

PLANNING BOARD

FINAL - Minutes of March 5, 2014

ATTENDEES: Arnold Rosenblatt – Chairman, Sally Wilkins – Vice Chairman, Michael Dell Orfano, Cliff Harris, Richard Hart – Conservation Commission, John D’Angelo – Ex Officio, Marilyn Peterman - Alternate, Sarah Marchant – Planning Director
Absent: Gordon Leedy, Eric Hahn – Alternate, Allen Merriman - Alternate

Arnie asked Marilyn if she would vote for Gordon.

NEW BUSINESS:

Case #4688 - 121213 – Wal-Mart Wastewater Treatment Plant – 85 Route 101A, PIN #002-166-001:
Amend existing Non-Residential Site Plan to allow construction of a wastewater pre-treatment plant and associated structures.

Tony Basso of Keach Nordstrom stated he was representing Wal-Mart and Apex. They are planning to build a 3400 square foot building to house a new wastewater treatment plant. The site is currently served by an on-site septic system with two (2) areas for leaching. There is a pump station located near the front of the store as well as one in the back of the store. The treatment plant will provide treatment for wastewater before it goes into the leach fields at the rate it currently flows. This process is taking water treatment a step further than is required by the state and is part of Wal-Mart’s environmental responsibility program. The building will be metal and there will be a 10,000 gallon underground tank. There is also a pump station to pump the water to the existing leach fields. The building and fence are mainly the things that will be visible, along with the driveway that leads up to the building. This building will be located to the rear of the existing store, near the loading docks. There will be no clearing of trees for this project. The fire department has suggested an access road be installed all around the proposed building. This building doesn’t house any employees and will be visited by employees a few times a week to check on the operation of the plant, thus there is no need for the extra pavement for access as this building will not house any people.

Arnie noted the applicant had requested several waivers.

Cliff made the motion to defer the waivers.

Mike seconded the motion; all were in favor with none opposed.

Tony stated they did not ask for a waiver from the buffer plan as the regulations do not require one in this case. This type of plant is operating in Mexico and like Mexico, is larger than what is needed. They are planning on hooking up the Mexico plant to treat some of the town wastewater.

Cliff asked what the height of the building would be.

Chris Gervascio of Apex, stated the building is thirty (30) feet high with a slight pitch to the roof.

Cliff noted they could add crushed stone around the building for ease of access for the fire department.

He also asked how the plant would be powered.

Chris replied it would be powered by electricity with propane and a diesel backup generator.

Marilyn applauded Wal-Mart for mitigating this project as it is a sensitive area of town. She wondered, since the plant can treat more wastewater than it will be treating, if it would be possible for other businesses to hook up to it since the lack of a public sewer system seems to hinder growth in the area. Chris replied the wastewater will be going into the existing leach field and that is designed for the size of the building it serves. In this case, there is no place for any extra treated water to go, so no. This is a tertiary treatment for the water.

Marilyn asked if this type of system could be duplicated by businesses in the area.

46 Tony stated if another business in the area wanted to install the same type of system on their property,
47 they could.

48 Chris noted the building is for weatherproofing to protect the equipment and the height is to allow a
49 crane in for equipment cleaning.

50 Marilyn felt this was a win-win situation all around.

51 Sally asked if this was a different location or technology from what was proposed in 2008.

52 Chris replied it is a slightly different technology; a new leach field was installed in 2008 and its location
53 was due to the nitrogen setback in the regulations. They will be using the "in place" leach fields on the
54 property.

55 Chris replied it would cost upwards of \$500, 000 to install.

56 Sarah noted the current landscaping meets the current regulations and didn't think any additional
57 waiver would be needed.

58 Sally asked if they have adequate landscaping.

59 Sarah replied they did since there are no streets near the site and they meet the separation
60 requirements between lots.

61 Sally brought up the fire department concern regarding the access road and noted the whole site is less
62 than 150 feet away from existing roads and felt the all around access road wasn't needed.

63 Tony noted since the site is in the Aquifer Conservation and Wellhead Protection District, it would be
64 better to have less pavement than more.

65 Sally asked about containment for fuel and chemicals.

66 Tony replied there would be no chemicals on site.

67 Chris noted fuel would be contained in drums and the building will act as containment.

68 Sally indicated an elevation of the building would be nice.

69 Tony referenced a sheet in the plan that showed the elevation of the building; it will be a basic tan
70 metal building that will have windows to let light in. The building will be fairly screened from view from
71 101A as there is a lot of vegetation in the area.

72 Chris stated the building would be tan with a brown roof.

73 Mike asked about the life of the equipment.

74 Chris indicated it could last about twenty (20) years with regular maintenance. If anything comes into
75 disrepair, they will have to replace it.

76 Mike asked if the building would have to be changed if the equipment size changes.

77 Chris replied the footprint of the plant is 25 feet by 50 feet so there is plenty of room if technology
78 changes.

79 Mike thanked the applicant for protecting the water resource in the area.

80 John asked about the capacity of Wal-Mart's septic system.

81 Chris replied the plant can process 25,000 gallons per day; Wal-Mart produces 7500 gallons per day.

82 Rich asked about the problem of drugs found in the water system and asked if this treatment process
83 would remove them and if there was a chance of drugs getting into the wastewater.

84 Chris replied drugs are very tightly controlled, containerized and moved off-site. The final filtration
85 system step in this case is to remove particles; reverse osmosis is required to remove traces of drugs.

86 Sally pointed out they were talking about drugs in wastewater.

87 Arnie asked if any abutters or concerned citizens had any questions; there were none.

88 **Sally made the motion to approve the waiver requests.**

89 **Marilyn seconded the motion; all were in favor with none opposed.**

90 **Marilyn made the motion to approve the application as presented with the following conditions: 1.**
91 ***Add a note to sheet 1 stating all outdoor storage of fuels for emergency power generation shall be***

installed to meet Secondary Containment standards as stipulated in the Aquifer Conservation and Wellhead Protection District. 2. Remove from Sheet 1, Note 9, requiring a Compliance Hearing. Sally seconded the motion; all were in favor with none opposed.

Case #4793-020314 – Edward J. Rusher – 89 Route 101A, PIN #002-062-000: Sign Master Plan for multi-tenant property in the Commercial Zone.

Edward Rusher, owner and applicant stated he also has a business in the building; his chiropractic office has been established for approximately six (6) years. He is requesting a Sign Master Plan for a wall sign for his tenants; there are currently eight (8) tenants in the building with a potential for eleven (11). There is not enough room for the tenants on the monument sign. He would also like to augment the monument sign to increase visibility with a 3-D representation on the sign. He then passed out color copies of the proposed signage.

Rich and John had no comments.

Mike asked about the color of the signage, stating the color copies show the signage to be purple.

Edward replied it should be burgundy, to be uniform with the existing signage.

Mike asked if the wall sign would be backlit.

Edward replied he was open to either backlighting it or exterior lighting.

Sally had no comment, other than noting he was unique in requesting a Sign Master Plan without a sign with a light box.

Marilyn asked the applicant if he was okay without the light box.

Edward replied it was fine.

Cliff stated he was good with the application.

Mike asked if the wall signage was the optimal location as it was more suitable for pedestrian viewing.

Edward replied he was and had spent a good deal of time trying to find a good location for the sign; it will be visible to people pulling into the parking area.

Sarah replied the idea is to get customers to the building with the monument sign and once on the property, the wall sign is visible.

Mike asked if the monument sign was lit.

Edward replied it was lit with flood lights.

Sally noted the fire department wanted a lobby sign with unit numbers on it.

Sarah replied that is a generic response from them and is not part of this application; they do have a lobby sign indicating the location of the tenants.

Arnie asked if any abutters or concerned citizens had any comments or questions; there were none.

Cliff made the motion to approve the application as presented with the following precedent condition: 1. The document and/or drawings detailing the final approved sign master plan specifications be submitted; and the subsequent condition: 1. Apply for and obtain a building permit for all signs.

Marilyn seconded the motion; all were in favor with none opposed.

Case #4809-021214 – William and Kyle Langille – 60 Lyndeborough Road, PIN #005-069-003: Discussion regarding potential subdivision of a 16 acre parcel into two lots.

Sally stepped down from the board as she is an abutter in this case.

William and Kyle Langille stated they bought the property in 1972 and subdivided it in 1976. Much of the property is surrounded by conservation property. They are looking to downsize and felt the property, as it is, is too large to sell and people are hesitant to buy it. The property has been on the

137 market for three (3) years. They are here now to ask for a waiver to subdivide the larger lot into two
138 (2) lots and all three (3) lots would be accessed by a shared driveway.
139 Cliff asked about the driveway.
140 William replied it was currently a common driveway and would serve the third lot.
141 Cliff asked if they would have an easement for the driveway.
142 William replied they would and would not be making an additional curb cut onto Lyndeborough Road.
143 Cliff stated the fire department would like to make sure there is room for a truck to travel down and
144 turn around on the driveway.
145 William replied the driveway was very heavy duty.
146 Cliff asked if this would remain in current use, once subdivided.
147 Sarah replied as soon as a shovel hits the ground, the property comes out of current use.
148 Kyle stated they bought the large parcel and kept big lots and it is not their intent to make a bunch of
149 small lots.
150 Marilyn had no comment.
151 Mike asked about the location of the existing house.
152 William replied it was on the proposed 8.5 acre parcel.
153 Mike suggested the applicants create several smaller lots and gift the remainder to the Conservation
154 Commission to gain a tax benefit and eliminate the excess taxation that goes with excess land. From an
155 economic point of view, they should maximize the land value while doing something good for the
156 town.
157 William replied their goal is to give one (1) option to the realtor and their intent is to sell the land
158 either as a single lot that is subdividable or as two (2) lots.
159 Kyle stated they don't necessarily want to sell lot the house is on but they have no intentions of
160 subdividing any further than what is proposed.
161 Sarah stated they have three (3) options with regard to the zoning ordinance: 1. Get waivers from
162 frontage and acreage requirements, 2. Discuss with the neighbors to see if they can get an additional
163 200 feet of frontage and do a lot line adjustment, 3. Obtain a variance. The applicants are looking to
164 find the most reasonable way to do this.
165 William stated they have not been entirely successful with obtaining additional frontage.
166 Arnie stated they are essentially looking at the first option.
167 John asked about the back lot.
168 William replied they are looking to create a fifty (50) foot wide access road to the back lot and the
169 driveway to it would be shared by the front two (2) lots.
170 John stated he lived on a shared driveway and it is separately deeded. He asked who pays the cost of
171 maintenance.
172 William replied he pays it and it is written in the deed.
173 John suggested he should add a shared driveway maintenance deed.
174 Sarah indicated all three (3) parties would be involved in the driveway deeds.
175 Rich had no comment.
176 Arnie stated the idea here is to give some sense of what the board thinks but that is not binding.
177 William replied their next step, if the board is in favor of this, is to have the property surveyed but they
178 don't want to spend the money if the board doesn't think this will get approved.
179 Sally noted they had already done a subdivision and thought they couldn't subdivide again. She was
180 concerned with the possibility that it would set a precedent for the possibility of subdividing the lots
181 further and opening the doors for other similar properties to do the same thing.
182 Marilyn felt that wasn't an issue.

183 Cliff wondered why that is an issue if it may not happen.

184 Sally replied there are already two (2) lots with reduced frontage but if they come back for several two

185 (2) acre lots, then there is a potential for eight (8) lots instead of just two (2), if they install a road.

186 Mike indicated if they make a two (2) acre lot and gift the rest, which will alleviate the concern that it

187 will be subdivided further.

188 Sally stated the house lot is taxed as a house lot and she was concerned the current single house lot

189 would be subdivided.

190 William replied the large acre lot was subdivided once and they are asking for a waiver to do it again.

191 They are looking to divide the 18 acre lot into two (2) nine (9) acre lots. He asked if they thought they

192 would look to divide an eight (8) acre piece into four (4) two (2) acres lots.

193 Sally replied they had already subdivided. The ordinance was modified in 1986 but the applicable

194 section was in existence prior to that.

195 Marilyn stated they are looking to subdivide the back lot into two (2) lots and all they are asking for is

196 to subdivide this off of a shared driveway. It is taking this too far to see the future and a possible

197 subdivision into eight (8) lots.

198 Sally reiterated this is the second bite of the apple; they already have a subdivided lot with reduced

199 frontage.

200 Sarah indicated the ordinance does say you have to have ten (10) acres and they would need a waiver

201 if they wanted to subdivide again. There is a minimum of 35 feet of frontage per lot and they have 51

202 feet; one lot meets the ordinance, one requires a waiver. They need a double waiver, a variance or

203 added frontage to accomplish what they are envisioning,

204 Arnie reiterated there is no commitment by the board but the takeaway is there is not a lot of

205 opposition, except by Sally as an abutter.

206 Mike noted that Sally identifies a situation that could set a precedent.

207 Marilyn replied they have already done it.

208 Kyle started they are about to put the property on the market again and they need to know their

209 options; they don't want to spend the extra money if it's not necessary.

210 Sarah stated, as zoning administrator, they can do this but they need to get waivers; it can be done.

211 William replied if they spend the \$20,000 to get the subdivision done and don't get approval for the

212 waivers, it would be kind of foolish.

213 Sarah indicated if they wanted to go before the ZBA, they would have to get the survey done; in

214 essence, they need to have a new survey done either way.

215 Sally asked what the basis for a variance would be.

216 Sarah replied they would have to go for hardship; it depends on the argument.

217 Arnie stated he understood the dilemma and the applicants have heard the discussion. How is the

218 board leaning?

219 Cliff asked if they could have one (1) lot of ten (10) acres for the back lot.

220 Sarah replied they can have the back lot of ten (10) acres with 35 feet of frontage, per the ordinance.

221 With the two (2) large lots, there is more than enough frontage.

222 William replied the two (2) front lots are oversized, they didn't want small lots. After three (3) years of

223 no success in selling their land, they've had two (2) separate families come to say they would like to

224 add a second home for in-laws on one the lot and since they weren't sure they could do it, backed out.

225 Cliff stated the concern of the board is to not set a precedent and open this up to future issues.

226 Sarah noted this is not a precedent setting board; every situation is unique.

227 Mike asked what the basis for a waiver would be.

228 Sarah replied she didn't know; they are here for a discussion, not a waiver.

229 Marilyn stated she would not have an objection as they are creating two (2) fairly large lots for this
230 zone. The gain in additional frontage may be more of an issue for the applicants.
231 Mike agreed with Marilyn and stated if the applicants came up with a basis for a waiver, it would help
232 influence the board in their direction.
233 John stated he was sympathetic to their situation but asking for one (1) waiver would give them a
234 better shot than asking for two (2) waivers.
235 William replied a neighbor was agreeable to a lot line adjustment to give them more frontage.
236 John noted he was uninterested in future subdivisions and the board should worry about that when
237 that time comes, not now.
238 Sally noted if that happened, they would have to put in a road.
239 John replied that was a problem for another day. He was sympathetic but that was not a guarantee.
240 Rich stated he was sympathetic as well; if there was a way to stop additional subdivisions, he would be
241 in favor.
242 Arnie noted again this was only a discussion and that at least two (2) members were absent who may
243 have different opinions.
244 Mike suggested they speak with a land use attorney to see if they can write in something about not
245 allowing any further subdivisions.

246
247 **REGIONAL IMPACT:**

248 Sarah stated there was an application for a property in Milford with driveway access in Amherst, off of
249 Ponemah Hill Road. Laurie Schiffer operates an outdoor riding rink with all operations outside. She is
250 looking to build a 15,000 square foot indoor rink and ten (10) stalls and move the operation indoors.
251 She asked if the board had any comments on this plan.
252 Sally noted the fire department may have comments.
253 Rich thought there might be a question regarding the runoff from manure.
254 Sarah replied she had told the attorney representing the applicant that they need to make sure there
255 are no issues with stormwater; they do dispose of the manure off-site.
256 Marilyn reiterated they are moving the outdoor operation indoors.
257 **Sally made the motion there is no regional impact with this application.**
258 **Mike seconded the motion; all were in favor with none opposed.**

259
260 **OTHER BUSINESS:**

261 **Joint Planning Board meeting**

262 Mike asked about the joint meeting.
263 Sarah stated representatives from Brookline, Mont Vernon, Amherst and Milford were in attendance
264 and the discussion was productive. A build-out study to 2040 was presented and they are now looking
265 for feedback.

266
267 **OLD BUSINESS:**

268 There was no old business.

269
270 **MINUTES:**

271 February 19, 2014
272 Sally made the following corrections:
273 Line 104: add "look" after "She will"
274 Line 107: add "'s plan" after "Milford"

275 Line 118: move "with Milford" to after "Camille noted"
276 Line 126: spell out EDAC
277 Line 132: add "before" after "years"
278 Line 151: "streetscaping" and "viewsheds" are words
279 Line 176: change "is" to "proved to be"
280 Line 183: add "In addition, she commented that the Amherst Land Trust (ALT) is not a town board."
281 Line 188: add "defined as" before "\$230,000"
282 Line 191: add "within Amherst" after "distribution"
283 Line 192: change "to" to "do"
284 Cliff made the motion to accept the minutes as amended.
285 Mike seconded the motion; all were in favor with none opposed and John abstaining.
286
287 Arnie asked if there was a motion to adjourn.
288 Cliff made the motion with John seconding; all were in favor.
289 Meeting was adjourned at 9:00 pm.
290
291 Minutes approved as amended on April 2, 2014.