



**Stratham Planning Board
Meeting Minutes
November 1, 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
Mike Houghton, Selectmen's Representative
David Canada, Member

Members Absent: Robert Roseen, Alternate
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. October 18, 2017

Mr. House made an amendment to Page 2, Line 67, to add the word "asked" to read "Mr. House asked if...". Mr. Paine recused himself from voting due to his absence at the October 18, 2017 meeting. Mr. Houghton made a motion to accept the meeting minutes of October 18, 2017 with the correction made by Mr. House. Motion seconded by Mr. House. Motion carried by 4 yes votes and 1 abstaining.

3. Public Hearing

- a. **6-Lot Subdivision Application** to create five (5) new building lots at 8 Whittaker Drive, Stratham NH 03885, Map 19 Lot 68 submitted by Jonathan S. Ring, PE, Jones & Beach Engineers, Inc., PO Box 219, Stratham, NH 03885.

Mr. Austin stated a letter was received, included in the binders, from Mr. Hillery, 5 Whittaker Drive. Mr. Baskerville stated the letter from Mr. Hillery stated he is against the

subdivision and lists multiple reasons for his disapproval. Mr. Baskerville read a letter, dated October 30, 2017, received from Jonathan Ring.

“On behalf of our client, Robert Sullivan, we respectfully request a continuance of the pending application for the above referenced parcel from the November 1, 2017 hearing to the November 15, 2017 meeting, and to grant an extension to the 65 day approval clock. Please contact me if you have any questions.”

Mr. Baskerville gave a brief update, for the public, regarding the subdivision. Mr. Ring met with the town engineer, Mr. Austin, and Mr. Deschaine. The planning board does not have information regarding what was discussed, what changes are being made, and no new plans were submitted for review by the planning board. Mr. Baskerville does not find it necessary to discuss this application due to the applicant not being in attendance and no new plans to discuss. Mr. Baskerville stated the applicant requested continuance from 2 weeks to tonight and the plans to be submitted are different, and asked the board whether the application should be scheduled for 2 weeks from tonight or 4 weeks from tonight. Mr. House asked Mr. Austin if Civilworks has received updated drawings to review. Mr. Austin stated yes, and he would like to make a minor correction to Mr. Baskerville’s statement. The town engineer has not been involved. Department of Public Works, the town administrator, and Mr. Austin met with Mr. Ring and the applicant. Mr. Austin stated staff concern is extending it to November 15, 2017, even if there is a submission by Civilworks by tomorrow, the odds of having a response by Civilworks prior to the November 15, 2017 meeting is slim because the changes are unknown. Mr. Houghton stated there has been a lot of give and take, and back and forth, and he would like to see a complete application which gives the board the potential to make a decision on the application.

Mr. Hillery, 5 Whittaker Drive, asked the question of procedure and at what level is this submission no longer the same application. Mr. Baskerville stated while it seems lengthy, the subdivision on Market/Bittersweet took up to 18 months. Mr. Hillery stated it is not the length of time, but the number of changes being made, and at the last meeting the board questioned when do the changes become a new application. Mr. Baskerville stated a tremendous amount of subdivision applications have some changes during the process. Last month the board looked at the application and discussed how much has changed and decided it did not warrant going to a new application. This decision may change with the next set of plans but the board has to wait until the plans are cleaned up and reviewed by the town engineer, receive staff give comments, and then the board will decide. Mr. Austin asked for an opinion from Mr. Deschaine regarding the request for extension and extending the 65 day approval clock, and whether this authorizes, directly or indirectly, the planning board to pick a date other than November 15, 2017 to continue the hearing. Mr. Baskerville stated if the applicant chooses to come in on November 15, 2017 and demand a vote from the planning board, they can vote. Mr. Deschaine stated he is not a lawyer, but in terms of fairness, if the applicant waived it to November 15, 2017, that is the extent of the waiver and the board can unilaterally extend that to another date. Mr. Houghton asked if the board can continue this application to November 15th on the basis the applicant provide all necessary paperwork for the town engineer to review. Mr. Deschaine recommended the material be provided by a certain date to meet the November 15th meeting, and it will be up

92 to the applicant to meet that criteria. Mr. Austin stated the information would need to be in
93 Civilworks possession by Friday, November 3, 2017 to meet that deadline.

94
95 Mr. Houghton made a motion to continue the Sullivan Subdivision, 8 Whittaker Drive,
96 application to November 15, 2017 with the rehearing contingent upon receipt of all
97 necessary documentation and plan review by Civilworks in order for the planning board to
98 have the opportunity to review all necessary material prior to moving the application
99 forward. All materials must be received in the planning department by Friday, November
100 3, 2017 and a response provided by Civilworks prior to November 15, 2017 in order for
101 further consideration by the planning board. Mr. Paine seconded the motion. Motion
102 carried unanimously.

103
104 Mr. Canada asked, for procedural clarification, and whether the applicant has a right to
105 postpone last minute with no way of letting the public know before they come out to the
106 meeting. Mr. Austin stated the applicant "requested a continuation to November 15, 2017",
107 they have not demanded or stipulated their request. It is the planning board's decision to
108 accept the request or deny it. Mr. Baskerville stated most towns will not deny a
109 continuance as long as the applicant is making progress. Mr. Houghton stated it is the
110 timeliness of the notification and the planning board and public have not been given the
111 courtesy of notification. Mr. Paine asked for clarification that the planning board requires 2
112 weeks prior to planning board meetings to provide any materials to Mr. Austin in the
113 Planning Department. Mr. Austin stated the statute is 21 days if it is a new application.
114 This application has been accepted and approved as complete and the public hearing has
115 been open. Mr. Austin was asked how quickly the agenda, posted online, can be updated.
116 Mr. Austin stated within minutes. Mr. Baskerville asked if there is a state RSA regarding
117 changing agenda's at the last minute and what is the advance posting time. Mr. Austin
118 stated an agenda must be posted at least 24 hours prior to the meeting date, public hearings
119 must be posted a specific amount of days prior. Mr. Canada asked for clarification that the
120 board's decision to hear the applicant on November 15, 2017 is contingent on the
121 information being received by Friday, November 3, 2017. Mr. Deschaine stated there is
122 another statutory provision, which has not been used before, that the planning board can
123 apply to the Board of Selectmen for an extension not to exceed 90 days before acting on
124 approval or disapproval. Mr. Austin will send information to Ms. Graves, the contact
125 person for abutters regarding the Sullivan Subdivision, in order for Ms. Graves to update
126 the abutters on the application hearings.

127
128 Mr. Paine made a motion to direct staff to put the applicant on notice that plans and
129 materials need to be received in the planning department by Friday, November 3, 2017, and
130 failure to satisfy the condition as previously moved would require the applicant to submit a
131 letter requesting extension to December 6, 2017 or the planning board will take the
132 appropriate action with regards to the application. Mr. House seconded the motion. Motion
133 carried unanimously.

134 135 **4. Public Meeting**

136
137 The board discussed the timeliness in which the board receives information is not an
138 appropriate amount of time for review. Mr. Houghton stated the board needs to be more

disciplined and information needs to be received in a timely fashion in order to give the members time to give full attention and evaluation to an application. Mr. Houghton stated the board needs to adhere to the standards and requirements. Mr. Baskerville stated the planning board should not accept any more two week extensions. Mr. Houghton stated if the applicant hasn't provided the proper paperwork in a timely manner for it to be reviewed, the planning board can continue the application. Mr. Canada stated the planning board needs to become more disciplined with granting waivers and hearing applications without the proper time to review. Mr. Houghton stated, in order for the planning board to come in and make good use of theirs and the applicant's time it is only appropriate they have the information submitted in a timely manner in order to be reviewed. Mr. Houghton asked Mr. Austin to send the Planning Board a summary of applications, when submitted, which states whether it meets the criteria so the planning board has detailed information relative to regulations. Mr. House stated this will also help to expedite the review process. Mr. Houghton would like this to become the standard and continuing an application will be based on what the planning board deems appropriate time for reviews. Mr. Baskerville asked for an informal subcommittee with Mr. Austin and Mr. Houghton to put some criteria in place, and he will poll how other towns handle applications. Mr. Austin stated Site Plan Regulations, 4.2.1, Submission Period:

- a. "An application for site plan approval shall be submitted to the Town Office, c/o Chairperson of the Planning Board, prior to 12-PM, at least twenty (20) days in advance of a regularly schedule Planning Board meeting. The application form and the supporting exhibits required are set forth in Section 4.2.2 of these Regulations;
- b. In the case of continued application, all new information, including but not limited to plan revisions, special studies, waiver requests, and conditional use permit requests must be submitted to the Planning Department prior to 4-PM, at least ten (10) days in advance of the continued meeting date;
- c. Applications submitted later than the deadline date in (a) above will not be placed on the following meeting's agenda. New information in (b) above that is submitted later than ten days prior to the meeting date will not be considered by the Planning Board. In the case of late submission of new information, the Board shall automatically continue the application to the next scheduled meeting date."

Mr. Austin stated he does not know how that would affect the 65 day clock, and whether this specifies business days or calendar days. Mr. Canada asked if "10 days prior to the meeting would be November 3, 2017". Mr. House stated it would be 12 days, 10 business days plus 2 weekend days. Mr. Houghton asked that section 4.2.1 of Site Plan Regulation be copied and sent to Mr. Ring to give warning that from this point forward the planning board will be enforcing these provisions. Mr. Austin stated he would like to work on an amendment to 4.2.1.b because 10 days is not enough time. Discussion ensued regarding the turnaround time from the town engineer. Mr. Houghton and Mr. Canada asked if there are levels of study and whether there is clarity and definition regarding expectations and/or a service agreement with the town engineer. Mr. Austin stated Civilworks has a contract as the third party engineer. Mr. Paine asked if we can request the engineer respond by the 13th or 14th. Mr. Houghton stated expectations for the third party engineer need to be defined, a commitment that the third party engineer will adhere to those requirements, and if they cannot meet those requirements an RFQ needs to go out to find people who can adhere to the requirements of the board. Mr. Paine stated that planning board meetings are Wednesdays, and reviews should be submitted the

Monday prior to the meeting date in order to be processed and received by the board for review. Mr. Deschaine, Mr. Houghton, and Mr. Canada stated that communication between the engineer and Mr. Austin is important in order to find out if the workload can be accomplished on time. Mr. Baskerville stated several towns require a TRC meeting that cannot be waived. Mr. Austin stated Subdivision Regulation 2.2 Preliminary Consultation:

“An individual who anticipates submitting a formal application for a subdivision approval shall be required, to consult with the Planning Board prior to submission of the formal application and supporting documentation. Any request for consultation shall be made at least 7 days prior to the meeting at which such consultation shall occur. An application for a minor subdivision as set forth in Section 2.4 of these regulations shall not be required to submit under this section.”

This is also required for site plan review and he would like a regulation in place for pre-formal submission prior to the formal application which states “you shall meet with staff to go over the application, within 5 days of such meeting you will receive a list of deficiencies to be corrected” so by the time it is before the planning board it should have the necessary information to move forward. Mr. Austin stated it is in the regulations that the planning board shall schedule the public hearing.

Mr. Austin stated the two public meeting items on the agenda are listed as a reminder. Mr. Austin explained if the Sullivan subdivision doesn’t move forward at the November 15th meeting date, all efforts will be focused on finishing up the Telecommunications and Subdivision regulations for the board to review.

Mr. Austin stated some questions have come forward regarding possible zoning changes that he would like to discuss with the board.

The last zoning amendment saw the statute for Accessory Dwelling Units change to state a single family home that can provide water and sewer can have an accessory dwelling unit. The planning board defined “accessory dwelling unit” as an “accessory dwelling unit to a single family home”. There has been discussion as to whether condominiums and cluster subdivisions could be precluded or not, and the planning board opted to strike a sentence but once town meetings were over the state corrected it to say “does not apply to condos”. Would the board like to add “use would not be permissible in condos, clusters, and other areas where open spaces are a function of density...” Mr. Baskerville stated he looks at condos differently than cluster subdivisions, and looks at a single family as 1 dwelling on 1 lot. Mr. Paine asked for clarification, i.e. Rollins Farm is a home owner’s association of single family homes. Mr. Austin stated Rollins Farm is not a cluster and each home could have an accessory dwelling unit. Mr. Paine asked if the association piece of a condominium is equal to a homeowner’s association. Mr. Austin explained the former “accessory dwelling unit” language stated “accessory apartments are not permitted within open space cluster subdivisions, condominiums, mobile home parks, etc.” After town meetings were held, the state amended the statute to read “a town can restrict open space clusters, manufactured housing parks, etc.” The board agreed to put prior language back in the zoning. Mr. Austin asked the board if an accessory dwelling unit is allowed on a commercial property. Mr. Austin explained an email was received which states a property

owner in the Town Center District would like an accessory apartment and currently the Town Center District zoning regulations allow multi-family, 3-8 units, and permits an accessory apartment. If an owner wanted to split some units to create more would they need to come before the planning board? Mr. Baskerville and Mr. Houghton stated yes, the owner would need to come with a new application due to change of units.

Last year modifications were made to the Gateway language, clarifying the TRC process. Those modifications were not concurrently made in the Town Center District, which still reads as the Gateway used to. Mr. Austin asked the board if they would like him to go through a revision to modify. Mr. Austin explained the difference in order for the board to understand what changes would need to be made. Mr. Austin's recommendation is to get the Town Center up to par with Gateway, as far as clarifying the role and responsibility of TRC. Mr. Houghton asked if it is the same committee. Mr. Austin explained TRC is the same whether it is Town Center or Gateway. Mr. Austin stated staff suggestion is to make Town Center's regulations, with regard to TRC, the same as Gateway since the TRC is performing the same role. Clarification regarding TRC's role in approving applications was discussed. Mr. Paine asked if the Town Center regulations would require a March vote. Mr. Austin stated it is a zoning amendment. Mr. Deschaine explained 120 days prior to a town meeting, if an amendment is posted, the applicant is subject to that amendment.

Mr. Austin requested the planning board consider revisions of the open space cluster subdivisions to allow parcels less than 20 acres. Mr. Baskerville would like to look at this recommendation closer before anything is agreed to. Mr. Austin stated the planning board needs to start considering it since the town is built out residentially, in terms of large subdivisions, but as presented at the last planning board meeting it was brought to the board's attention that there are no more 20 acre pieces left. Mr. Austin explained he can look at options. One thing to consider would be to include the square premise, as well as a structural spacing requirement. Mr. Austin is concerned that an 8 acre parcel could be developed with a 600-700 foot road and put two houses on it which would result in the net cost to the town and disproportionate. Mr. Houghton would like residents to be able to understand and weigh in on the issue. Mr. Paine would like to hold on the issue to see if traction takes hold of the Gateway, including water and sewer. Mr. Deschaine asked the board what they would like out of it. The current cluster ordinance was designed to have the best use of a 20+ acre parcel in terms of leaving the most open space but making it more economical to promote that type of development. Whether those logics still apply to a smaller parcel is something the board needs to discuss. Mr. Houghton stated the cluster regulations need to be looked at whether it is 10 or 20 acres. Mr. Austin stated discussion needs to take place regarding how to move forward with what is left of buildable land in Stratham. Mr. Baskerville would like to get through zoning and not put it on for the current meeting, but take the adequate amount of time to look at the ordinance, fully discuss it, and make changes during the next calendar year.

Mr. Austin stated given the number of changes which may occur and the actual projects coming in, the board may want to continue to meet twice a month, but have public agenda items on one of those meetings and have a workshop on the alternate night. A public hearing can be scheduled for the "workshop" meeting, but the default position will be for the planning board to hear the public on the first Wednesday of the month.

Mr. Deschaine stated the Heritage Commission has a request to eliminate the density bonus with regard to frontage lots to discourage demolition of existing structures. Mr. Baskerville stated if Mr. Austin has a red-line version of the 6 required changes ready in 2-4 weeks, and the planning board can get it done in time, he is willing to go over it. Otherwise, it will have to be on the planning board's agenda for next calendar year. Mr. Houghton asked what the calendar is for zoning amendments. Mr. Austin stated he would send it to the board tomorrow, November 2, 2017. Mr. Deschaine stated material needs to be delivered to the Town Clerk on February 6, 2018. Mr. Canada stated that a special meeting could be scheduled to discuss these issues. Mr. Austin stated Site Plan and Subdivision regulations will take a back seat until further notice, zoning items are priority. Mr. Baskerville stated the last day to hold a final public hearing is February 5, 2018 and they must be delivered on February 5, 2018. Mr. Houghton requested Mr. Austin point the board in the right direction in order accomplish the changes discussed. Mr. House asked if the board met on a Wednesday not scheduled for planning board would that be considered a public meeting. Mr. Austin stated any time a quorum meets it is a meeting.

Mr. Austin stated 58 Portsmouth Avenue, Audi of Stratham, needs a bond in order for a building permit to be issued with regard to the latest planning board approval. Mr. Austin handed the board a copy and explained that the draft is wrong and the planning board should only be concerned with the numbers listed. Mr. Austin stated there is a landscape bond amount for \$30,385.00 and a construction, storm drains, silt fence, backfill, sidewalk, etc. for \$138,600.00 total, including the 10% of \$185,883.50. Mr. Baskerville stated if staff is comfortable with that number the board can ask for a motion. Mr. Austin stated staff would request the ability to modify that number up if something else comes about and to be included in the motion. Mr. Austin requested something specific to a bonding submission date, i.e. not the morning of the planning board meeting where the applicant is hoping to get a hold of things. Mr. Baskerville stated that staff is more knowledgeable than the planning board regarding these requests, that having the board formulate a motion is extraordinarily difficult and it may not be what staff is looking to have approved.

Mr. Paine made a motion to accept the bonding amount for 58 Portsmouth Avenue, Audi of Stratham, at \$185,883.50, as submitted with regard to landscaping estimate and cost, and the construction estimated elements and costs, as presented by the applicant and reviewed and modified by staff, unless an increased amount is warranted upon further review, prior to presentation to the Board of Selectmen for acceptance. Mr. House seconded the motion. Motion carried unanimously.

5. Adjournment.

Mr. Paine made a motion to adjourn the meeting at 8:47 pm. Mr. House seconded the motion. Motion carried unanimously.