

**Amherst Planning Board**  
**Wednesday February 18, 2015**

Attendees: A. Rosenblatt-Chairman, J. D'Angelo-Ex Officio, M. Peterman, M. Dell Orfano, R. Hart-Conservation Commission, E. Hahn, S. Wilkins, C. Harris and C. Mailloux- Community Development Director  
A. Rosenblatt called the meeting to order at 7:33pm and stated that M. Peterman would vote in G. Leedy's absence.

**OLD BUSINESS**

**1. Case # PZ5694-120814 – The Stabile Companies (Applicant), Stacy J. Clark (Owner), 131 Hollis Road, PIN #s 001-013-000, 001-013-004 & 001-013-005 – Request for Planning Board approval of a site plan and condominium subdivision for a 16-unit workforce housing development.**

Chad Branon of Fieldstone Land Consultants presented for the applicant.  
At the January 7<sup>th</sup> meeting they presented the application which the board accepted and received a waiver from the fiscal impact study. The Board then voted to send the project out for peer review. Since then, the applicant has made changes to the plans including revisions to the notes regarding providing details to the off-site water system, depicting the location of erosion sedimentation control devices on the plan, construction details and providing a stamped landscape plan.

Attorney Hollis has been working with Town Counsel on the legal documents. He believes Town Counsel has approved the documents. The applicant believes they have addressed all outstanding issues to date. Keach –Nordstrom's recent review letter of February 10<sup>th</sup> reports that Mr. Keach agrees with the traffic and environmental study the applicant submitted with the only outstanding issues being the execution of a lot merger, the state permitting and the legal documents through Town Counsel.  
Mr. Branon listed the submissions made regarding state permitting. All of the permits are currently pending and are in process.

M. Dell Orfano asked again about the visibility of the homes from Rt.122. C. Branon stated you will be able to see the presence of a home, but not the whole home due to the wooded areas. M. Dell Orfano is concerned that the back of the homes will be seen from Rt. 122 and people don't put their best foot forward on the backs of their homes. Mr. Branon believes there will be adequate landscape to shield.  
S. Wilkins asked C. Mailloux if Town Counsel's concerns in the February 10<sup>th</sup> letter have been addressed. Yes, they've either been addressed or included in staff conditions.

S. Wilkins asked if the concern Town Counsel has raised regarding staffing/ time implications has been told to the applicant. No, that came through today.

A. Rosenblatt summarized for the applicant Attorney Drescher's letter regarding enforcement of the documentation. The mechanisms in place to ensure owners/sellers comply with affordability will likely be difficult to enforce. They are self-enforcing, but there is no town staffing to handle it. He doesn't suggest that there is a practical alternative. NH towns will have to get used to this situation.

M. Peterman asked if the affordability component is in the deed, won't that ... M. Dell Orfano explained that may limit what the banks do for financing. M. Peterman asked if the affordability component is in the condo docs.

Mr. Branon answered that it is correct. He also stated they researched alternatives on how this can be enforced and Attorneys Hollis and Drescher met to come up with language that would allow an enforcement element and that is called out in the Declaration of Restrictive Covenants. They've put the language to the best of their ability in the legal documents that will allow enforcement, but if the town chooses to enforce it, it will take efforts on the local level.

M. Peterman in the condo docs, is there language there for the condo association to address/enforce? Dean Jackson from the audience spoke in representation of John Stabile. He hasn't seen the condo docs. Bill and Morgan have talked and seem to have come up with the best resolution.

A. Rosenblatt said Bill addressed the issue of covenants in the condo docs. He says it's nice to have, but don't kid yourselves. (Bill used other words.)

S. Wilkins is it possible to require in the language of the approval and deed that the buyer signs a sworn affidavit that says they qualify under the terms of the ordinance? She knows there's still no enforcement.

C. Mailloux talked with Bill and it's enforceable by the town if they want to and are able to. It's as good as it's going to get with state law and what the town is allowed to do with the staff they have. The important thing in his consideration is that there is language in there that says the town legal fees will be paid. If the town needs to enforce it, they can recoup those fees. Without a housing authority, this is the best legally enforceable way.

M. Dell Orfano asked if Bill mentioned the Exeter model where the affordability is granted like an easement to NH housing who then has a right and obligation to make sure it's enforced. Colleen stated that did not come up as an option in this case. M. Dell Orfano continued that there are two well-established models of enforcement – Exeter model and NH housing. Those are acceptable ways to take the burden of proof away from the town and put it to an organization that does just that. We're not protecting these houses from future buyers and sellers because we don't have the resources to chase these people around. The attorneys did not look at existing models out there to address these issues.

Public:

Ken Bury Patricia Ln

His concerns are for Pennichuck to use the existing water line out of Patricia Ln. for the development. He had discussions with Pennichuck and they think it should be adequate based on the numbers they've run, but the Patricia Ln. residents aren't confident in this plan. If there is a problem with the water pressure after this is done, who would they go to? This board? Pennichuck?

He is also concerned with where Pennichuck will tap into the line. If it's in the street of Patricia Ln, the patching is a concern. It is a private rd. that the residents maintain. Who will do the work? Pennichuck?

Alice Bury Patricia Ln

Since this project came up a year ago, the pipeline has now become an issue. All of Patricia Ln is in the incineration zone. On the map, this proposed project is also within the incineration zone. It's bad enough that existing homes are in the zone, but why put new homes there? It looks like two of the homes are right where the pipe is going and may need to be knocked down. This property will need an easement and/or eminent domain will take over to access the property. The properties will need to be sold with the disclosure of the pipeline as she's been told she will have to do if she sells her home.

A. Rosenblatt asked Mr. Branon to comment on the issues raised.

C. Branon stated they have been working closely with Pennichuck. They have received confirmation from Pennichuck that they have rerun their calculations and they are confident they can supply this project with water and have no impact to existing homes. He showed the board a plan that depicts where the pipes will go. The service connection requires connecting to the 4" pipe at the end of Patricia Ln. An 8" water pipe will connect to it and run across the street and to the units. Pennichuck had originally determined there may be a reduction of pressure so they required the 4" pipe running from Patricia Ln to Tech Cir to be replaced with an 8" pipe and that will negate any water pressure issues. The work will be done by Pennichuck and within the Pennichuck easement. They are not anticipating any work being done within the paved area of Patricia Ln. It will be in the grass based on the marks Pennichuck made.

This project is currently within the zone for the pipeline. The pipeline location plans have changed a number of times. It may be put in alignment with the adjacent utilities. There is space there. If it ends up here, there should be enough space to accommodate it.

S. Wilkins stated this board has no authority/ jurisdiction to suspend the developing of land on the basis of a proposed utility easement.

Alice Bury Patricia Ln

Being in this zone affects the property value and market value. There's also a problem with home insurance within the incineration zone. This is affordable housing, and the insurance may be very expensive, there might be eminent domain, and resale value may be at risk.

C. Harris suggested to the public to do a water pressure test now and document it. Then test it again after and if there's an issue, have Pennichuck fix it.

S. Wilkins stated it does appear that NH housing in their model covenants has language where it says *the town* or *the agent* of the town. What is involved in naming them the agent of the town? I assume it's a contracted service and that they are paid. She would like to have the applicant research this and find out how is that paid for, how much does it cost, and report back to the board.

C. Harris agrees. In Bill's letter, he states to cover ourselves, the covenants need to be written and recorded prior to the mortgage.

A. Rosenblatt is not in favor of adding another layer of bureaucracy with people we have no control over. There should be certain requirements on the way the housing is built and then leave it.

J. D'Angelo agrees with A. Rosenblatt. We've spent more time on this than it's worth.

M. Dell Orfano stated you have allowed excessive density on this parcel for a specific purpose and with no mechanism to effect that purpose. That's my issue. You either take the density away, or you effect the purpose.

M. Peterman agrees with A. Rosenblatt, but would like have some mechanism for the housing to stay affordable. She doesn't want to depend on the state to do anything that they would charge us for.

M. Dell Orfano doesn't think anyone will charge the town. The options are: call NH housing and find options for covenant enforcement. The burden should be on the applicant with how to comply with managing the ordinance. We don't need to table it and waste time; we can make it a condition of final approval.

M. Peterman said if there is a fee, the board can't make the taxpayers pay for this enforcement.

E. Hahn stated it is in the regulations now that the board may adopt rules, but if they are not in place now it's not fair to implement them at the time an application is before us. The current rule states for the developer to restrict the sale.

Mr. Branon stated that Attorney Drescher stated it's technically enforceable.

**M. Peterman moved to approve the application for a 16-unit affordable housing development as presented with plans dated February 9<sup>th</sup>, 2015 subject to the staff conditions listed:**

1. The lot merger be completed and recorded at the Hillsborough County Registry of Deeds.
2. The proposed units be renumbered in compliance with Town address standards.
3. Town Counsel review and approve the draft affordability covenants and condominium documents.
4. The Community Development Director shall determine that the Applicant has addressed all remaining technical review comments to the Town's satisfaction.
5. Approval numbers for all applicable state permits with expiration dates be added to the notes section of the plan set.
6. A note in compliance with Section 5.2 of the Non-Residential Site Plan Regulations shall be added to the Landscape Plan sheet LS-1.
7. All recording fees associated with the easements be submitted to the Office of Community Development prior to recording.
8. A note that a Compliance Hearing is required prior to receiving a Certificate of Occupancy, unless waived by Planning Board, be added to the plan set.
9. Prior to commencement of work, the Applicant shall certify that the placards identifying the boundaries of the WWCD on the subject premises, installed as a condition of approval of the subdivision, are still in place in accordance with Article IV – Section 4.11, F.6 of the Zoning Ordinance.
10. Prior to commencement of work, a performance guarantee in an amount approved by the Town for onsite maintenance of erosion and sedimentation controls shall be placed on file.
11. Prior to a building permit, the applicant shall obtain NHDES Construction Approval for the planned on-site subsurface sewage disposal (septic) systems.

**J. D'Angelo seconded.**

Discussion

M. Dell Orfano doesn't believe the restrictive covenants satisfy the intent of the ordinance.

**Vote in favor: J. D'Angelo, M. Peterman, R. Hart and C. Harris**

**Vote opposed: M. Dell Orfano and S. Wilkins**

**The motion carried with 4 in favor and 2 opposed.**

NEW BUSINESS

**2. Case # PZ5787-010515 – First Colebrook Bank (Owner), 69 Route 101A, PIN # 002-077-002– Request for Planning Board approval of a sign master plan.**

Paul Tripp of Classic Signs represented First Colebrook Bank and presented the application. To highlight what they're doing: Replacing the signage that's there with the exception of the main pylon sign. They are not changing the size or structure of that sign, just converting it from an externally illuminated sign to an internally illuminated sign. Prefer to keep the bank name a secret for a few more days, but the rest of the pictures shown are accurate in terms of design, font and color scheme. The structure and location stays the same for the main ground sign. It will have an opaque face background and they'll be removing the external light fixtures and converting that electricity to the internally illuminated sign.

185 They are also proposing two additional wall signs. Location of one is determined. If the other tenant  
186 wants one, the location will be determined.  
187 There are wall signs at the front and back door entrances that will be replaced with the same square  
188 footage as what's there.  
189 He originally proposed a taller sign to the bank but the bank chose to keep the sign that was there.  
190 Considering the snow banks that are there now, the sign is not visible. He's asking for permission to do a  
191 taller sign if the bank decides to do so. The top of the current sign is 12' and the maximum allowable  
192 height is 15' so that's the proposal- a sign up to 15'.  
193 S. Wilkins asked if the taller sign would have the same square footage. Meaning, if it's taller, it would  
194 start higher up from the bottom. It was determined that the taller sign may be 70 sq. ft. instead of the  
195 currently proposed 60 sq. ft. The maximum allowable is 80 sq. ft.  
196 R. Hart asked if the street number will become internally lit or not. It is not currently lit. C. Harris asked  
197 to make sure the address is visible at all times. S. Wilkins suggested an LED light to be recessed into the  
198 roofline to light the address. Mr. Tripp said that would be possible.  
199 M. Dell Orfano asked if the sign is scheduled to be lit with LEDs. Mr. Tripp stated the internal  
200 illumination is currently priced for fluorescent.  
201 Discussion ensued regarding LED vs. fluorescent in cost and return on investment.  
202 M. Dell Orfano asked about the color combinations of the wall signs. Are there restrictions on the  
203 variations of color combinations? The backgrounds of the signs are uniform and then the logos have the  
204 company colors. M. Dell Orfano asked if Mr. Tripp believes LED or fluorescent lights are better for this  
205 type of sign. Mr. Tripp stated that LED lights work better in the cold. They are more consistent and come  
206 on at maximum brightness right away when fluorescents take time to 'warm up' to full brightness.  
207 R. Hart said don't LED's last much longer than fluorescents? Yes, they last about 22 years. Part of the  
208 benefit is that you don't have to replace them for a long time. Also, they run on 12volts, so the warranty  
209 is 5 years rather than 1 year.

210

211 **C. Harris moved to approve the application (including the option of up to 15') with the following staff**  
212 **conditions:**

- 213 1. The documents/drawings detailing the final approved sign master plan specifications be submitted.  
214 2. Apply for and obtain a building permit for all signs.

215 **and the additional condition that if the sign is raised to a height of 15' it will be required to have**  
216 **shrubbery below. R. Hart seconded. The motion carried with M. Peterman voting in opposition.**

217

218 OTHER BUSINESS

219 **3. Approval of Minutes: January 7, 2015**

220 Line 17-19 clarify which road wasn't being used

221 Line 50 change *border* to *boundary*

222 Line 414 change *aquafer* to *aquifer*

223 Lines 483 and 507 change *Berry* to *Bury*

224

225 **S. Wilkins moved to approve the minutes of January 7<sup>th</sup> as amended. M. Peterman seconded.**  
226 **The motion carried.**

227 C. Mailloux stated there were no March applications involving regional impact.

228 **C. Harris moved to adjourn at 8:50pm. J. D'Angelo seconded. The motion carried.**

229

230 Respectfully submitted,

231 Jessica Marchant