



Stratham Planning Board
Meeting Minutes
June 7, 2017
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM

Members Present: Bob Baskerville, Chairman
 Jameson Paine, Vice Chairman
 Tom House, Secretary
 Michael Houghton, Selectmen's Representative
 David Canada, Member

Staff Absent: Nancy Ober, Alternate

Staff Present: Tavis Austin, Town Planner

1. Call to Order/Roll Call

The Chairman took roll call.

2. Review/Approval of Meeting Minutes

a. May 17, 2017

Mr. Paine made a motion to approve the May 17, 2017 meeting minutes. Motion seconded by Mr. House. Motion approved unanimously.

3. Public Hearing—

- b. Daley Subdivision**, application by property owner Michael Daley, represented by Bruce Scamman, Emanuel Engineering. Lot Line Relocation and Subdivision of 74 & 76 Willowbrook Avenue and 61 Lovell Road, Stratham, NH 03885 (Tax Map 23 Lots 12, 13, and 14) to create 6 new building lots.

Mr. Austin explained that as requested at the previous meeting, the plans were sent to Civilworks on May 31, 2017. Civilworks will be able to have comments available on June 20, 2017. The applicant has requested a continuance to June 21, 2017. Mr. Austin asked the Board if they felt that was acceptable with the next meeting happening on June 21. Mr. Baskerville suggested the comments be forwarded to the Board when they come back from Civilworks. This prompted Mr. Baskerville to look ahead to the July 5, 2017 planning board meeting. He said he knew several members were not going to be in Town so he wondered if the meeting should go ahead as there probably wouldn't be a quorum.

Mr. Baskerville read a letter from the applicant requesting a continuance until June 21, 2017.

Mr. House made a motion to extend the application to June 21. Motion seconded by Mr. Paine. Motion carried unanimously.

Mr. Baskerville returned to the subject of canceling the July 5 Planning Board meeting.

Mr. Houghton made a motion to cancel the July 5 Planning Board meeting. Motion seconded by Mr. Paine. Motion carried unanimously.

- c. **Reiss Subdivision**, application by property owner John Reiss, represented by Bruce Scamman, Emanuel Engineering. *Minor Subdivision application* for a proposed subdivision of 16 Emery Lane, Stratham, NH 03885 (Tax Map 13 Lot 38) to create two (2) new building lots.

Mr. Baskerville said they had been on a site walk of the property at 6:30 pm prior to tonight's meeting.

Mr. Bruce Scamman, Emanuel Engineering took the floor representing Mr. and Mrs. Reiss. He said they were before the Board a month ago and at that point didn't have any comments back from Civilworks as they didn't think they needed to send anything to Civilworks. They have since received comments and amended the drawings to reflect those. There were 2 requests; one to show the profile of Portsmouth Avenue and the other to put all boundary lines, easements, setbacks, topography, soils, test pits, wetlands and other such items. All State approvals have been received.

They have a waiver for a 22' wide road versus a 24' road. Civilworks had no issue with that. They hope to get approval for that.

Mr. Baskerville asked if the revised plan had been submitted to Civilworks. Mr. Scamman said it was sent to them on May 12, 2017.

Mr. Paine referred to the lane coming off of a State road and asked if it was going to be about 10' higher and referred also to the steep drop next to the adjacent area asking what the grade was. Mr. Scamman said it is a 4:1 slope off of that which is what the State asks for a State road and Town road also. Mr. Baskerville asked if the bio retention swale had been relocated as he remembers it being somewhere else. Mr. Scamman said when they came in for the preliminary hearing the Board gave them directions that they wanted to have treatment and structures along the road so they added a bio swale along the majority of the length and across the hammerhead so the water can flow into the bio swale. He continued that bio swales are designed to treat water that comes off of paved surfaces so it will treat any type of organic matter through the bacteria process in the sands that are in the bio swale. Mr. Paine said with regards to the bio swale, that there have been some concerns with driveway crossings and he asked Mr. Scamman to talk about that with regard to this project.

Mr. Scamman said the first lot has access on Emery Lane and the last lot has access beyond the bio swale; there is only one at the flat spot down at the bottom which will have a driveway. As discussed they have proposed putting stone under that driveway so that water can infiltrate below that.

Mr. Baskerville referred to 2 structures on the first lot. Mr. Scamman said there is a house and a barn on the existing lot. On that same topic, Mr. Baskerville said he still has 2 concerns; one with the bio retention swale which he is not ready to endorse yet. He referred to sheet C-4 and said the crown is sloped from south to north and the swale is being built with a berm next to it and some of that will be 10' high and then going down to a 4:1. Mr. Baskerville said he assumed that was going to be in a Town right of way. Mr. Scamman said that was the case and that the right of way was widened and then there was an easement adjacent to it for grading and drainage. He added that this is a great design which is good for the environment.

Mr. Paine asked if there was an expectation for maintenance. Mr. Scamman said the only maintenance would be if it gets silt in as the silt would need to be pulled out. It is going to be a grass swale and look very similar except just below the grass there will be a soil that is mostly sand with some organic matter in it so it can grow grass as has been done on the Gateway Road in Town. Below

that will be a stone area which will be able to transfer water down the length of it and infiltrate water back into the ground. Mr. Paine referred to a 4" perforated pipe at the bottom of the structure and asked if it opens at the bottom of the hill. Mr. Scamman said it opens into the catch basin which will be added at the end of the existing culvert. There is an oversized 12" pipe at the request of Mr. Lavery. Mr. Paine asked if there was any concern about the flow going onto the property that it is pointing toward. Mr. Scamman said he didn't have any and it flows there now. Mr. Paine asked if it could be located so it doesn't flow onto a residential property. Mr. Scamman said the lot is over 2 acres so the house can be located so it is nowhere near the flow path. Mr. Paine asked if they would consider different options. Mr. Scamman said they had looked at using the drainage easement but concluded it wasn't really necessary. Mr. Baskerville said he was concerned also as the lot is being graded 200' wide and has an existing swale right in the dead center of that lot and it looks like Betty Lane goes downhill to that swale and starts going back up hill so both sides will come back to that swale. He sees that creating a potential liability for the Town. Mr. Baskerville asked if Mr. Lavery had commented. Mr. Austin said he had received a voice mail from Mr. Lavery which said he would prefer not to have a bio swale in the Town's right of way.

Mr. Canada said the easy solution is to keep Betty Lane as a private road. Mr. Baskerville said it was great technology but on a 8% slope he wasn't sure plus taking into account the cost in the future to the Town. Mr. Baskerville asked if there was an under drain. Mr. Scamman said there was one in a stone bed and that stone bed is made for infiltration, but if it backs up high enough it will go into the pipe and be able to transfer down into the catch basin. Mr. Scamman said he is trying to use modern technology that the expert has said is OK and now the Board is saying they can't. In terms of the private road, he worked on another project where he was told to make it public they had to do another subdivision which they are doing now. To his knowledge he knows of nothing in the zoning or site plan or subdivision regulations that says it isn't allowed, in fact you have to get special approval to have a private road. Mr. Houghton agreed about public roads, but said the crux of the matter is this new technology being transferred to the Town to maintain without knowing which resources will be required or the Town not being familiar with it. Mr. Houghton said he would like to hear from Mr. Lavery in person. Mr. Scamman said they would be willing to take a 24' wide road as a condition of approval, but to his knowledge, requesting a 22' wide road is the only thing that doesn't meet Town regulations. Mr. Baskerville repeated his concern with the new drainage and said he won't be voting to approve this tonight.

Mr. Reiss brought attention to when the application was before the Board for the first time and quoted that Planning and Highway staff reviewed the road design and said they believed Town standards had been achieved. Mr. Reiss said the drainage thing the Board saw today coming through the 12" pipe and running across never happened from at least 1970 until a few years ago which is what he told somebody when they got carried away with their plow; it is just a plow cut. The actual drainage doesn't have to be in the middle of the lot and it probably wouldn't have to be if they went with a planned drainage, it could be moved over to the left and brought up between the lot line of lots 3 and 4 as that is a natural place and with better grading. All the water that came through the pipe never went anywhere because every March or April, corn was planted back there and they plowed perpendicular to the drainage. It used to get dammed up, but the ground just sucked it up. They originally designed a plan without a swale because it wasn't desired by the Highway department and now they have had to provide a 62 page drainage study and it is getting expensive. He understands the concern with new technology, but they didn't want it to begin with.

Mr. Baskerville explained that a drainage study is required by the Town for every project to make sure the drainage doesn't run off. All the bio swales he has seen were flat so he doesn't know if an 8% slope will work. He isn't saying it won't work, but the Town has never had one of these before. Mr. Reiss says the drainage study shows no increase in outflow and for the last 40 years, that water

didn't go anywhere, not even 30' from where the pipe is now; it got sucked into the ground. Mr. Paine said part of the problem is that the use of the land is changing. Mr. Scamman said to his mind, the Town's expert has reviewed this and is satisfied. He has seen these designs from other Towns too and is familiar with them. Mr. Baskerville questioned if he had seen bio swales with a 8% slope. Mr. Scamman said he knows projects with roads with 12% to 13% slopes with infiltration as part of those. Mr. Scamman asked if the Board would like them to put a stone surface on it to help slow the water down. Mr. Paine said the Town's reviewer gives the Board information, but it is ultimately the Board who makes a decision with that information in concert. Mr. Baskerville asked if they could do a more traditional design. Mr. Scamman said they could put a bio retention somewhere else which he showed on the plan, but it would be a mosquito breeding ground and the soils aren't as good as the suggested site.

Mr. Scott Gove introduced himself and said he works with Chinburg Builders as well as owning his own real estate company and they are purchasing the 3 back properties and are well aware of the drainage swale. They anticipate putting in at least one culvert under one of the lots. He said it is a little frustrating when there is new technology and it's the same with rain gardens. The Town doesn't take the road straight away; it is bonded. How do you get from Point A to Point B. He knows that Chinburg are very cognizant of green building and doing things that are good for the environment. He finds it a little frustrating that the Board over rides an expert's opinion. Mr. Gove said he didn't know if an extra bond could be put on it for a limited amount of time to prove the technology. He addressed the road and said it is not a short road by any standard. Private roads have been a problem in the Town especially for people paying taxes. Mr. Baskerville said at one public meeting there was discussion about private versus public roads and the main concern was the cost to the Town so Mr. Austin was asked to look into changing the regulations for the feasibility of dead end streets being private roads.

Mr. Austin announced that Mr. Lavery had just sent an email apologizing he can't come to the meeting, but a letter was forthcoming with his comments.

Mr. Canada talked about Lot 136 and asked if it met the criteria of the subdivision regulations for a regular lot. This particular lot looks odd to him. Mr. Austin said his review of the regulations shows this lot to meet the width requirements and the frontage and area requirements. He feels this lot meets the regulations as it doesn't appear to have an irregular shape for the purpose of achieving frontage or lot size. Mr. Canada disagreed.

Mr. Baskerville read the letter from Mr. Lavery dated June 7, 2017 addressed to Mr. Austin. Mr. Lavery doesn't recommend putting bio swales in the Town right of way. He proposes the road be accepted as a private road. Mr. Austin said he had looked at what it takes to maintain this kind of bio retention and there are all kinds of treatment involved that only an engineer can understand. He supports Mr. Scamman's argument for the Town to be leaning toward green infrastructure and how to do it better. Mr. Scamman said he would be more than happy to go over the maintenance required with Mr. Lavery and members of the board on site.

Mr. Houghton said as part of the application process going forward input required from Town departments need to be in writing and in the submittal.

Mr. Reiss said when they came in originally almost 2 years ago they came in with 2 options, one for 2 lots and the other for 3 lots. They decided to go for the simpler option of a driveway to 2 lots and there was a lot of back and forth over whether it was a driveway or a road. They built the first 200' as a road to Town specs because of the access issue off of Portsmouth Avenue. The plan was to come back and ask what they are asking for now. After the first meeting, Lincoln Daley said they could do 2 lots off of a simple driveway, but they ended up doing a lot more if they wanted to put in a third lot eventually. There was no reason not to do a road to Town specs. He spoke to the irregular lot and

said of all the lots that is the one he would consider building on. There is nothing in the regulations that call that out as an irregular lot. He continued that the drainage is seasonal and now the 8' clay pipe is going to be replaced with a larger 12" one, the intake has been lowered so more is being taken off the Butterfield lot.

Mr. Gove suggested to the Board that they discuss private roads with the Town's attorney because Barrington attempted to do the same years ago and there is a court decision that if the roads are built to Town's standards that a Town has to take jurisdiction of it. Mr. Houghton intervened to stress that what he said earlier was that if this road was built to Town standards, this discussion wouldn't be happening. Mr. Gove referred to Sanctuary Drive which was recently approved by the Board. He said if they look at the first 2 lots, they used a different approach to get the required 2 acres. He highlighted the shapes of the lot to show how. He knows of other approved subdivisions in Town that aren't as regular shaped as Mr. Canada seems to think.

Mr. Scamman said he would like to continue to the next meeting and asked if they could get the waiver for the 22' width for the road tonight.

Mr. House made a motion to accept the waiver for 22' rather than 24' for the road width. Motion seconded by Mr. Paine. Motion carried unanimously.

Mr. Austin offered to coordinate a meeting between Mr. Lavery, Mr. Connelly from Civilworks and Mr. Scamman. Mr. Houghton asked the Board if Mr. Lavery was the missing element for making a decision on this application. Mr. Baskerville said as an engineer he is not sold on an 8% slope and he doesn't like the idea of having a culvert in a Town right of way draining all the water onto the front of a lot. Mr. Austin said if the Highway Agent accepted it, would that address the Board's concerns. Mr. Baskerville said it would remove some of his concerns. Mr. Paine suggested that Chinburg Builders add any suggested green and redirecting storm water run-off through other locations designed to the plan. Mr. Paine said the outlet of the existing culvert should be shown and designed to show how it gets through the property. Mr. Austin said his concern would be with the ultimate home owner. Too often there are plans that show very specific Planning Board requirements and a couple of homeowners later, the homeowner expresses surprise that as part of the homeowner's association they are responsible for maintenance. Mr. Austin said something has to run with the property beyond the subdivision approval and site plan approval.

Mr. Baskerville said he is fine with private roads as long as there are association documents with them. Mr. Paine asked Mr. Austin if he should get clarification with the Town lawyer from Barrington to understand more the legal implications. Mr. Canada said they can get free legal advice from the NHMA.

Mr. Paine made a motion to continue the Reiss subdivision proposal to June 21, 2017. Motion seconded by Mr. House. Motion carried unanimously.

4. Public Meeting—

- a. Union Road Condex**, represented by Brock Ehlers, of 15-17 Union Road, Stratham, NH 03885, Tax Map 10 Lot 76. *Preliminary Consultation* for condominium subdivision and possible additional units.

Mr. Austin gave the background to the application. The Town had originally granted a permit for a duplex on the property. Sometime after the C.O. was granted, some condominium documents were put together and recorded at New Hampshire Deeds and now Mr. Ehlers and his neighbor are both members of the 15-17 Union Road Condominium Association. The first part of this is to clarify the subdivision process to make the existing condex legal under the subdivision regulations and the second part is a discussion of potential further development of the lot with additional condominium units.

Mr. Austin said staff's recommendation would be to suggest Planning Board request a subdivision plat memorializing the existing condex and leave it to the Board to determine if it would like the condominium documents reviewed even though they have existed for quite some time.

Mr. Ehlers, 15 Union Road, said he did his own research into RSAs and regulations. He said he basically needs direction from the Town how to proceed with this situation.

Mr. Baskerville said he would submit a plan that gets recorded with the Planning Board approval on it.

There was discussion about the legalities of having more duplexes on the property without changing the open space lot that currently exists. Mr. Austin said he expects the Planning Board to suggest parcels of 2 acre lots according to the regulations and then if condexes were to be built on those parcels, it would be acceptable. Mr. Baskerville said it sounds like there is potential to subdivide, but they should talk to a surveyor and civil engineer. The parcel could be subdivided and a road could be put in to create more frontage. Mr. Ehlers asked if it would have to be a private or Town road. Mr. Baskerville said that traditionally the road should be to Town standards. Mr. Austin said that functionally a private road exists there now and could be extended. Mr. Baskerville observed there were quite a lot of wetlands on the property. Mr. Albert, Jones and Beach said the math for lot loading works for 6 units, but that is without putting in well radii, setbacks and configurations.

Mr. Austin asked if it was possible to create 3 2 acre pieces on a private road. Mr. Albert said he couldn't answer that right now.

- b. Wiggin Way Subdivision**, Mark Perlowski, 70 Portsmouth Ave., Stratham, NH 03885, for the property located at 14-16 Wiggin Way, Stratham, NH 03885, Tax Map 11 Lot 1. *Preliminary Consultation* for 2-lot Subdivision to create one new parcel.

Mr. Chris Albert, Jones and Beach took the floor and introduced the owner Mark Perlowski. He said they have already submitted their formal subdivision application too for the next planning board meeting. He explained this was subdivided in 1999. It is a 14 acre piece on Wiggin Way with a lot of wetlands. They had Jim Gove go out and reflag the area and they did some new test pits too. As a result of change in regulations and the reflagging, there is now a bigger foot print on which to build. The 9 acre piece has over 32,000 S.F. of buildable area with all setbacks included and that leaves an existing 5 acre piece on sheet A-1 of the plans. Mr. Perlowski confirmed construction was already under way for a house on the existing lot. Mr. Albert said they do have a small wetland crossing of 650' so it's pretty minor, but they will meet with the conservation commission. They have talked with D.E.S. who feels this will fall under an expedited permit.

Mr. Austin referred to sheet A-1 note 4 relating to FEMA flood zone. When the Assessor pulled up the corresponding panel it was not for a property near this one. Mr. Albert said the application for the next meeting is much more detailed and has been honed. Mr. Austin said that a conditional use permit will be sufficient for the Board to deal with the wetland crossing. Mr. Albert said he would coordinate with the conservation commission too.

Mr. Baskerville referred to the Wiggin Way well situation. Mr. Albert said he was aware that there was a situation with the water system. Mr. Perlowski is requesting a well. Mr. Baskerville said if this is part of an association they will need to talk to them. He asked where the well radius was for the current association well. Mr. Albert said he assumed over 1,000 feet away. Mr. Gove said at least 500'. Mr. Baskerville requested that go on the plan. Mr. Austin said this Board has already made a motion to allow everyone in that association to modify their deeds to not be in the association, but that hasn't happened yet. He suggested that Mark's deed shows that he doesn't have to participate

in the community well's system. Mr. Austin doesn't think there is anything precluding Mark moving forward with an individual well.

Mr. Gove said he was involved in the original subdivision and knows these 2 lots are not part of the association although he did have the right to hook up to their well system. Mr. Baskerville asked the applicant not to put the driveway within 5' of the lot line.

Mr. Houghton referred to the 650 S.F. wetland crossing. Mr. Albert said that would be impacted by a driveway which will have a small culvert crossing.

Mr. Austin referred to sheet C-1 and the issue with an encroaching shed. Mr. Albert said they are working to rectify it with the neighbor.

Mr. Paine asked what the driveway length would be. Mr. Albert said it would be 700'. Mr. Baskerville asked if there were any fire department regulations for turnarounds for really long driveways. Mr. Austin said there would likely be comments on the department head form especially as there is a 30,000 gallons cistern across the road.

Mr. Albert said if the fire department needed more of a hammerhead type driveway, they can show that.

5. Miscellaneous

Mr. Austin said that originally there was a request for another extension from Mike Donahue for BMW because everything has been submitted other than the DOT permit, but the DOT permit is effectively signed, but there is a letter that DOT is now requiring both parties to sign and be recorded with the Mylar which should be resolved by June 19, 2017 which is the drop date they were extended to.

Mr. Austin said he has the landscape bond and performance agreement the Planning Board is to accept the amount of money. His recommendation is that the Board review it and consider the amount and accept it subject to Town attorney review for the particular language in the surety.

Mr. Paine made a motion that pending comment from Town staff and Town attorney the preliminary estimate of probable streetscape, landscape, construction costs for the BMW in Stratham project is appropriate for the scale of project based on the estimate provided by the applicant's Landscape Architect. Motion seconded by Mr. House. Motion carried unanimously.

Mr. Austin made the Board aware that he will be coordinating with Highway Agent Mr. Colin Laverty to come up with recommendations and then have a formal work shop with the Planning Board about such things as cul-de-sac versus hammerheads, private versus Town roads, dead end streets, and roads in general. Included in that discussion will be discussion with the New Hampshire Municipal Association, legal counsel as his or Mr. Laverty's budget can accept it, to figure out which direction to go.

The Board agreed the workshop would be a good idea and if agendas are too heavy, they could have a special meeting.

Mr. Austin shared that he attended a presentation about rural communities being bikeable and walkable which he would like to introduce into the subdivision and site plan regulations at some point. He made the Board aware they had an email in their package from a couple of representatives for a group in Town that are interested in bikeable, walkable, safe routes to school. He has suggested they speak to the Planning Board as well as the Route 108 committee, and the Selectmen to get the idea out there. After the presentation Mr. Austin attended today, he said it doesn't necessarily involve reinventing the wheel.

6. Adjournment.

Mr. House made a motion to adjourn at 9:20 pm. Motion seconded by Mr. Paine. Motion continued unanimously.