

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

October 2, 2017

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

Also present: Kevin Tilton of HEB Engineers; Burke York of York Land Services; Kevin Drew; Kyler Drew; Jerome Dougherty; James Tuttle; Susan Tuttle; Scott Drew; Norman Head; Sean Shannon.

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

1. Public Hearing: Lloyd A. Drew, Route 16/302. File: 2017-1232. This is an application for a boundary-line adjustment to convey 0.89-acres of land from Tax Map 1RT16, Lot 105L03 to Lot 105L04. Both parcels are owned by Mr. Drew.

Kevin Tilton presented. He said the purpose of the adjustment was to take 38,669 sf (0.89-acres) of land from LA Drew's southern office lot, identified as Lot 105L03, and add it to their northern lot, identified as Lot 105L04. Mr. Tilton said the northern lot was used mainly for storage purposes and the Drews were proposing to build a new salt shed on it to replace one that already exists on the other side of the railroad tracks. He said this was being done to facilitate easier loading and unloading of the salt, and to also appease the Lower Bartlett Water Precinct (LBWP) who did not want the salt shed where it was currently located. Mr. Tilton said the only way the shed could be located on the northern lot and still comply with buffer and setback requirements, was to adjust the boundary between the two lots.

The board reviewed the plan provided by Mr. Tilton, which the Chairman confirmed was the same one as presented last meeting for the preliminary review. The Chairman asked whether the existing salt shed was going to be taken down when the new one was built. Kevin Drew said the LBWP wasn't requiring that, and it was going to remain and be used for regular storage. He further advised another storage shed on the northern lot would be in the setback once the boundaries were adjusted, but that it was going to be relocated. The Chairman asked whether the board had any questions. Mr. Tilton was asked whether the land on the other side of the tracks was a separate parcel, and whether the LBWP had more-stringent setback standards than the town did. He advised that the lot over the tracks was a separate parcel than those involved in the boundary adjustment, and the Precinct required a front setback of 75-ft. from the road ROW, while the town required 115-ft. from the road centerline. However, the LA Drew office was a grandfathered building having been built before zoning. David A. Patch commented on the fact that the road frontage on Lot 105L04 was not maintained all the way into the main portion of the parcel. Mr. Tilton agreed it wasn't, but said it was not possible to do so in this case due to setbacks and lot size. He said the narrowed width contained an existing 50-ft. platted ROW to both lots, as well as to land over the railroad track. He acknowledged the narrowness could be a problem from a logistical standpoint if it were to be used for access, but it wasn't being used in that manner. He said while both lots were presently under the same ownership, in the event they were ever separately sold the deeded ROW would always be available for access. The Chairman asked how wide the narrowed portion was. Mr. Tilton said he believed it was approximately 60-ft. wide, which the Chairman felt did not likely create a bottle-neck.

At this point, the Chairman called for a motion to accept the application. Motion made by Scott Grant; seconded by David L. Patch. Vote: All in favor. He then opened the hearing for public comment. Abutter Jerry Dougherty spoke, saying the Drew company was a great neighbor who kept their property in good shape. He said he had no objection to what they were proposing to do and was present to support them. With no other members of the public wishing to speak, the Chairman closed the public hearing and called for a motion to approve the boundary-line adjustment. Motion made by Scott Grant; seconded by Peter Gagne. Vote: All in favor. Mr. Tilton said he would drop a mylar off for recording.

2. Continuation/Final Approval: James & Susan Tuttle, 216 Town Hall Road. File: 2017-1233. This is an application to subdivide a 6.49-acre parcel into three lots containing 3.48, 1.65, and 1.36 acres respectively. The property is identified as Tax Map 1TOWNH-1, Lot 134R02.

Burke York presented, and provided revised plans which showed the outstanding items identified at the public hearing had all been taken care of. Mr. York addressed each item separately by saying the pins had been set; state subdivision approval had been obtained; he had re-checked the Drew/Tuttle boundary and conceded the prior survey done by others was likely incorrect so had changed the corner pin to the location of the old culvert which matched Mr. Drew's deed. He said he had advised Mr. Drew of this action. In addition, the south boundary of Lot B had been slightly re-configured so that the existing greenhouse and garden were no longer in the setback. Lastly, the length of the long driveway serving Lot A was now shown on the plan, and a 73-ft.-long emergency vehicle pullout had been added approximately 412 ft. from Town Hall Road.

Since all the outstanding issues had been completed, the Chairman asked if there were any further questions. Peter Gagne asked whether the public hearing should be reopened since the boundary had moved slightly. Abutter Scott Drew, who had been the only abutter present at the prior meeting, was asked if he would like to have any further input. Mr. Drew said he appreciated the opportunity to speak, but said he had no problems with the location of the boundary. The Chairman called for a motion to approve the application. Motion made by Scott Grant; seconded by David Shedd. Vote: All in favor. Although the vote to approve was unanimous, several votes were made with reluctance due to the unconventional narrowed portion of Lot A. Burke York contended there was nothing in the zoning ordinance which prohibited a lot narrowing. This fact was not disputed by the board, and it was recognized there was no rightful recourse to vote against the application. A mylar was provided for recording, which the Chairman signed after the meeting.

3. The Renae F. Broderick Revocable Trust, Parker Ridge Road. File: 2017-1235. This is an application to voluntarily merge two lots on Parker Ridge Road identified as Tax Map 5STLNG, Lots A25 and A26.

The Chairman disclosed he lived in the same development as the applicants and knew them personally, but that he was not a direct abutter. The board reviewed the application, location sketch, copies of the deeds, and the letter to the mortgage holder advising them of the merger. A motion to approve the merger was made by David L. Patch; seconded by Scott Grant. Vote: All in favor.

4. Informal discussion with Burke York: Mr. York said the situation he was looking for feedback on involved Greg Tsoules' property on the corner of Town Hall Road and Route 16A. He advised the lot had 200-ft. of frontage on Route 16/302 and shared a driveway with two other businesses: the Hartmann Railroad Museum and White Mountain Family Mini Golf. Mr. Tsoules was wanting to subdivide his land to create a lot for a landscaping business owned by Trevor Limmer. The property is located within the commercial district, but because the state has designated the eastern side of 16/302 in this area as being a limited-access defense highway and driveway cuts are not permitted, the property has indirect access within 400-ft. of Route 16/302 on Town Hall Road. Mr. York said the biggest problem was finding 200-ft. of commercial frontage onto Route 16/302 for the proposed lot. He noted the driveway serving the three existing businesses was a substantial drive and was in very good condition, and wondered about the possibility of creating "paper frontage" for the new lot and requesting a waiver from the board to allow the existing drive to serve a fourth business. Briefly discussed was the fact that three dwellings were allowed on a single driveway, but did that rule also apply to commercial ventures? Other options discussed were for Mr. Tsoules to acquire road frontage by purchasing some land from one of the abutting businesses, go to the ZBA for a variance to not require road frontage, and Peter Gagne suggested he look into the possibility of creating a commercial PUD. When it was asked whether commercial PUDs were permitted in town, Norman Head spoke and gave several examples of where they had happened, such as the Dunkin' Donuts site. David Shedd asked how many commercial businesses could fit on the Tsoules lot. Mr. York said he wasn't sure. Mr. Shedd then asked what other requirements were needed for a lot to be considered commercial. Some of those requirements included the need for green space, 200-ft. frontage onto 16/302, there being access within 400-ft. of those roads, that there was enough commercial septic density which was calculated using gallons-per-day, and a minimum area of 40,000 sf was required for each commercial use. Mr. York thanked the board for the suggestions that were offered and said he will come back after he researches them further and speaks with Mr. Tsoules.

5. Discussion with Sean Shannon: Mr. Shannon of Perm-A-Pave in Albany stopped by the meeting at the suggestion of the selectmen, after having had a discussion with them at their meeting earlier in the day. He said he was in the process of purchasing Bob Holmes' Glen Sand and Gravel operation on Route 302 and was seeking verification regarding the property's grandfathered gravel pit status. He said he needed to be sure he could continue operating the pit under those grandfathered conditions. The Chairman asked Mr. Shannon whether the proposed use would continue to be a sand and gravel operation. Mr. Shannon confirmed that was correct; that nothing would change. David L. Patch said, in his opinion, if Mr. Shannon purchased the property and continued using it in the same manner as was currently being done, he believed the grandfathered protection would remain. However, he suggested it may be prudent for Mr. Shannon to do further research on the matter.

David Shedd advised Mr. Shannon that the land at the rear of the pit was not to be considered a commercial use and could not be used as part of the gravel pit. Mr. Shannon said he was 100% aware of that, and knew the back 25-acre lot was not grandfathered as was not to be used as part of the gravel operation. He said he was only interested in using the existing pit which he said was on three separate parcels. David L. Patch said he believed those three parcels were all separate deeds, but that Mr. Holmes had purchased them as one. Mr. Shannon said he could be mistaken, but said his understanding was that Mr. Holmes had purchased the lots separately, but had done so prior to zoning which made them all eligible for grandfathering. David Shedd asked whether the property was considered a commercial lot. David L. Patch said he would consider it a grandfathered commercial lot. When David Shedd pressed further by asking whether it was a grandfathered commercial lot or a grandfathered gravel pit, Mr. Patch said a gravel pit was a commercial application. It was a grandfathered use as a gravel pit, but he wasn't sure if Mr. Shannon could buy it and change that use. Mr. Shannon said that was important to know. He said he wasn't sure how much frontage the property had onto Route 302, but it did have some as Gravel Lane was part of the original pit and was not a right-of-way. David Patch said if Mr. Shannon was absolutely sure of that fact, then that would make it a grandfathered commercial use and lot. Mr. Shannon asked whether that applied to the entire gravel pit property whether it had 200-ft. road frontage or not. David Patch cited the zoning ordinance which said at the time of zoning, any use that was ongoing at that time was grandfathered and could continue. Mr. Patch said that is why some lots in town are only 75-ft. wide, but are still considered commercial. Zoning only applied to any new use or lot, which is why the dates are important.

David Shedd asked whether Mr. Shannon could subdivide the gravel pit and sell it as commercial property. David L. Patch said he did not think there was enough frontage width to do that, which the board agreed with, and David A. Patch noted it would create a non-conforming lot. When Mr. Shannon asked if the use could be changed, David A. Patch said he thought it was possible to change a commercial use. Scott Grant offered a caution to Mr. Shannon that if he changed the name of the gravel operation from Glen Sand and Gravel to something else, there may be consequences at the state level because it was a change in ownership. Mr. Shannon appeared to be aware of this and said that was one of the reasons he was here. He said the state puts responsibility for gravel pits onto the municipality, and noted RSA 155-E was implemented in 1979 to provide regulation guidelines for municipalities to follow. Mr. Shannon said he wanted to be sure that the town did not have any additional ordinances which may affect the grandfathered status of the pit should he purchase it. David L. Patch advised him that the town had no other gravel ordinance, but followed the guidelines of 155-E. David Shedd noted that the town of Bartlett does not allow gravel pits and that no new ones could be created. David L. Patch indicated that was why he said if Mr. Shannon wanted to buy the pit and continued to operate it in the same manner as was being done now, that he should be fine. Mr. Shannon asked whether the fact that the pit was comprised of three separate lots which had never been merged would affect the grandfathering. David L. Patch, again referring to the zoning ordinance, said at the inception of zoning any contiguous properties under the same ownership were considered all under the same use. In this instance, Bob Holmes dba Glen Sand and Gravel has been able to continue mining all three lots because they were all contiguous lots owned by him when zoning came in. David Shedd expounded on this further by saying that all the lots had to be under the exact same name, that there could be no variation in the wording. David L. Patch strongly suggested Mr. Shannon contact Mary Pinkham-Langer at the NH Dept. of Revenue Administration for further advice, as she was very knowledgeable and helpful on all things relative to gravel pits.

Mr. Shannon lastly asked whether Mr. Holmes had a reclamation plan on file with the town for the pit, as he would need to honor it should one exist. The board was not aware of any formal plan, but said Mr. Holmes has to submit Intent to Excavate forms each year. Peter Gagne asked whether Mr. Shannon would be permitted to bring off-site material to the pit, since the Lower Bartlett Water Precinct had prohibited the Drew pit from doing that. Mr. Shannon said the Holmes pit was not in their precinct, but he had been in contact with the precinct superintendent who was okay with him doing so. When asked by David Shedd whether the pit was located in the water table, Mr. Shannon said it was not. Mr. Shannon asked the board whether he would be allowed to add any buildings to the property, such as a shop or storage sheds for the excavation equipment or a rentable storage facility. David L. Patch said storage associated with the operation of the pit would likely be allowed, but a storage facility may be a stretch as that would be a different use than a grandfathered gravel pit. Peter Gagne advised Mr. Shannon that buildings under 5,000 square foot in size only had to go to the selectmen's office for a building permit and did not require site plan review. Mr. Shannon thanked the board for its guidance. Mr. Patch again urged him to speak to Mary Pinkham-Langer. Mr. Shannon said he appreciated the suggestion and would call her in the morning.

6. 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 a review by the town engineer review is completed.

7. Review and Approve Minutes: The minutes of the September 19 meeting were reviewed. David A. Patch asked that his comment on page 3, Item 1, regarding the 50-ft. road frontage being maintained all the way into the main portion of the lot be revised to reflect that this was his personal view and did not come from the selectmen's office. A motion was made by Scott Grant; seconded by David A. Patch to approve the minutes as amended. Vote: 6-0-1, with David L. Patch abstaining since he had not attended the meeting. He did, however, agree that the entire road frontage width should be maintained all the way into the lot. Short discussion ensued about changing the regulations to reflect this, and the Chairman asked that the issue be put on the next work session agenda for further discussion.

8. Mail and Other Business: Mail listed on the agenda was reviewed.

With no further business, a motion to adjourn was made by Scott Grant; seconded by David L. Patch. Vote: All in favor. The meeting adjourned at 7:43 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary