

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

May 7, 2018

Members Present: Philip Franklin; David L. Patch; David A. Patch; David Shedd; Scott Grant; Kevin Bennett; Kevin McEnaney. **Members Absent:** None.

Also present: Andrew Fisher of Ammonoosuc Survey; Charlie Russo; Eric Russo; Diane and Richard Allen, Scott Anderson; Matt Burke of Verizon Wireless; Sheila Duane of AMSCO; Mark Lucy of White Mountain Survey; abutters Carl Feltz and Dale & Beth Richards.

The meeting was opened at 6:00 pm by Chairman Philip Franklin, who reviewed the agenda.

1. Public Hearing, CC Russo, Granite Ledge and Pebble Ledge Roads. File: 2017-1237. This is an application to create a 3-unit planned unit development (PUD) on a 9.3-acre parcel between Granite Ledge and Pebble Ledge Roads. Tax Map 2GLENL-1, Lot N-2.

Andy Fisher presented and provided plans which he said were slightly revised from the conceptual design shown at the preliminary discussions a few months ago. He also provided a HISS (high-intensity soil study) plan performed by Greg Howard which showed topography and soil groups. Mr. Fisher gave a brief summary of the proposed PUD, saying the lot had sufficient density under both state and town regulations to support three 3-bedroom homes. He said the board did not appear to have any issues with density, but did have concerns regarding the matter of access. Mr. Fisher said the property itself had frontage on Glen Ledge Road and Mr. Russo also owns the entire length of Granite Ledge Road. Mr. Fisher said for the purpose of access, they were initially working under the assumption that Granite Ledge Road was a road. He acknowledged it was not a town-spec road and was never intended to be that, but was a private road intended to provide access to the houses located along it. However, he said the selectmen now consider it to be a driveway, which limits it to three dwelling units. Mr. Fisher said he believed it had always been considered a road, and supported this by saying it had all the attributes of a roadway including a 66-ft. ROW; was shown on prior subdivision plans as a road; was referred to in subsequent deeds as a road; and looks as much like a road as any other road in the area does. He also said the planning board had approved a subdivision on it which had been granted state and town septic approvals in 1983. In 1994, Mr. Fisher said the town had given approval for one of the houses on Granite Ledge to be converted into a duplex which would have exceeded the number of dwellings allowed on a driveway (which was two at the time) had it been considered a driveway. David L. Patch said if four dwellings were allowed to have access off Granite Ledge Road in 1994, to his mind that made it a roadway. He also noted that driveways only needed to be 15-ft. wide, and this was 66-ft. wide which was even more evidence it was not intended to be a driveway. The Chairman asked David A. Patch why the selectmen considered Granite Ledge a driveway. Mr. Patch said he had not attended the meeting when it was discussed, so he was not sure. Mr. Fisher said, to his mind, past actions taken by the selectmen involving dwellings which had access off Granite Ledge Road indicated it had historically been considered a road, but acknowledged things get forgotten and confused and members who were involved back then were no longer around, which is likely the case now when the question of its status is being asked, but all indications appear to be that the town had always considered Granite Ledge to be a private road. He said if it had been considered a driveway from the beginning, then mistakes had been made and problems created which had now just come to the surface.

Scott Grant said he did not consider the Christie house on the corner as being part of the equation, since it had frontage onto Glen Ledge Road. Other members agreed. David Shedd asked Mr. Fisher would the preference be for the third house being proposed off Pebble Ledge to be off the end of Granite Ledge where the other two are to be located, as was initially proposed. Mr. Fisher answered yes, that would be the preference for many reasons including views and access costs. Mr. Fisher explained the reason for having the third house off Pebble Ledge by saying because of the duplex, and if the Christie house was considered to be accessed off Granite Ledge, the number of houses allowed on a driveway had been exceeded. He said instead of asking for a waiver for three houses, they decided it would be a compromise to have the third house come off Pebble Ledge. David Shedd said he was inclined to look at some kind of a waiver, but said it was important that any waiver could be backed-up so that it didn't open things up to others. Mr. Shedd felt the fact Mr. Russo owns the road, that the lot was approved by the planning board in 1983 and two septic systems for this lot were approved by the state and town likely make a waiver justified. Mr. Shedd said having the third dwelling come off Pebble Ledge further complicated things and potentially created the same problem for Pebble Ledge that we have on Granite Ledge now. David L. Patch agreed and described how all the good developable land was gone, and trying to develop the properties which are left often presented challenges. He

said when Mr. Russo purchased this property it already had houses existing along the road and he kind of got caught with people building beforehand.

David Shedd recalled a previous application before the board a few years ago when the developer put two driveways through his property to accommodate the dwellings he was proposing. Mr. Shedd said he didn't know whether this would be the best solution in this case, but noted that two driveways would fit within the width of the 66-ft. ROW. He said it was complicated enough to add one house to Granite Ledge Road, let alone three, and suggested this may be one solution to consider. David L. Patch said that was an excellent point and it also goes back to being able to back-up any waiver. He said putting two driveways down the 66-ft. ROW was certainly one solution, but he didn't feel it was the best solution for anyone involved, nor for the piece of land. He said, in his opinion, it would be a waiver based on the fact that two driveways are possible but are not a good idea since we try not to have them that close together. He said one driveway down the 66-ft. ROW would be safer, would provide room for turnouts, and would solve a pretty unique problem. Mr. Patch said he always likes to try to stick to the regulations where possible, but felt in this particular case fairness is not being served.

The Chairman asked what the length of Granite Ledge Road was. Mr. Fisher said it was approximately 750-ft. to the end of the Granite Ledge ROW. Scott Grant asked where the turnout would be located and whether the Hurley driveway would be affected, since he plows it. He further noted there were water mains and wet areas in the vicinity, and the ROW ran close to a boundary line in one place and was probably not 15-ft. off it. Mr. Fisher said the first turnout would be at 500-ft. which was before the Hurley driveway so it would not be affected; the water mains would be avoided; and the ROW location could be adjusted. He said he was unaware of any wet area and noted it had all been delineated by a wetland scientist. Should any wet areas be identified at a later date, Mr. Fisher said they could work around them. David Shedd said since the road would now see an increased use due to this PUD, and noting the steep slope and ledge in the area of the 15-ft. culvert, he expressed concerns about the stability of the driveway and the potential for it not wanting to hold. He said if we were going to proceed with this, he would hope the town engineer would have input to identify any issues. The property owner, Charlie Russo, explained his plan to remove some of the ledge on the left hand side and to widen the whole corner, and to add some new culverts as well as guardrail. David A. Patch had a question about the area where the ROW was shown to be close to a boundary and a driveway, and asked whether the driveway was existing or proposed. Andy Fisher agreed it was too close, but said it was existing and had been there for many years.

The Chairman asked the board if they had any further questions. With none, he called for a motion to accept the application. Motion was made by Kevin McEnaney; seconded by Scott Grant. Vote: All in favor. With the application accepted, he opened the public comment period and invited any audience members wishing to speak to come forward and state their name and address for the record. Dale Richards approached and said he was an abutter on Pebble Ledge Road. He asked whether there was going to be a driveway off Pebble Ledge Road, saying that road was owned by his neighbor, David Anderson. Mr. Richards said he believed the board had received correspondence from Mr. Anderson's attorney regarding that issue. David L. Patch said we had received the attorney's correspondence but the house being proposed off Pebble Ledge may not happen and all three may go off Granite Ledge. Mr. Richards said he thought that was the answer Mr. Anderson would want to have. David L. Patch said that was going to be his suggestion, anyway, as he thought they should all go up there, and the Pebble Ledge Road ownership issue was just another reason to do that. Mr. Richards asked how that would be decided; was there going to be another meeting. The Chairman explained after the public comment period had been closed, the board would discuss the application further and if any revisions were recommended they would be made and the applicant would come back to the next meeting. Mr. Richards seemed to think that by the board accepting the application, that that represented their approval of the application. It was explained to him that the application had only been accepted as complete, and nothing had been approved. Beth Richards asked whether someone could write to them and notify them of the board's decision. She was told that information would be available in the minutes which would be on-line. Scott Grant said he thought the Richards' concern was that there was still going to be access and traffic off Pebble Ledge Road. Andy Fisher said so long as the board allowed all three houses to go off Granite Ledge Road, that nothing would happen on Pebble Ledge. David Shedd said one of the advantages of moving the lower building up above was that it would prevent the same problem being created on Pebble Ledge that we were trying to solve on Granite Ledge, because then the Andersons couldn't subdivide because that would make four. The Chairman agreed and said it made sense that building area 3 should move up above as that solves the Pebble Ledge issue.

Carl Feltz said he was an abutter on the corner of Glen Ledge and Pebble Ledge. He said he had viewed the plans last week and had wondered why one of the houses was off Pebble Ledge. However, after listening to the discussion tonight he now knows why, and asked was Granite Ledge Road considered a road or a driveway. David L. Patch said he personally did not feel it was a driveway. It has a 66-ft. ROW, but it is not a town-spec road. Mr. Feltz said he understood that. He said in his opinion, if the board granted a waiver to allow all three houses up top that would alleviate the problem on Pebble Ledge and make a much better project. He then asked how big the houses were going to be. Mr. Russo said he was not sure what the square footage would be, but they would all be three bedroom homes. The Chairman asked if there was any further public comments. With none, he closed the public hearing and asked whether there was any further board discussion. David L. Patch said after having heard from the public it appears they were all in favor of having all three houses up top. It makes a better project and makes the abutters happy. The Chairman agreed, and reiterated that everything would come off Granite Ledge Road and nothing would come off Pebble Ledge. David Shedd said it was complicated enough that we didn't need to come up with the language for a waiver tonight. Scott Grant advised the board he had received a call from Brian Christie who said he had no problem with anything, but was a little concerned about how wide the road was going to be and whether it would encroach onto his property/driveway and stonewall. Mr. Fisher said there will be minimal disruption to existing properties.

For everyone's understanding, the Chairman announced again that nothing was being approved tonight. He called for a motion to continue the application to the May 15 meeting. Motion made by David L. Patch; seconded by Scott Grant. Vote: All in favor.

2. Pre-application discussion with Scott Anderson of Verrill Dana, LLP and Matt Burke of Verizon Wireless re a proposed tower at 122 US Route 302, Glen.

Atty. Scott Anderson and Matt Burke presented on behalf of the Allen family, owners of the property. Atty. Anderson provided a set of plans which showed the location and specific components of a proposed 160-ft. tower to be located in the Allen's gravel pit on Route 302. He said he was here as a pre-application discussion to explain the need for the tower and what steps were required next. He advised the location of the tower was on the left-hand side and towards the back of the lot. It will be situated within a 50'x50' fenced compound which would be surrounded by a 6-ft.-high chain-link fence with three rows of barbed wire on top. Atty. Anderson said a gate providing access to the compound will be kept locked, and entry for authorized personnel would be via a lock box or keys.

The compound would contain all the components necessary to operate the tower, including an equipment shelter and an electronic cabinet housing a large battery which will provide six hours of back-up in the event of a power outage. This battery will be supplemented even further by a diesel generator, which will provide additional back-up in case the outage lasted longer than six hours. When asked whether this generator would include a containment area in the event of a diesel spill, Atty. Anderson said the whole building was designed as a containment area. He said the electronic cabinet was equipped with a little fan which was very quiet and would generate no noise. These components would also be protected by ice canopies and ice bridges to distribute the weight of an ice storm.

Atty. Anderson said access to the site itself would be through the existing driveway off Route 302. He said utilities serving the site would be underground although the site itself would not be lit. When asked by David Shedd, he said the FAA did not require a light on top of the tower. Atty. Anderson described the tower itself as being a dull-grey colored monopole or monopine. David L. Patch asked how far it would be off Route 302. Atty. Anderson said it would be 633-ft. off the highway and 213-ft. from the closest property boundary to the west. Mr. Patch then asked how tall the trees were in the vicinity of the tower. Atty. Anderson said a tree count was underway, but it was hard to tell at the moment due to the cleared nature of the gravel pit and a high ridge behind it.

The board viewed several pages of diagrams provided by Atty. Anderson which showed the locations of existing towers in the area and the direction of their signals, the areas of coverage provided by each tower, the problem areas experienced by each, and how these problem areas would look after this tower was in operation. Atty. Anderson said Verizon's existing tower was being overstressed and did not function as it was supposed to. They had poor coverage along Routes 16 and 302, a fact confirmed by several board members who said many of their calls were dropped in those areas. He said a large part of the problem was due to the crowds attending Story Land in the summer, particularly on weekends, who tended to do a lot of texting keeping track of their children. People who downloaded data also caused a big drain on the system and this tower would correct those problems. When asked whether additional carriers would be able to collocate on the tower, Atty. Anderson said it could support three more carriers. This was one reason it needed to be as tall as it was, to enable collocation as opposed to multiple new towers having

to be built by other carriers. It would also have room for emergency services to attach whip antennas, but these would be at a lower elevation since they use a lower frequency which travels further. Another reason for the height was to get above the level of the surrounding terrain so as to connect to the signal from the Cranmore tower, which Verizon is also located on. Atty. Anderson acknowledged the tower was higher than allowed by our telecommunications ordinance but noted there were provisions for the planning board to waive aspects of the ordinance or to apply to the ZBA. The Chairman read the pertinent waiver section out loud.

Atty. Anderson said a balloon test would be conducted and he will coordinate with the secretary as to when it will take place so it can be publicly noticed. He said balloon tests are usually scheduled on Saturday mornings when the winds tend to be lighter, but that could change due to weather conditions with an alternate date usually being the following Sunday morning. He asked what procedures were necessary to submit an application. After reviewing the telecommunications ordinance, he was advised to submit it to the planning board before requesting a building permit from the selectmen. Atty. Anderson thanked the board and said he would keep in touch.

3. 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.

Mark Lucy said he was present at the request of the applicant to update the board on the status of this project. This update had been requested by the planning board a few weeks ago. Mr. Lucy said he and the town engineer, Burr Phillips, had kept in contact regarding their continuing engineering review, with their last meeting being on July 13, 2017. Mr. Lucy showed field reports of these meetings which were marked-up with red questions and black responses. The board had received copies of the original field reports last year. Mr. Lucy said these discussions with Burr had generated a lot of additional field work which had been time consuming. He then described how the real estate market was affecting this application, saying it was market-driven and the applicant had 50% more units in his inventory than the bottom line required. He said when AMSCO's inventory dropped to an uncomfortably-low level, this application would be put on the front burner and they would be back before the board looking for final approval. When asked when he thought that might be, Mr. Lucy said it had been shared with him that there was no indication of an immediate rapid increase in sales, but hopefully that may change within the next six to twelve months.

Mr. Lucy acknowledged the tremendous amount of work expended by all parties involved in this project up to this point, and said he would appreciate the board's continued patience in the process, but gave notice that he would be back in looking for conditional approval before going to the state. He said the only conditions he could foresee the project would need from the board before asking for subdivision approval would be the DES permitting, as everything else would already have been taken care of through his and Burr's engineering reviews. He said the DES permitting consisted of subdivision approval, water supply approval, and an amendment to the existing Alteration of Terrain permit. He acknowledged these were only three items, but they were a huge permitting issues. However, Mr. Lucy said he had had many preliminary discussions with DES over the years so he knew what they needed to see.

The Chairman asked whether the abutters would need to be notified again, saying he lived in Stillings Grant and he gets asked every so often what was going on with this project. Mr. Lucy said, officially, they didn't need to be but felt it would be the right and fair thing to do, not only for the abutters but for the public in general. Sheila Duane agreed, and said AMSCO would have no problem doing this. David L. Patch felt that was a fair compromise, saying it did not cost anything to continue the application in the inactive manner which we had been doing and if the applicant was willing to re-notify abutters, he felt there was no harm done. The agenda notice will continue to read as-is. Mark Lucy said if the board was looking for a definite date tonight for him to get this project wrapped-up, we would likely be looking at July 2019. This was close-enough to the six to twelve months which he could foresee as being needed to get planning board conditional approval, then DES approval, and to come back to the board for final approval. David Shedd expressed a little reluctance about giving conditional approval and said what he would prefer not to have happen was for Mr. Lucy to come and ask for conditional approval in a short period of time. He noted Mr. Lucy's previous prediction of July 2019 for final approval and asked when he saw the need for conditional approval happening, or was starting-up again dependent on the recovery real estate market. Mr. Lucy said he had two answers for that, the first one being that conditional approvals are not unusual. They simply mean there is nothing that requires any further discretion; everything is black and white. Mr. Lucy stressed that the DES permits were black and white,

they either issue them or they don't, and added he was confident that they will. Mr. Lucy said the second answer was timing. If the market was there, they would be all over this right now. David Shedd said his understanding was that once the board gave conditional approval, then they would have no further input beyond those things identified by Mr. Lucy as being state approvals. Mr. Lucy said the board would have input on the conditions of approval. Mr. Shedd said what he would prefer not having to do was to come-up with conditional approval in a short period of time. Mr. Lucy said if it was the board's desire that he go to the DES first, that was fine, though there was a procedural difference in that conditional approval only had a shelf life of up to twenty-four months at the discretion of the planning board. Mr. Lucy said if there was nothing left on Burr's review list and Burr sent a letter saying that everything was okay mechanically, then conceivably he didn't have to go to DES seeking their approval forever. He said that's what conditional approval prevents by having a valid time limit of up to twenty-four months. Additionally, any changes which occur to the regulations during that time are not applicable.

David L. Patch said he was very stingy when it came to granting conditional approval, but it didn't concern him as much when it only involved regulatory approvals since that meant that everything else must be done. If they weren't, then conditional approval was not worth anything. The Chairman said that was assuming everything else stayed the same, he was told that it had to stay the same, it was non-discretionary. From the audience, Sheila Duane reminded the board that conditional approval would not be handed out until Burr Phillips was satisfied that everything complied with the town's regulations and he had signed-off on the design. Ms. Duane referred to David Shedd's earlier comment that nothing else could be discussed once conditional approval was given by saying there wouldn't be anything to discuss since that would have been all done prior to conditional approval being granted. The plan would be basically 100% ready for approval minus the state's permits. The Chairman asked whether there was a likelihood that the state could come-up with something which would require a change to the plan that we had approved already. Mr. Lucy said nothing had been approved, but reiterated his earlier statement that it was entirely up to the board whether they granted conditional approval and they could wait and go straight to final approval. He said he hoped things could be fair to everyone and asked the board to be understanding of the fact that he has been doing work consistently and sparsely, and once they get to a certain point things will move right along. The board thanked Mr. Lucy for the update.

5. Review and Approve Minutes: The minutes of the April 17, 2018 meeting were reviewed. David Shedd asked for a correction on page 3, 4th paragraph, to replace Paul Pagliarulo's reference to his water rights from Attitash to say Mountainside. A motion to approve the minutes, as amended, was made by Scott Grant; seconded by Kevin McEnaney. Vote: 6-0-1, with the Chairman abstaining since he had not been at the meeting.

6. Mail and Other Business:

- Mail listed on the agenda was reviewed.
- The board reviewed and approved an email which is to be sent to the Municipal Association seeking answers to questions the board has regarding Paul Pagliarulo's affordable housing project. Minor suggestions were made to the wording which will be incorporated into the final email.

With no further business, a motion to adjourn was made by Scott Grant; seconded by David A. Patch. Vote: All in favor. The meeting adjourned at 8:13 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary