

**MINUTES OF THE MEETING  
PLANNING BOARD  
October 25, 2018  
7:00 PM**

**MEMBERS PRESENT:** Robert Smith, Chairman; Mark Beliveau, Acting Chairman; Lou Ann Griswold; John Lacourse, Selectmen Rep & Wayne Lehman, Alternate

**OTHERS PRESENT:** Keri Roman, Town Counsel- Mitchell Group; Chris Albert, Jones & Beach; Steve Pernaw, Pernaw & Associates; Karyn Forbes, Sheeheen & Gordon; John Silvia; Jeanne Livermore; Pat Jenkins; Sandi Jenkins; John Shea; Elizabeth Salamone; Scott Grumblin; Jill Nooney; Bob Mungher; John Forti; Laura Hartz & Robert Carry, Orr & Reno; Caren Rossi, Planning & Zoning Admin.

**PB1718-16**

**A continued Amended Site Review Application from Jill Nooney & Robert Munger, Bedrock Gardens-45 High Road, Lee NH property is known as Lee Tax Map#24-08-00; 24-08-0100 & 24-09-00. The amended site review application is for the garden tours and associated events. This is a possible final hearing.**

Mark Beliveau, Acting Chairman explained that the applicants have submitted a letter dated Sept 19, 2018, a traffic study and updated plans since the last meeting. He asked Attorney Cary to start addressing the items.

Attorney Robert Cary started off by updating the Board on the changes to the plan. They will be installing a fence along the new parking lot instead of plantings due to the monitoring of the plants growth etc. They will do a fence like the one at the upper parking lot. A fence will be a complete buffer with no monitoring. The fencing along the Grumblin property will be a 4 wire fence, 5 feet tall. Pictures of both fences are in the letter packet. This fence is not a visual buffer, it is a people barrier, and it will run 400 feet. There will not be any additional visual plantings planted they will maintain what they have. If he wants more of a buffer he can plant it. He reiterated the waiver requests as well that are included in the letter. The parking request, which was granted reduced the number of spaces to 98 from 107. The second waiver is for access. He's not exactly sure they need it but for caution they requested it. If approved, does not create any safety issues. As explained in letter.

Chris Albert explained the updates to the plan. Recapping the most recent changes, they have almost 1200 feet of frontage on the three parcels. Keeping the new entrance as close to Rt. 152 as possible, keeping it separate from all the abutting homes.

Caren Rossi reminded Chris that the soils need to be delineated by a soil scientist so he will need to stamp the plan.

It was discussed that all waivers requests be referenced on the plan and they are.

Steve Pernaw explained the traffic study (in file) they were hired to determine what impact an open house event has on Rt. 152. The highest amount of traffic on Rt. 152 is Saturday from 12 to 1pm. In summary the intersection operates below capacity today and with the added traffic it will still operate with little or no delay. They also determined that with the new parking lot there will be less impact on High Rd after the site. The increases will be confined to Rt. 152 and they don't see any change south of the site. There should be little traffic south of the

site. In summary, during the highest peak hour there will be about an additional 1 second delay with the information provided. To determine this information they used the past attendance of the open house. They used the September open house of 477 attendees versus the 357 attendees in August. Bedrock Gardens did a sample of how many people per vehicle and using that number (3.75 person per vehicle) they can convert attendees with trips. He used the higher attendees for the calculations.

John Lacourse asked if he felt going North on Rt. 125, taking a left onto Rt. 152 then take a left onto High Rd will there be any stacking of cars trying to get into the parking lot?

Steve Pernaw replied no, not even close. The north bound flow on High Rd is really small. It is a level of service A.

Keri Roman, Town Counsel stated when you talk about adding 52 trips for the peak hour, this is still less than what happens during the week days. This is overall right?

Steve Pernaw replied yes. What I was referring too was overall demand at the intersection as a whole.

Robert Smith asked if this study takes into account the width of the road etc. and the effect on the roads.

Steve Pernaw replied yes, they do, they input several factors, such things as lane widths, percent of trucks, peak hour etc. As well as they researched the NHDOT plans for when they moved the entrance of High Rd.

Mark Beliveau, Acting Chairman asked if you factored in the existing parking lot remaining?

Steve Pernaw replied yes.

Mark Beliveau, Acting Chairman stated you said you used a vehicle occupancy factor of 3.75 persons per vehicle, where did this number come from?

Steve Pernaw replied that this was a number that was determined by Bedrock Gardens. He asked them to do a survey, poll people. They said that they didn't get 100 % but close.

Robert Munger stated it was done at the September open house, they got 80% of the people.

Robert Cary continued with the hours of operation. They request 4 hours on Sundays to be open and for only 6 months of the year.

Robert Munger read a letter into the record (see file).

Mark Beliveau Acting Chairman opened up the floor for questions on the presentation only.

John Silvia 44 High Rd asked if they counted all the cars at the school and got trucked in on the bus.

Steve Pernaw explained that when they did their data collection we picked a Sat that there was no event so we could get our baseline then we added in the traffic as if there were no shuttle busses and their cars.

Mark Beliveau explained that they used that information with the information gathered by Bedrock Gardens of the 3.75 persons per vehicle.

Jeanne Livermore 44 High Rd 36 cars to 88 cars on High Rd seems like a huge increase in the number of cars, it seems like it will be a huge backup. Has anyone considered this?

Steve Pernaw stated that his report indicates that there will be an increase of less than a second to exit High Rd. The numbers are over the course of an hour. All of the cars are not leaving at once.

Jeanne Livermore asked if the pending ZBA request should be considered as well.

Mark Beliveau, Acting Chairman stated he didn't have the answers to that now.

Caren Rossi explained that they application has been continued to January and they are aware that they need to come back for additional site review if approved.

John Shea, Harvey Mill Rd stated that they captured 80% of the people during the open house. Where is the other 20% of the people that came to the event? What about when a bus comes in and the parking lot is full? He sees a congestion there.

Elizabeth Salome 56 High Rd. Wants to know where the 1% of cars going south out of the parking lot?

Steve Pernaw replied that it comes from the Trip Distribution Analysis. He explained it's a mathematically derived number. 1% of 52 isn't even 1. When we ran this, we used Google Maps. There is also engineering judgement in this.

Jeanne Livermore stated when she sees cars they have typically 1 or 2 people in them. Is this number an industry norm, the 3.75?

Mark Beliveau stated to Mr. Pernaw if you didn't have this number available to you, is there another number you would use, an industry standard?

Steve Pernaw replied, he wished there was. This is a very unique use. There is not data for this type of use. He asked the attorney to have his client do the survey. Also the other 20%, this is statistical sample. 80 % is a very good sample.

Scott Grumbling High Rd asked if there was a calculation factored in for the people who try to leave to the right and see a backup and then decide to go left.

Steve Pernaw replied that the 95 percentile que, 0.3 vehicles. This represents the almost worst case scenario for the expected queue length. This is to not say you won't have 2 cars. 2 cars from the same group. His experience tells him that people will divert.

Jeanne Livermore asked if there is any noise abatement that the fence will provide. When they cut down all the trees the noise from Rt. 125 will rush over the neighborhood.

Mark Beliveau asked what the proposed height of the fence is. Are you proposing any new landscaping buffer for the Rt. 125 side of the fence to help with the noise?

Robert Munger replied 6 to 7 feet. And no.

Caren Rossi explained any fence over 6 feet needs a permit.

Jill Nooney stated that she contacted Robby Woodburn a landscape architect in Newmarket and she stated that a fence would help with the noise.

Mark Beliveau stated the he remembers from a past case in town that fencing is the best for noise.

Question section was concluded and now the public comment section began.

Karyn Forbes spoke in opposition. She represents the neighbor group. She stated she thinks what's missing in this discussion is, this is a case of expansion. They are still advertising on their website expansion. The numbers shown in the traffic study are not accurate. They are shown before the expansion, before they have advertised for any events and done on a year of very limited schedule. They have not been able to plan for any events due to having to go to the BOS monthly for events. She read a narrative into the record. (In file)

Jeanne Livermore spoke with the effects on property values. She explained that back in May they had Lynn Sweet give them an analysis on their property and it showed that the value will be decrease by \$200,000 with the expansion of Bedrock Gardens. She presented this to the ZBA and Attorney Cary was skeptical and angry. They then decided to get another opinion. They reached out to Nada Kaen, her estimate depresses their value by \$200,000 because of Bedrock Gardens. (Both in file) They are looking at a 20% decrease in their property value, if it's true for them it's true for the rest. She asked, is it fair for all of the abutters to have such a

substantial loss so that one resident can enrich themselves? She realizes this Board has been struggling with a balance. She feels that they are effected more than the other Ag tourism places in town because of the closeness of the road and proximately of the abutters. She hopes the Board will consider the financial losses of the neighbors. What about fairness and a balance to the abutters?

John Silvia the last meeting Mark said "fairness and balance" as much as they don't want it period. We are good neighbors and we are trying to find a balance. We definitely don't want Sundays and holidays. What about Saturdays? They should not have both Saturdays nor should we. Let's split them. 5 days a week, split those too. It's not up to the town to take away from the neighbor to make one more successful. We are trying to be fair by sharing the days. Saturdays are the better days for the neighbors to have outside things etc. It's not right to not let the neighbor have any days.

Elizabeth Salamone agrees with what John and Jeanne have said. The weekends are the only time that she as a family can get together. They should be allowed to have some time that won't affect this. The fence proposed will not go with the scenic nature of the road. It doesn't blend in at all. Why should the neighbors take a hit on their property values so one person can benefit, does not seem fair.

Scott Grumbling spoke to clarify the fence along his property and Bedrock Gardens. He and Bob had sat down and did have an agreement to put up a 4 wire fence with the agreement to have a further discussion on an additional buffer as well. As of this meeting it has become clear to him that the buffer is minimal to nothing and if he wants one, he has to install it. The fence they have agreed with is the cheapest and easiest fence to install. The problem he sees is that if he wants a barrier it is up to him to install it. When he intensified the use of his property in 2006 it was his burden and responsibility to minimize the impact to the abutters, not the neighbors. He accomplished this with a 50' undisturbed buffer of trees. In this case, Bedrock Garden is taking an existing use, just like he did, they are intensifying the use and the burden should be on them.

Mark Beliveau, Acting Chairman summarized and asked Scott what he wanted to see for a buffer.

Scott Grumbling stated he wants arborvitae plants spaced every 4 – 6 ft. max so they fill in as they grown. Specifically 300', starting about 100' down from the road.

Patricia Jenkins reiterated what she has said before. Nobody in this group is out to say "Go away Bedrock Gardens, we don't want you" But things creep. If something doesn't happen drastically now, then it will creep. She asked in the interest of the neighbors, that something be seriously done now rather than wait till it creeps up.

Mark Beliveau, Acting Chairman asked the applicant to respond if they would like.

Robert Cary replied, in summary, that he doesn't get mad when things are presented at the meeting that was not shared with him prior, he doesn't get mad when witness change their

story, they are not going to have events that are not allowed. They did the traffic study when they were asked and they did what they could to get the data requested. They do want to raise money, the parking lot has been moved further down away from the neighbors where they won't see it. Getting traffic away from the neighbors. It's going to cost about \$500,000. They don't charge a lot for people to attend. It's a contemplative place, a quiet place. It doesn't generate a crazy crowd or crazy activity. The ZBA application is suspended, it's for wellness classes, photography classes. Learning about herbals teas, sculpture exhibits. These are not crazy activities. If these are approved they will need to come back to this Board. The Sunday and holiday hours are museum hours. It's less than the other Ag tourism places in town. As It should be. It's not as much of a draw as them. These hours are also less than the other days, they are minimal.

Mark Beliveau, Acting Chairman stated that he is going to keep the public hearing open, but the Board is going to discuss the application.

John Lacourse spoke with requesting clarification on the waiver request for the access?

Caren Rossi read the regulation into the record.

#### ARTICLE V, ACCESS AND PARKING

##### A. Access

1. There shall be permitted only one access per landowner per one thousand (1,000) feet of frontage on a public right-of-way.

Mark Beliveau, Acting Chairman summarized that the total of frontage is about 1,700'. The distance between the current parking lot and proposed is more than 1,200'.

John Lacourse stated he wants to ensure that there is no other access point to the parking lot, there is only this one entrance.

Robert Smith commented that they are only proposing one access now.

John Lacourse stated it's his opinion that if its only one access being requested, that they should grant the request. With respect to the vinyl fencing he does think there should be plantings on the road side of the fence.

Mark Beliveau, Acting Chairman stated that you can't change the number of the existing curb cuts, and we can't address the cuts for the house.

The Board discussed that it might be possible that they don't actually need the waiver for the curb cut. They discussed the possibility of closing one of the curb cuts for the existing parking lot. If it is determined that we need it, we can specific in the approval no additional curb cuts. They are going to continue to think and discuss this prior to a vote.

Mark Beliveau stated that he recalls after the parking lot is constructed, there will be no more offsite parking. The parking lot has 98 spaces and if we assume that 4 people per car, and it's full all day. That's 400 people consistently all day. If the number really isn't 4 and it's closer to 2 people in the car, does it impact the traffic?

Steve Pernaw replied yes it does. If they had used a different factor, it would increase the number of vehicles per hour.

Lou Ann Griswold stated if you have 98 spaces the most you'll have is 98 cars.

Keri Roman stated if you look at page 7 of the report. At the peak hour on the Sat open house, they had 25 vehicles entering and 27 exiting. If they start advertising and ramping things up, that number will increase. That is not filling their parking lot to capacity. Has this been factored in?

Caren Rossi explained that this year it wasn't planned like they have in the past for events. They basically went to the BOS monthly for approval to have events.

Steve Pernaw stated that the information that was used was from their largest event ever. And if there is ever an expansion, they have to come back to this Board. Their attempt was to come up with the worst case situation.

Keri Roman explained the table on page 7 shows that the maximum number of cars ever in the parking lot at one time was 33 cars. Why would they build a 98 car parking lot if it wasn't intended to fill it?

This table was discussed.

Karyn Forbes commented that there will be expansions that will not come before this Board, the real numbers need to be figured out.

Mark Beliveau, Acting Chairman asked if the fire department has weighed in on the maximum number of people that can safely occupy Bedrock Gardens.

Caren Rossi will get this information from the fire chief.

Mark Beliveau, Acting Chairman asked what is currently before the ZBA.

Keri Roman replied art classes, art exhibitions, photography and wellness programs. As we ended the last ZBA meeting was to further define wellness programs.

Mark Beliveau, Acting Chairman stated he just asked so he was aware and the Board has to act on the application before them. If the ZBA approves further requests, they may have to come back to this Board for further review.

The Board discussed approved and proposed uses on the site. It was determined that the applicants will provide that.

John Lacourse stated his areas of concern are: he feels that there should be some type of vegetative buffer on the road side of the vinyl (stockade) fences. The boundary along Mr. Grumblings should also have a vegetative buffer as well. This is very common with developments. He has concern with balance with the neighbors with the hours of operation. And finally, the plans need to be stamped by a soils scientist.

Keri Roman stated that you have to tie the hours of operation and days of the week with a concern, traffic, light or noise. An excess of cars on a Saturday can be a big deal. She suggested to ensure you had enough information on traffic tonight.

There was discussion to get more information on the traffic study and it was determined to have Steve Pernaw increase the data by 25%, 50%, 75% and 100. Capping at 98 cars. Using Table 1.

Keri Roman replied that as a planning board you are obligated to understand what the intersection will look like with the increase.

Steve Pernaw stated that is fine, but they might still end up with a Level of Service A.

Lou Ann Griswold asked what's the average length of stay at the garden.

Robert Munger replied 1 to 1 ½ hr.

John Forti replied 2 hours.

John Forti commented that they are putting in the 98 car parking lot for special events.

Mark Beliveau, Acting Chairman if they are comfortable with Steve Pernaw doing this report or getting our own traffic expert?

The Board agreed that they are comfortable with Steve Pernaw doing the report.

Mark Beliveau, Acting Chairman read the hours of operation submitted by the applicant and the abutters. The Board discussed hours of operation.

John Lacourse stated that it has always been his position to not run on Sundays and he is still holding to that. The neighborhood has put up a reasonable argument that there should be one day without activities. He thinks they should be able to run on Saturdays with the traditional 9a to 5pm as well as during the week. He is not ready to make a formal decision on every Saturday or every other etc. But he is stuck on no Sundays.

Mark Beliveau replied that he is really torn. Part of the challenge for him is this use is permitted in this district. He believes Sunday is a day people will want to go to Bedrock



Gardens. They propose a very limited window for Sundays, he will favor Sunday hours. The use is permitted in this district, it's allowed. He agrees if you are going to impose limits on days and hours there needs to be a reasonable basis. So far there are no traffic issues based on this report. But the unique location of the property does carry weight to impose conditions on the property. It is distinguishable to other operated facilities in town. It's in extremely close proximity to residences. He feels the abutter's proposal as a whole is too restrictive. They are proposing to be closed on Mondays. We have to let them operate.

John Lacourse commented that the racetrack doesn't run on Sundays.

Wayne Lehman commented that there are other places that are limited to no opening on Sundays. And they don't necessary impact adjoining neighbors.

Robert Smith stated that every other place he can think of has ample space around the activity but this one. He feels that you have to give the people that live there some time and it needs to be weekends because they all work so they are out Monday through Friday and that only leaves you the weekend.

Keri Roman stated she would agree to tie it to the weekend. What is the concern of the Board or is it noise, traffic? Or other things?

Robert Smith stated he has sat here and listened to all the way they are going to try to fix what the initial problem that was brought it. He has no way of knowing if this is going to work. You have to give both sense of people their due.

Caren Rossi asked cant the applicant come back to the Board and ask to be open more if they are restricted?

Keri Roman replied yes.

Lou Ann Griswold stated she thinks Sunday is a day people have the opportunity to go to a garden. With limited hours she doesn't see that as a huge deal. She is not comfortable with Saturday nights, lighting etc.

Wayne Lehman stated if we say every other weekend, that would give the neighbors some weekend piece of mind and still allow them to operate at a reasonable manner.

John Lacourse stated it would be a good balance as long as it's dictated up front.

Keri Roman cautioned the Board to tie it to something, the site and or the use of the site and how it's effecting the neighborhood.

Caren Rossi read her list of outstanding items:

- Buffer between Bedrock Gardens & Grumbling
- Outline specific uses proposing
- Exact height of the fence

- Visual vegetated buffer on the road side of the fence
- Additional traffic study

Mark Beliveau, Acting Chairman asked the applicant if they are willing to continue to a date certain.

Robert Cary replied, yes we are.

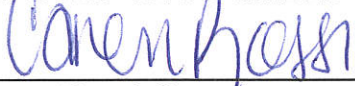
Steve Pernaw will have the information to me by November 13, 2018 at noon.

Wayne Lehman made a motion to continue the meeting until November 15, 2018 at 7pm.

Lou Ann Griswold second.

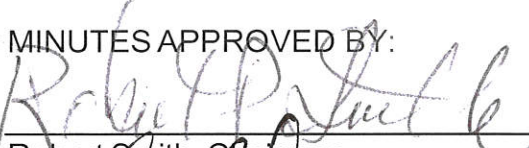
Vote: all, application continued.

MINUTES TRANSCRIBED BY:



Caren Rossi, Secretary

MINUTES APPROVED BY:



Robert Smith, Chairman




John Lacourse, Selectmen's Rep.



Mark Beliveau, Acting Chairman

Lou Ann Griswold



Wayne Lehman, Alternate