

**TOWN OF BARTLETT PLANNING BOARD  
WORK SESSION**

**April 17, 2018**

**Members Present:** David L. Patch; David A. Patch; David Shedd; Scott Grant; Kevin Bennett; Kevin McEnaney.  
**Members Absent:** Philip Franklin (with notice).

**Also present:** Burke York of York Land Services; Greg Tsoules; Wesley Smith of Thorne Surveying; Paul Pagliarulo; Peter Gagne; Brian Lewis.

The meeting was opened at 6:00 pm by Vice-Chairman David L. Patch, who reviewed the agenda.

**1. Continuation/Final Approval: Gregory Tsoules, Town Hall Road.** File: 2017-1239. This is an application to create a planned unit development (PUD) on an 8.21-acre parcel on the corner of Town Hall Road and Route 16A. This commercial PUD will consist of two exclusive-use areas containing 4.54 and 2.54 acres each. Tax Map 1RT16A, Lot 195L00.

Burke York presented. The Vice-Chairman noted this application had been through a public hearing last meeting and asked Mr. York whether anything had changed. Mr. York said nothing had. Board members were asked if they had any further questions. David Shedd said one thing which occurred to him was that Exclusive Area B previously had driveway access through Exclusive Area A, but now the applicant was representing that a covenant granted access via an existing driveway which also served other businesses. Mr. Shedd said he didn't take exception to this, but wanted to bring it up. He said just because the property owners had an agreement between themselves, he didn't feel that should preclude the board from making a decision regarding the issue of access, which may have an effect on future applicants. The Vice-Chairman said the board had the right to agree with private covenants, but were not bound by them. David A. Patch asked for clarification that the deeded ROW to the second area had been brought to the board's attention. He was told the board had been made aware of it.

The Vice-Chairman asked if the board wished to discuss anything further. With nobody indicating they needed any further discussion, he called for a motion to approve the application. Motion made by Kevin McEnaney; seconded by Scott Grant. Vote: 4-0-2, with David Shedd and Kevin Bennett both abstaining. Mr. York provided a mylar for recording and asked when it would be sent to the Registry. When told it would be sent after the 30-day appeal period had expired, he asked again whether the 30-days could start from when the application was accepted, not approved. The board indicated they would discuss recording procedures later in the meeting.

**2. Continuation/Final Approval: Society for the Protection of NH Forests, East Branch Road.** File: 2018-1242. This is an application to subdivide a 54.19-acre parcel into two lots to create a 5.74-acre residential lot and a 48.45-acre conservation lot. Tax Map 1EBRAN-1, Lot 041R00.

The Vice-Chairman said this application had also been through a public hearing at the last meeting and asked whether the board had any further questions. David Shedd had a question regarding frontage, which was clarified for him. With no further questions, the Vice-Chairman called for a motion to approve the application. Motion made by Scott Grant; seconded by Kevin McEnaney. Vote: All in favor. A mylar had previously been provided for recording.

**3. Discussion with Paul Pagliarulo re his proposed workforce housing project:** Mr. Pagliarulo and Wesley Smith of Thorne Surveys were present to discuss Mr. Pagliarulo's proposed workforce housing project at 833 US Route 302. Mr. Pagliarulo provided a letter of support from Attitash Mountain Resort which explained the need for workforce housing for their seasonal J-1 college students, who were in the country for up to four months during the winter and summer as part of a cultural exchange program. These students came from overseas, were heavily vetted, and went through a lengthy and expensive process before receiving their visa. Additionally, employers and landlords were required to adhere to strict Department of State guidelines regarding their employment and housing. The letter said 16 students were now being housed on Mr. Pagliarulo's property and Attitash stated they would like to be able to house more there. The letter went on to say Attitash, as well as many other local businesses, could not operate without these types of employees who work in entry-level positions for between \$7.25 to \$8.50 per hour, since there was a shortage of local labor willing to do the same type of work. Attitash asked the board to look favorably on what Mr. Pagliarulo was trying to do. Mr. Pagliarulo described his project as being a win-win situation for everybody involved.

A very basic conceptual plan was provided which showed the property boundaries and dimensions, but no soil or density calculations. Mr. Smith said he was here tonight hoping the board could make a determination as to what type of housing this would be classified as since that would affect how the density was calculated. Mr. Smith explained the two-acre site contained extremely well-draining Group 1 Colton soils with a septic loading factor of one. This

represented a sewage loading capacity of 2,000 gpd per acre or 4,000 gpd for the total area per NHDES Design Rule 1008.01. Mr. Smith said the state would allow 146 beds based on this gpd usage. This number would be reduced to 110 after Bartlett's 25% reduction was factored in. Mr. Smith said one of the things the town does not actually address in their zoning is that the state has a provision under Design Rule 1008.01 for all of their uses. He said in workforce housing there might be two people to a single bedroom, but it is not considered a bedroom. Rather, the entire building has a bunch of sleeping areas and the state calculates that as 60 or 40 gpd per person depending on whether there are meals served or how they prepare their meals. Mr. Smith said in this instance, let's assume it was 60 gpd. Then you would have 4,000 divided by 60 to show how many people could be in each building. David Shedd asked whether it was 4,000 or 2,000. Mr. Smith said 4,000 because it was 2,000 gpd per acre and the property was two acres. He acknowledged that 450 gpd would need to be removed from the calculations because of the existing brown house, but that still left the property with a capacity of 3,500 gpd. Mr. Pagliarulo said it was "all about soils," and again described how this was a level lot with gravelly soil which lent itself to a significant septic field. Mr. Smith was asked whether the figures he just quoted were specifically listed by the state under workforce housing. He said no, they were actually listed under "Dwellings: Rooming House, with or without meals" but said the town does not have a specific provision for rooming houses or anything like that, which is why they were here. He said basing density for this type of project on bedrooms, just wouldn't fly. Mr. Pagliarulo said density based on bedrooms was for single-family or multi-family occupancy, but doing workforce housing or dormitory housing from the state's perspective, it was calculated per person as Mr. Smith had described.

Mr. Pagliarulo said he was proposing to build two structures at the rear of the property which would be closer to Attitash and would enable workers to walk to work. He said these buildings would contain multiple beds as well as a commercial kitchen where workers could prepare meals, even though they also had eating privileges at Attitash. Mr. Pagliarulo was asked about the eight parking spaces shown on the plan, which were less than required by our ordinance. He said a lot of parking was not needed since the foreign workers normally did not have vehicles but either walked, rode bikes, or were driven to stores by the Attitash shuttle bus when they needed groceries or supplies.

David Shedd asked Mr. Pagliarulo what he was looking for the board to do. He answered by saying a procedural requirement of applying under the auspices of workforce housing was that he come before the planning board to let the board know of his intentions. Additionally, he said his land-use attorney had also instructed him to apply to the planning board, which is the reason he was here. Scott Grant asked Mr. Pagliarulo whether he was here asking for waivers to our regulations and whether he was complying with our septic requirements. Mr. Pagliarulo said he was not asking for waivers and everything he was proposing complied with our zoning. Kevin Bennett asked whether that included fire suppression as required by the state. Mr. Pagliarulo said that would all be included in the final design and everything would be code compliant. Mr. Bennett also referred to Mr. Smith's prior comment of the septic loading factor being one, and said sometimes the state looks closely at a loading factor being that low since rapidly-percolating soils did not allow time for the sewage to be treated as effectively.

The board and Mr. Pagliarulo proceeded to engage in a long discussion as to what category of housing would be allowed under our zoning which would incorporate the type of workforce housing being proposed here. The Vice-Chairman said in his opinion it was essentially a rooming house, which Bartlett's zoning did not have as an allowed use. Mr. Pagliarulo disagreed, saying it was not a rooming house. When asked what he would classify it as, Mr. Pagliarulo said it was residential workforce housing. When told the zoning did not have that as a category either, Mr. Pagliarulo responded that there was supposed to be one to satisfy a need in the market place, but Bartlett chose not to have it, which he acknowledged was their prerogative.

Mr. Pagliarulo had brought a one-page application and abutter envelopes with him which he wanted to submit as his application for workforce housing. The Vice-Chairman was reluctant to accept the application, saying an application could not be accepted for something which was not addressed under the zoning ordinance. He said until such time as it was determined what category this type of housing fell under, nothing should be submitted. Mr. Pagliarulo said he was willing to do whatever the board wanted, such as come back to a later meeting, provide more information, etc., but would like to be able to lodge his application so as to fulfill what he perceived to be his obligations under workforce housing. The Vice-Chairman again explained to Mr. Pagliarulo that for him to get this through the planning board and through the process, the board has to make sure it complies with our regulations. If it does not, and if the board sees so fit, we need to look for a solution. Mr. Pagliarulo agreed. The Vice-Chairman further noted

that ours was not a town which always tried to find a way to say no; in fact, quite the opposite. Mr. Pagliarulo said he appreciated that. Wes Smith asked if he could clarify one thing and said when he was speaking about these being rooming houses, that was the category the state told him they would use in their calculations, based on the information provided to them by Mr. Smith. Mr. Smith said the state may or may not have specific provisions for workforce housing which were different but, absent a determination by the planning board as to what this housing would fall under, he was told by the state to use the “rooming house” criteria to calculate preliminary density before submitting a formal application to them.

Scott Grant noted Bartlett’s septic density was usually based on the number of bedrooms. He agreed Mr. Pagliarulo could have “x” number of bedrooms on his property, but was a little confused when this was being presented as being the number of people the property could support. Mr. Pagliarulo attempted to explain by saying if you had 3-bedrooms at 450 gallons per bedroom, that averaged out to 150 gallons per bedroom which is the same as how the state looks at calculations for rooming houses. After a short exchange with David A. Patch over how many rooms would use 4,000 gpd, Mr. Pagliarulo offered a veiled caution that if he applied for 146 beds instead of 110, and if the town denied that many, he could appeal to the state who could possibly deliver a remedy so he would get the higher density, as well as obtain relief from any other restrictions the town placed on workforce housing. He said the state had that provision to provide relief should a local town have more-restrictive provisions than the state did. Mr. Pagliarulo said he thinks the intent from the state’s standpoint is that they want to see more workforce housing being developed. However, Mr. Pagliarulo said after being made aware that the reason the town takes the 25% reduction was to protect the groundwater and drinking water, he said he was not planning to go that route.

David Shedd said the town had been working with density calculations for more than thirty years. He said it wasn’t so much that we were disagreeing with Mr. Pagliarulo, but he personally felt someone couldn’t come in and say that the calculations need to be different because they’re going to give something a different name, such as residential workforce housing, and therefore they don’t have to live by the requirements that everyone else has had to live by, up to this point. He said that concerned him a little bit. Mr. Smith said it was not the same, and Mr. Pagliarulo quickly agreed with him. They attempted to give examples of why it wasn’t the same, such as making a comparison to a bed and breakfast which would not be bound by calculations for a 3-bedroom house since there would be more than three bedrooms in it, and which is why its density would be calculated using gpd. David A. Patch said a bed and breakfast using gpd calculations would be commercial; anything residential is based on a three-bedroom dwelling unit with a minimum land area of 30,000 sf for lots containing best soils. Peter Gagne came to the table and asked if the town did not have a definition to fit what Mr. Pagliarulo was building, would it have to go to the ZBA for a variance? Vice-Chairman Patch said that could be the route that this takes, but said he was going to recommend that we ask the Municipal Association if there’s a way this can be allowed through our zoning ordinance, since this was our first workforce housing application. David A. Patch suggested also asking how we are supposed to classify it under our current regulations. Wes Smith said he would email a PDF of the plan so it could be included with the request.

Brian Howe approached from the audience and spoke directly to Mr. Pagliarulo, asking a question about the water rights involving Mountainside and his property which Mr. Pagliarulo appeared to answer for him. In response to a question from Scott Grant about the water supply earlier in the meeting, Mr. Pagliarulo had stated that his property still retained the water rights to Mountainside. The board and Mr. Pagliarulo then continued their discussions, with Mr. Pagliarulo being insistent that he be allowed to submit his application tonight, saying he had been trying to do so for some time. The Vice-Chairman again told him he was not prepared to accept any application and to “start the clock ticking” until such time as a determination had been made as to how, or if, it complied with our ordinance. At that time a decision would be made as what type of application could be submitted, or if Mr. Pagliarulo even needed to submit one at all. The Vice-Chairman asked Mr. Smith whether the plan he provided tonight as part of the application package was in 100% compliance with our zoning regulations. Mr. Smith said it did not quite comply.

Mr. Pagliarulo objected to the board refusing to accept the application, saying he had been told to submit it and get a file number and that the submission deadline for the next public hearing was May 15. Wes Smith appeared to understand the board’s position and tried to explain to Mr. Pagliarulo the reasons why they could not accept it tonight. Mr. Pagliarulo kept offering reasons why it could be accepted, saying it wasn’t a yes or no situation and it could be granted conditional approval, if necessary. Mr. Smith then asked if it would be acceptable for Mr. Pagliarulo to give the board a copy for informational purposes when contacting the Municipal Association. The Vice-Chairman said he

would have no problem with that as then we would know exactly what Mr. Pagliarulo had, but he was not willing to start the clock yet. David A. Patch said he wasn't sure how we were going to be able to do that and not start the process. Kevin McEnaney suggested it be marked and accepted as a "draft" copy so that it did not represent a formal submittal so we would have a basis to form our decision on. The Vice-Chairman felt we could do that and asked Mr. Pagliarulo to write "draft copy" and "for information only" on the top of a copy of the application. Mr. Pagliarulo pushed the application across the table to the Vice-Chairman saying, "you can do that." David A. Patch quickly returned it to Mr. Pagliarulo, saying he would like Mr. Pagliarulo to write it himself. The draft copy was finally accepted with two underlined notations in Mr. Pagliarulo's handwriting on top saying, "Board considers draft" and "Information only," both followed by large exclamations points. Mr. Pagliarulo asked several times that he be informed once we heard back from the Municipal Association, but no later than the 13<sup>th</sup>, and for the board to supply a list of anything else they required so he could get this application formally submitted. The board agreed he would be notified.

**4. Continuation/Final Approval: Attitash Mountain Service Co., (AMSCO), Block G, Stillings Grant:** File: 2013-1187. This is an application to reconvene review of a continued application to subdivide Block G into 40 residential units. Tax Map 5STLNG, Lot G00. This application has been continued indefinitely until an engineering review is completed. The secretary advised she had been contacted by AMSCO who had requested to be put on the May 5 agenda to update the board on the status of the project.

**5. Review and Approve Minutes:** The minutes of the April 2, 2018 meeting were reviewed. David Shedd asked for clarification of the 4.26-acre lot mentioned on page 2, first paragraph of the Society for the Protection of NH Forests application. It was explained this was the land remaining from the ten acres which Richard Ware's deed had set aside for two residential lots after the one 5.74 acre building lot had been taken out of it. Though the Society had opted to only develop one residential lot at this stage, the option was there for them to change their mind and decided to develop this remaining 4.26 acres in the future. In the event that happened, they would likely need to come back to the board again. Mr. Shedd viewed the plan but did not request any changes to the minutes. On page two, second paragraph, second-last line, Kevin McEnaney noticed the word "asked" should be added so the sentence read, "Scott Grant asked David Shedd ...". David A. Patch noted in Item 6, second line down, it read "Scott Grant David" and the word "David" should be removed. A motion to approve the minutes, as amended, was made by Scott Grant; seconded by Kevin McEnaney. Vote: All in favor.

**6. Mail and Other Business:**

- Mail listed on the agenda was reviewed.
- Kevin McEnaney advised he had been approached by Bob King and invited to join the Emergency Management Committee as a representative of the planning board. He said the committee focused on disaster preparedness for natural disasters such as floods, tornadoes, hurricanes, etc, as well as situations involving mass shootings, hazardous waste spills, explosions, plane crashes, etc. or any other situation involving mass casualties. Mr. McEnaney said he had significant experience in some of those areas having been deployed as a member of disaster medical assistance teams to multiple hurricane areas, as well as being part of a mobile surgical team who responded to Haiti's earthquake. Based on Mr. McEnaney's experience it was felt he would be a valuable member of the Emergency Management Committee and a motion was made by Scott Grant; seconded by David Shedd to appoint him to represent the planning board on the committee. Vote: All in favor.

With no further business, a motion to adjourn was made by Scott Grant; seconded by David Shedd. Vote: All in favor. The meeting adjourned at 7:45 pm.

Respectfully submitted,  
Barbara Bush  
Recording Secretary