

AMHERST PLANNING BOARD MEETING MINUTES

Draft - Minutes of July 2, 2014

ATTENDEES: Arnie Rosenblatt - Chairman, Marilyn Peterman, Al Merriman, Cliff Harris (arrived 7:40), Mike Dell Orfano, Richard Hart, Sally Wilkins (arrived 7:35), John D'Angelo, Steve Keach-(Acting) Planning Director

Arnie Rosenblatt opened the meeting at 7:30 p.m.

Arnie Rosenblatt asked that Al Merriman vote in the absence of Sally Wilkins and that Marilyn Peterman vote in the absence of Cliff Harris.

Case #5050-052814 Resin Systems of Amherst, 64 Route 101A, PIN#002-086-002_– Non-Residential Site Plan (NRSP) for re-approval of an expired site plan, to construct a 2-story, 46,800 sf manufacturing facility and associated site improvements in the Commercial zone. Two waivers are requested from Article V, Section 5.1-B Landscape Buffer along a Residential Zone and from Article VII, Section 7.1-A.6 outdoor Lighting Guidelines; and,

Case # 5052-052814, Resin Systems of Amherst, 64 route 101A, PIN #002-86-002- Conditional Use Permit (CUP) for Improvements within the Aquifer Conservation and Watershed Protection District associated with a NRSP Application Case #5050-052814

Jeff Kevan of TF Moran, introduced this application for 64 Route 101, which is the existing Resin Systems building approved in 1996 and in 2004 approved for a storage building and then in 2005 for another building in the rear of the property. The approval for that has since lapsed. Tonight, we are here presenting that same building application but the State regulations have changed so the drainage system had to get bigger to meet those regulations providing more run off. The lot line adjustment was done. This application is for the difference between the two, for verification and for the new open space calculations. Now there are 7.3 acres. There is $\frac{3}{4}$ acre more open space. Everything else is the exact same. The drainage will be completely re-charged. The landscaping that has changed is noted, the configuration has changed and trees have been added out back. Lighting has also changed. Arnie Rosenblatt asked about the waiver. Jeff responded only the trees along the front of the building are being asked to be waived. Arnie Rosenblatt noted the Board usually will defer the decision on waivers until the end of the presentation.

Sally Wilkins arrived at 7:35 p.m. and indicated she came in late and therefore will defer any questions. Arnie Rosenblatt asked that Al Merriman vote for Gordon Leedy in his absence. Arnie Rosenblatt asked if there are any Conservation questions. Richard Hart responded he does not know that the Conservation Commission has assessed this recently. Sally Wilkins said under the new ordinance, it did not define that it needs to go to the Amherst Conservation Commission and it was asked if that should be a requirement. Steve Keach, Acting Planning Director, responded that it should be a requirement in his opinion. Marilyn Peterman asked if there are trees on the property right now. Jeff responded there are, when the original building was built, trees were planted. Marilyn Peterman asked if the waiver is asking to plant no additional trees. Jeff said the applicant would have to go back and plant additional trees and is asking if new trees must be planted out front, we are not changing anything on the street line that exists currently. Marilyn Peterman said when the original application was

45 approved, were those trees the only trees that were to be planted? Jeff said yes, it was the same
46 waiver at that time as this one. Cliff Harris said he is not in favor of waiving the trees. Mike Dell
47 Orfano said there was an encroachment on the setback in the original plan, and asked if anything has
48 changed from the mediation on that encroachment? Sally Wilkins said there is a 25 foot non-disturb
49 line and a 25 foot setback. Jeff said the cutting has changed since the original plan. Mike Dell Orfano
50 asked what the remediation was for that encroachment? Jeff responded he is not aware of what that
51 was, but there are barriers out there. There were no further questions from the Board.

52
53 Arnie Rosenblatt indicate that Resin Systems was in here not that long ago, they still anticipate
54 additional buildings and he wonders about that back lot, regarding the conditional use permit, is there
55 anything different from the last time? Jeff responded the landscaping plan came back and additional
56 landscaping was added. Arnie Rosenblatt asked if the Planning Board had a different standard back
57 then? Steve Keach responded that yes, it changed when it was given in 2005, it was under the prior
58 version of the zoning ordinance, at that time they were granted an approval of a Water Resources
59 Management Plan (WRMP). This wetland has a one hundred foot setback. If you look at sheet five of
60 the plan, you can trace the 100 foot setback from the edge of the wetland and it sneaks into the area
61 in the back, it is a modest encroachment. This proposal is identical to the other plan that was
62 approved in 2005. Part of the change in ordinance adopted this year, changes the name of the
63 disposition of what is seeking to be granted. Arnie Rosenblatt said the Planning Board needs to satisfy
64 the regulation. Steve Keach noted nothing would change the outcome. Jeff Kevan said the drainage
65 system is the key. Sally Wilkins noted the requirement is to mark the edge of the non-disturb line with
66 ACC plaques for that purpose. Sally Wilkins asked if there are any petroleum traps on the property?
67 Jeff said yes, we do have a t-case in the basin structure. Steve Keach added that it is on Sheet 9. Jeff
68 said that it would capture any petroleum products. He can add a maintenance plan to the plan.

69
70 Mike Dell Orfano asked if monitoring wells are part of the site plan. Jeff responded they are not. Mike
71 Dell Orfano asked if anything toxic is anticipated on the site? Jeff responded if the board wants a
72 condition on the plan that once the use is determined, that they come back for that. Mike Dell Orfano
73 suggested once you have an occupant, the applicant can come back to determine if a monitoring well
74 is required. Jeff responded they can come back if the Planning Board determines that as a
75 requirement. Sally Wilkins suggested the applicant would come back for a Change of Use, before they
76 get a CO they would come in. Mike Dell Orfano suggested that all buildings over the aquifer have had
77 the requirement of a liner under the concrete slab. Steve Keach agreed, it is on the site plan, a 40ml
78 liner. This site with the overlay is in the aquifer conservation district and water protection district.
79 There are standard uses that require conditional use permits. Tonight, they do not have a user for the
80 property yet for the building, so once there is an occupant, they can come back for a Change of Use.
81 That way, the appropriate measures are in place depending on who is occupying the building. A 40ml
82 liner barrier is on the plan if it is required. The office spaces do not have the barrier but the warehouse
83 does. It is tough to put that barrier in under a slab once it is built. Steve has asked the Board to not
84 approve this plan but to have them come back with the changes. Jeff indicated a mistake was made
85 and he did not include the lot line adjustment. The adjustment was not on the plan but everything else
86 was exactly the same.

88 Steve Keach called Jeff last week and the changes were made, it is very straightforward. There was a
89 lot line adjustment that was not on the application. The original plan was used and it was missed. Mr.
90 Keach recommends not approving this because he would not think it could be modified that quickly.
91 The parking requirement has not been addressed. The part of the building that is 11,250 sf became
92 part of this parcel. It has a parking requirement. They were short a few spaces for the proposed
93 building. The 19 spaces to the 11,250 sf storage building are on the adjoining property. There is a
94 request to allow a cross easement for those spaces and Mr. Keach supports granting that waiver.
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96 Arnie Rosenblatt asked if there is another waiver request for this? Mike Dell Orfano asked if the
97 additional parking spaces are separate from the application? Sally Wilkins said it would be a condition
98 to the plan. Steve Keach said a legal document would need to be drawn up for the cross easement.
99 There were no abutters or interested parties present.
100

101 Arnie Rosenblatt stated this is a Conditional Use Permit and there are two waiver requests and the
102 application. Sally Wilkins suggested taking up the waivers first.
103

104 **Marilyn Peterman moved to approve the two waivers 1-for easement for the cross parking and 2-the**
105 **landscaping for trees. Mike Dell Orfano seconded the motion for discussion.** Sally Wilkins said the
106 applicant did not want to put out more trees because he feels the building is attractive. Cliff Harris is
107 opposed to the landscaping waiver because this landscaping will help out the way 101A looks. We
108 keep talking about making 101A more attractive and this is an opportunity to help that. Arnie
109 Rosenblatt agreed, this Board has this opportunity to make things better and we should take it.
110 Marilyn Peterman said there are trees there now and they will get larger and she feels it is currently
111 adequate. Cliff Harris said this Board has talked about it for years and it keeps coming up. It is like the
112 sidewalks. We should correct and fix things that need to be made better. Sally Wilkins said the maple
113 trees there now are suffering, maybe they should put in different trees. Arnie Rosenblatt suggested
114 taking up each waiver separately.
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116 **Marilyn Peterman moved to approve the parking easement. Mike Dell Orfano seconded. All were in**
117 **favor.**
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119 ***Marilyn Peterman moved to approve the waivers for trees. Mike Dell Orfano seconded for***
120 ***discussion.*** If the trees are required, they would be planted when the building is under construction.
121 Steve responded they would be planted prior to CO. So we will not see any change until the building
122 construction begins. **Four members were in favor of the motion, four member were opposed,**
123 **therefore the motion failed.** Sally Wilkins reiterated that the applicant will need to revise the plan to
124 have additional trees.
125

126 **Sally Wilkins moved to approve the Conditional Use Permit, with the condition that at the certificate**
127 **of occupancy that if there are any toxins or waste (by the occupant) that they come back before the**
128 **Planning Board. Marilyn Peterman seconded. All were in favor.**
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130 **Sally Wilkins moved to accept the plan for review. Mike Dell Orfano seconded. All were in favor.**
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132 Sally Wilkins moved to approve with the conditions as follows: that Town Counsel approve the
133 language for the parking space easements; a condition be noted that the edge of the non-disturb
134 buffer be marked with the town plaques; the plan be changed to show the trees and all of the
135 conditions suggested by the staff including the necessary state DOT and DES permits that limits of
136 wetland and watershed district be noted on the plans; the waiver be noted on the plan for the
137 parking easement. The deed should have a restriction in case of change of occupancy. Marilyn
138 Peterman asked if the planning office notifies the applicant that they must come before the Planning
139 Board if there is a change of occupancy. Steve Keach recommended putting it on the plan as a
140 subsequent condition. All were in favor.

141
142 **Case #5071-060614, Terry & Kelly Connor, Merrimack Road, PIN #003-027-000 - Subdivision**
143 *application to adjust the common boundaries between three adjoining lots in the Residential Rural*
144 *Zone.*

145 Ken Clinton, Meridian Land Design, representing the applicant, explained the property was before the
146 Board several times. Most recently for a housing development. Sally Wilkins indicated this property is
147 at the corner of Route 122 and was purchased from DOT, it is directly adjacent to Mr. Connor's
148 property (Merrimack Road & Route 122) and it continues the former Smith Lane. Ken continued that
149 this is a boundary plan. The proposed use of the lots is post lot line adjustment. There are wetland
150 restrictions as shown on Sheet 3. Steve Keach noted the tax lien has been resolved; also noted by Mr.
151 Keach: this should be simple to address; the test pit data is done, the conservation lines are shown on
152 the plan; water & sewage is addressed. Ken indicated the two plans show revisions needed based on
153 Steve's comments. There are two types of easements shown on the plan. The house access is through
154 the former Smith Lane. They would like to get an easement to cross through the next lot. Several
155 other cross easements might be required. If the parcel is conveyed in this process, the potential
156 purchaser must be notified that an easement may cross that parcel. The process is going but the
157 application will be done Monday. Steve Keach said the line adjustment plan, if it is approved, and the
158 developer does not come through, that would become a titled encumbrance. Ken Clinton indicated
159 there could be a clause that it is subject to an easement for a certain period of time. Steve Keach
160 thinks there needs to be something additional on the plan. Any easements drawn up would be
161 reviewed by town counsel. Steve Keach feels it will come out in the wash. Ken Clinton indicated we
162 are about to file on Monday, if we were to agree to annotate these easements, it will be done. Ken
163 indicated three lot line changes are required. That was the comment he felt needed to be discussed
164 and the others are conditional. Steve said there is a statement from the Tax Collector that all
165 outstanding debt is satisfied as of June 26.

166
167 Mike Dell Orfano asked about test pits and if they are complete. Ken Clinton said the most restrictive
168 layer was used, we complied to the level that was appropriate. Steve agreed. Cliff Harris is okay with
169 this, Marilyn Peterman is okay with it; Mike Dell Orfano asked about the house on lot 3-28-1 across
170 from 3-29, and what would be written into the deed? Richard Hart said he is okay with the plan. Sally
171 Wilkins asked about the viability on the 3-28-1 building envelope, this is a small field that occasionally
172 gets mowed, that is on a scenic road and has a setback on Route 122 which was considered permissible
173 by the previous Planning director Sarah Marchant. Ken Clinton responded that they have the
174 Conservation Commission plaques for the buffer line. Sally Wilkins comments it is a tough lot. Cliff
175 Harris said there are wetlands and what is the cause of the wetlands? It could grow over time. Ken

176 Clinton said the wetland flows from the north. Sally Wilkins would like to see the wetlands buffer
177 delineated on the plan. Ken Clinton said the town will have the opportunity to review and approve the
178 septic plan once it is at that point. There were no abutters or interested parties. Arnie Rosenblatt
179 asked for a motion.

180 **Mike Dell Orfano moved to approve the subdivision plan based on the staff recommendations and**
181 **draft easements will be submitted to the Planning Director subject to Town Counsel and DES**
182 **subdivision approval and the plaques will be placed along the wetland buffers. Cliff Harris seconded.**
183 **All were in favor.**

184
185 **Case #5072-060614, Alicia Fink Trust, 61 Christian Hill Road, PIN #005-128-000 – Subdivision**
186 *application to create five residential lots in the Residential Rural Zone.*

187 Richard Hart stepped down from the Board for this application because he is an abutter.
188 Ken Clinton, Meridian Land Design, representing the applicant indicated this is a follow up to the
189 preliminary discussion held in May 2014. The intent is to conserve the balance of the land. It is the
190 applicant's desire to convert land into conservation for tax purposes; to preserve the land and to get a
191 tax benefit. To make the lots valued as high as possible, we must go through this meeting. The land is
192 on the most level section. The Finks have lived here since the 1980s. Most of the property is horse
193 paddock, the rest is hay fields, hayed two times per year and there are wooded sections. Ken Clinton
194 indicated there are two waivers requested. Ken Clinton and Bruce Berry looked at the sight distance
195 on the Class B driveway which has 400', to obtain it away from the historic location. This is supported
196 by Bruce Berry. The second waiver is for the class A and B driveway that they have 500' between
197 them. For this it is not feasible, the point is to create a common driveway. By using a common
198 driveway it would be appropriate to do that. Steve Keach supports the request because the project
199 only contemplates the driveway, the ordinance talks about reduced frontage, not curb cuts. Ken
200 Clinton said the staff recommendations and comments received have been addressed or additional
201 comments were sought. Ken Clinton said due to the nature of what is to be attempted, we can show
202 that all lots can be accessed without having to go through the design while the intent is to not develop
203 the three lots.

204
205 If the owner decides he does not want to go through with the development, it is a step required by the
206 potential buyer. We do not have formal closure from the tax collector.

207
208 Arnie Rosenblatt said the staff recommendation is that because the intent of the applicant is to use the
209 approval to then get the tax advantage and conserve the land, the Board should do a quasi-application
210 which would have the goal of scrutinizing down the road. Ken Clinton said the requirements tie to the
211 issuance of the building permits for the lots. Lot 128-6 is planned to be retained by the applicant, lots
212 3, 4 and 5 are planned to be developed. Sally Wilkins indicated the common driveway on the plan does
213 not seem appropriate. The road is only triggered when lots 3, 4 and 5 are developed, but if they are
214 common, that will be subject to the requirements.

215
216 Mike Dell Orfano indicated he is trying to maximize the value of these lots, the proposed language
217 makes sense but it would raise a flag for me. This was marketable at the time of appraisal. The
218 language would not be satisfactory if things change. Ken said the building permit is the trigger. Allen
219 Merriman feels the common drive makes perfect sense and agrees with the conditions. Arnie

Rosenblatt wants to be supportive, but what concerns him is that it is being done on a will and a prayer. Sally Wilkins if he changed his mind, it is a legitimate subdivision except for driveway approval. Sally Wilkins wonders if the note should be looked at by Town Counsel. Marilyn Peterman asked how does this get enforced and if the plan is approved, it would be at the Registry of Deeds. They do not have access. Steve Keach agreed, his concern is if two of the three lots went to conservation and the one furthest in did not. The driveway takes the area of two lots to accommodate the occupants of the driveway. Steve likes the concept of Ken's draft note but he would change it to :

"The common driveway plan and profile on sheet three of three depicts suitable access to the building areas of the reduced frontage lots. Prior to the issuance of building permits on one or more of these lots, a complete common driveway design shall be approved by the Planning Board, prior to conveyance to the second party for other than conservation purposes."

Arnie Rosenblatt asked Steve about his drainage comments. Steve explained the drainage would be done down the road. Arnie Rosenblatt asked is it a gamble. This is really nice land. Preserving space like that is really good. Any way we can come up with to preserve it is good. There were no abutters or interested parties.

Ken Clinton is strongly in favor of the way that the road was phased, that it is triggered by the building permit. Allen Merriman thinks it should be that way because it gives the town a trigger. Sally Wilkins asked are we creating un-buildable lots? Do we put a note on page three? Ken said it would be on sheet 1. Mike Dell Orfano said the proposed notes are very different, Steve's are more restrictive. Mike Dell Orfano is concerned for the value issue. Steve suggested a compromise in the language to add "prior to conveyance of the lot _xx_ for building purposes . . ."

Sally Wilkins said there is no enforcement. Richard Hart is an abutter, if these were approved and it was never created and was sold to someone else, would they still be able to carry out the same subdivision? Steve Keach said in this case the only improvements would be the pins. It is not like a road has to be built. Sally Wilkins said they are lots of record once they are recorded.

Sally Wilkins moved to approve the two waivers. Marilyn Peterman seconded. All were in favor. Mike Dell Orfano moved to accept the plan for review. Sally Wilkins seconded. All were in favor. Mike Dell Orfano moved to approve the subdivision subject to the language proposed. Marilyn Peterman seconded. All were in favor.

ADD STEVE'S LANGUAGE HERE

Steve Keach stated if you got along the perimeter, most of the bounds are there now. Ken Clinton said the perimeter all along the outer bounds are there. If it became residential lots, the rest of the bounds would need to be set.

OTHER BUSINESS:

Approval of minutes was deferred to the next meeting.

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Cliff Harris moved to adjourn at 9:45 p.m. Marilyn Peterman seconded. All were in favor.

Respectfully submitted,

Darlene J. Bouffard
Recording Secretary

DRAFT