the hearing for approval of the Application for Amendment to Site Plan changing uses to landscaping business and offices, on property located at 56 Island Pond Road, Map 20 Lot 2 in the Commercial/Industrial and Commercial/Professional Zones to October 2, 2013. Member Mike Turell seconded the motion. Vote: 6/0 with Member Scott Simons abstaining.

3) New Application for Minor Site Plan Amendment presented by Lavelle Associates for Northern Realty Trust and Salco Realty Trust, to allow minor site plan improvements, to place a cistern on the property line located between 8 and 10 Industrial Way, Map 16 Lots 51 and 52 in the Commercial Industrial Zone.

Chairperson Killam read the list of abutters: Rent Due 1 LLC, NEM Realty LLC, Brian and Sheryl Castle, Gil Gagnon, **Michael Pivero Northern Realty Trust, present**, Salco Realty Trust, Clinton F. Teague, John Calimaris, Alan Briand and **Lavelle Associates, present**.

The application is for an easement to allow a cistern on the property line. The front sheet of the plan set shows where the applicants would like to place an underground cistern. The cistern would be shared by Salco and Eastern Seaboard Inc., or Northern Realty Trust. The corresponding sheets in the plan set are the approved and recorded site plans. Mr. Lavelle drew a diagram in ink on the plans where he wanted the cistern to be. Lavelle Associates chose a spot that would not interfere with any site planning. It will be buried behind the building straddling the lot line. There is a 3 inch deep flat swale along the lot line to service the cistern. There is nothing proposed on the Salco site. A lawn and snow storage area is on the Salco site near the parking lot. The original plans are old and hand drawn and are in Rockingham, so they cannot be reproduced.

The cistern will be used to satisfy some outstanding fire suppression issues for both properties. Calculations for the fire suppression system will be forthcoming. First, Mr. Lavelle is seeking permission to put a cistern on the property. The area can service a 20,000 to 30,000 gallon cistern. Member Tim Dziechowski asked about the proposed depth. The applicant responded that a 20,000 gallon cistern requires a depth of seven feet. The intent is to pour a foundation and use a spray on seal inside. Mr. Pivero informed the Board that there is a well on the property that is more than adequate to fill the cistern. The Fire Chief is waiting to see if the cistern would be approved before he looks at fire calculations for each site. Member Tim Dziechowski asked about a sharp grade change and a retaining wall on the property. Mr. Lavelle informed the Board that the retaining wall is on the other side of the property. The area where the cistern will be placed is almost level.

Member Ted Stewart remarked that it would be better if the cistern were closer to the street. He is aware that the cistern is intended for the 2 properties, but asked if it would be possible to use it for fire suppression for other properties in the area and put a dry hydrant at the top. Mr. Pivero responded that the cistern is meant for the two properties. Mr. Pivero said he is willing to put a connection at the top of the tank for the fire department but the cistern is intended for the two properties. There are Siamese couplings to each building to provide pressurized water for the sprinkler systems in the building. The Board continued to discuss if Mr. Pivero would be willing to install a hookup for emergency use by the fire department and the best way to install it. Mr. Lavelle informed the Board that there is a proposed parking lot near the cistern so there would be access for a fire truck to use the cistern.

Chairperson Killam summed up that the plan proposed a cistern that straddles the two lots and that is the only change proposed on the two existing site plans.

Member Mike Turell made a motion to take the Application for a Minor Site Plan Amendment presented by Lavelle Associates for Northern Realty Trust and Salco Realty Trust, to allow minor site plan improvements, to place a cistern on the property line located between 8 and 10 Industrial Way, Map 16 Lots 51 and 52 in the Commercial Industrial Zone under jurisdiction. Vice Chairman Paul DiMaggio seconded the motion. Vote: 6/0 with Scott Simons abstaining.

Mr. Kirsh informed the Board that the capacity of the cistern has not been determined. At present they are planning on a 20,000 gallon cistern. Mr. Lavelle figured that a 30,000 gallon cistern at 7-8 feet underground is permissible by regulations. 30,000 gallons is about twice what is needed. Member Mike Turell pointed out that the plan says 20,000 gallons. Mr. Lavelle said the minimum size of the cistern would be 20,000 gallons, but the final size would be determined by the fire prevention calculations from the Fire Chief and the cistern could be 30,000 gallons.

Vice Chairman Paul DiMaggio made a motion to approve the Application for a Minor Site Plan Amendment presented by Lavelle Associates for Northern Realty Trust and Salco Realty Trust, to allow minor site plan improvement, to place a cistern on the property line located between 8 and 10 Industrial Way, Map 16 Lots 51 and 52 in the Commercial Industrial Zone, dated June 25, 2013 Tax Map 16, Lot 51 and 52 as designated; subject to approval by the Fire Department. Member Mike Turell seconded the motion. Vote: 6/0 with Scott Simons abstaining.

The process is for Lavelle Associates to design the cistern and take it to the Fire Department and the expert for the fire department will approve it for fire suppression. Julie LaBranche commented that a reciprocal use easement may be needed and easement documentation is needed. Mr. Lavelle explained that the easement is on the plan and the documentation is on the cover sheet. The deed will be drafted from the dimensions. Julie LaBranche informed Mr. Lavelle that an easement document must be filed with the Rockingham Registry of Deeds.

Vice Chairman Paul DiMaggio made an amended motion for approval of the Application for a Minor Site Plan Amendment presented by Lavelle Associates for Northern Realty Trust and Salco Realty Trust, to allow minor site plan improvements dated June 25, 2013, to place a cistern on the property line located between 8 and 10 Industrial Way, Tax Map 16 Lots 51 and 52 in the Commercial Industrial Zone on the plan as designated; subject to approval by the Fire Department and conditional to receipt and approval of the easement document by the Planning Board. Member Mike Turell seconded the motion. Vote: 6/0 with Member Scott Simons abstaining.

4) 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.sssne.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.

The Board reviewed the correspondence between Tim Dziechowski and Aaron LaChance of Stantec Engineering. Member Tim Dziechowski explained that the Board is trying to develop language for soils based lot sizing in order to give incentive for commercial industrial and cluster lot sizing. Mr.

Dziechowski informed the Board that soils based lot sizing needs to be in compliance with the New Hampshire Department of Environmental Safety (NH DES) standard which is Env-wq1000 and is periodically revised. For anyone to get a septic system design approved they must go through NH DES Env-wq1000 and they also need to go through NH DES for alteration of terrain permits. There are dual standards fighting for the same regulatory turf, the Society of Soil Scientists of Northern New England (SSSNNE) and NH DES. Member Dziechowski feels it is much simpler to comply with NH DES standards. They are the authority. SSSNNE tells how to calculate soils based lot sizing. The question is what incentive can the Town offer developers for soils based lot sizing if they dedicate part of the land for open space or are they bound to comply with NH DES env-wq1000. Member Dziechowski is requesting feedback from Julie LaBranche and Aaron LaChance.

Chairperson Killam summed up the discussion. What the Board posted was to modify all SD (Subdivision) and SP (Site Plan) references to soils based lot sizing to refer to the latest site specific standards of SSSNNE. Chairperson Killam asked if the Board should close out the hearing and repost with Member Dziechowski's idea using NH DES Env wq1000. She was informed that wq1000 is 98 pages long. Mr. Dziechowski said that the Board should repost it and restate it as NH DES Env wq sections 1005 through 1008, refer to as modified, everything is in NH DES Env wq1000 somewhere.

Vice Chairman Paul DiMaggio made a motion that we close the hearing on amendments to subdivision and site plan regulations as has been proposed without finding or motion to proceed or approve; with the intention of reposting. Member Mike Turell seconded the motion. Vote: 6/0.

The Board discussed when the next hearing on soil based lot sizing should be. The Board agreed that there would be no action until Member Dziechowski decides on a recommended posting. The Board also agreed to continue the discussion to the October 2, 2013 discussion. Mr. LaChance, Stantec Engineering has volunteered to attend the meeting.

Julie LaBranche reminded the Board that there are two places in the zoning that need to be changed and a warrant article will need to be put forward regarding the recommended zoning changes.

The Board discussed the agenda for the October 2, 2013 meeting. Minutes will have to be approved. Mr. Dziechowski would like to discuss a set of minutes regarding various town owned properties.

Julie LaBranche announced that the result of the statewide survey and the Rockingham subset survey are available on the Rockingham County Planning Commission website. There are a lot of parallels with the statewide survey and the Rockingham sample as well as the survey done by the Town of Atkinson. The statewide survey is available and was a statistically viable number with about 2500 calls.

The next regional conversation regarding the Granite State Future Project will be at the Plaistow Town Hall next Wednesday from 5:00 pm to 8:00 pm, the topics will be transportation, housing and economic development. There is a flyer on the website. Ms. LaBranche will email the board and include a copy of the flyer.

Chairperson Killam asked if there was more discussion. There was none.

Next Planning Board meeting Wednesday October 2, 2013

Vice Chairman Paul DiMaggio made a motion to adjourn. Member Mike Turell seconded the motion. Vote: 6/0 with Member Scott Simons abstaining. The September 18, 2013 meeting of the Atkinson Planning Board was adjourned at 9:03 PM.