



Stratham Planning Board
Meeting Minutes
May 18, 2016
Hutton Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM

Members Present: Mike Houghton, Chairman
David Canada, Selectmen's Representative
Bob Baskerville, Vice Chairman
Jameson Paine, Member
Tom House, Member
Nancy Ober, Alternate

Members Absent: Lee Paladino, 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. May 04, 2016

Mr. Paine made a motion to approve the meeting minutes from May 04, 2016. Motion seconded by Mr. Baskerville. Motion carried unanimously.

3. Public Hearing

a. Stratham Hill Stone, LLC, 313 Portsmouth Ave., Stratham, NH, Tax Map 22 Lot

29. Site Plan Review for landscaping and construction business.

There was a short discussion around whether the application was complete and the purpose of the application. Mr. Austin reminded the Board of the history which culminated in whether the site is being used in the way it was approved for originally. The issue with this application is that site plan review works very well for a vacant site being turned into commercial development whereas this technically isn't as it started as a home occupation and went through the ZBA.

Mr. Canada explained that Audrey Cline, the previous Code Enforcement Officer took enforcement action because she felt Stratham Stone was not in compliance with their ZBA approvals. The Board of Selectmen agreed that longevity doesn't give a person the right to stay in violation, however the Board didn't wish to put them out of business. The Board did

1 feel there had to be a moral obligation on behalf of the Town to recognize that it had allowed
2 them to do their business. The enforcement action was dropped without prejudice with the
3 condition that the second business on the site had to stop which has been done now and
4 secondly they had to come before the Planning Board and get their site approved.

5 Mr. Paine said a previous question had been whether this site is open to the public or general
6 contractors. He asked if that was defined. Mr. Austin said there were ZBA conditions that
7 looked at hours of operation and in 2007 they discussed up until 33% retail component to the
8 general public. Mr. Canada added that there was nothing in the ZBA approval, but there were
9 statements made on the record by the applicant that are tantamount to the same.

10 Mr. Houghton asked the Board if they felt the application was complete enough to engage in
11 a dialogue. Mr. Baskerville asked if the applicant was all set from a zoning perspective. Mr.
12 Canada said there wasn't anything necessarily they have to go back to the ZBA for. Mr.
13 Deschaine said that the Board needs to make a determination as to what the zoning may or
14 may not allow which would be appealable to the Board of Adjustment if the applicant felt so
15 inclined; the Board can apply any conditions it thinks are appropriate given the history and
16 circumstances.

17 Mr. Baskerville said he found the plan a little confusing as it's a compilation of existing
18 conditions/site plan. He doesn't know if this plan proposes something different; there are no
19 setbacks shown or much else. He added that if this was questioned 10 years from now, it
20 would be hard to know what the Board did and didn't approve.

21 Mr. Houghton said the last time the applicant was before the Board, he was asked to come
22 back and put together a formal site plan application and present what the applicant believed
23 was the intended use of the property to be going forward so closure could be brought to the
24 vagaries that exist. He doesn't see that this application does that, other than please waive the
25 site plan regulations and therefore doesn't think the Board is in a position to move in the
26 direction that the applicant would like. There needs to be more work done. Mr. Paine agreed
27 more detail was needed in particular on the waiver requests. Mr. Houghton said this is not a
28 home occupation; it has morphed into something considerably

29 Mr. House observed that one of the waiver requests was for parking even though 8 parking
30 spaces are shown on the plan so the waiver isn't really needed. Mr. Baskerville said a gravel
31 area is shown behind the existing warehouse that goes onto the abutting property. He asked
32 if they can continue to use that due to it being on an abutting property. Mr. Deschaine advised
33 the Board to look at this as a commercial site plan. Mr. Houghton said he didn't see anything
34 relevant to lighting on the plan. Mr. Baskerville said to be clear in the future and to help the
35 applicant the plan should show everything; conditions survey, the boundary, setbacks,
36 lighting, and what is there today. Mr. Baskerville said his recollection is that when the cell
37 tower came in, that had a full site plan which was done a few years ago so there is information
38 available. He doesn't think it would cost much to do an existing conditions survey and at
39 least it would document what is there and the details. Mr. Canada asked if Mr. Baskerville
40 meant in lieu of waivers. Mr. Baskerville said they are not accepting the application tonight
41 so he is recommending they go back and do an existing conditions survey. Mr. Baskerville
42 said they could take photos of the buildings, put them on sheet 2 as an elevation of the existing
43 buildings so they have 2 sheets showing everything including lighting. Mr. Canada said he

1 feels it's more than just putting what's there on a plan; the applicant needs to justify what is
2 there today which they can do by showing compliance or requesting waivers.

3 There was some discussion between Mr. Houghton, Mr. Scamman and Mr. Gordon, attorney
4 for the applicant around what the applicant was asked to provide after their preliminary
5 consultation with the Board on December 16, 2015. Mr. Canada stressed that the applicant
6 had been asked two things to close the second business on the site, and to come back and
7 undergo a full site plan review.

8 The applicant, Mr. Andrew Birse said that this was never intended to be a home occupation
9 and the owner of the previous business got a variance not a home occupation for his well
10 drilling business. He never lived at the property which is one of the requirements of a home
11 occupation. He asked the Board what they want to see in terms of compliance. Mr. Birse
12 said he put in a plan of use back in 2007. Mr. Bruce Scamman added that the Town can't
13 seem to find that plan anymore.

14 The Board all agreed that this needed a full site plan review.

15 Mr. Baskerville made a motion to continue this hearing until June 15, 2016. Motion seconded
16 by Mr. House. Motion carried unanimously.

17 **4. Miscellaneous**

18 a. Member Comments.

19 Mr. Houghton talked about the meeting which took place to discuss the future of the Gateway.
20 He said it was well attended, fairly constructive and with a good input of ideas. Mr. Canada
21 mentioned that Mr. Austin would be putting together a Survey Monkey to send out. Mr.
22 Canada said they were meeting with an economist tomorrow to look at the tax base impact if
23 the Gateway was turned into what the Town envisioned. Mr. Canada asked for any feedback
24 concerning the meeting to be forwarded to him.

25 Mr. House asked for confirmation that the Board of Selectman had renewed his appointment
26 as a member of the TRC. Mr. Canada confirmed that was the case.

27 b. Other.

28 Mr. Austin shared that the application from 23 Portsmouth Avenue would not be moving
29 forward.

30 Mr. Austin talked about Rollins Hill. He said they have a Notice of Decision (NOD) that
31 includes a condition for submitting septic systems designs for the lots selected by the Planning
32 Board to the N.H.D.E.S. for review and approval. For certain lots, erosion control should be
33 included, measured on the plan. The applicant shall provide the Land Use department with
34 written approval of each septic design system by NHDES. Mr. Austin said about a month
35 ago those specific lots were turned in with a cover letter awaiting Town signature and a septic
36 design plan. Mr. Baskerville had a look and noticed that none of the lots that needed erosion
37 control, had that on the plans. Mr. Baskerville mentioned that the erosion control should be
38 reviewed by Civilworks, but Mr. Austin was unable to find anything alluding to that. He said
39 the NOD was dated November 4, 2015. At the November 18, 2015 meeting under
40 miscellaneous, Civilworks is mentioned as reviewing the plans for the assigned lots. Mr.
41 Austin asked the Board if it felt that there is sufficient record to request that the applicant
42 submit to and pay for Civilworks to review the erosion control on the relevant plans.

1 Mr. Baskerville said the applicant was asked to show erosion control on the lots near vernal
2 pools which the applicant agreed to. It was agreed it would be reviewed by staff. He met
3 with the applicant to look at the plans and it was obvious there were things missing that the
4 applicant had promised to do. The applicant said that some of the affected lots are very tight
5 so they put a note on the plans for those house lots which reads “contractor responsible for
6 installing infiltration trench and rain gardens on lot. See details from Horsley Witten Group
7 Inc. for installation requirements (detailed sheet D3). Trenches and rain gardens must be 35’
8 minimum from leach field location. Contractor responsible for modifying locations to meet
9 septic setbacks.” Mr. Baskerville asked how they could design the septic system if they don’t
10 know where the raingardens or trenches are going.

11 Mr. Deschaine cautioned the Board that the applicant would have a plausible argument if the
12 Board sends this out to review with Civilworks because it is not stated anywhere that they had
13 to do that and their 30 day appeal period is over. Mr. Baskerville said the State has the Town
14 listed as doing the reviews. For Stratham they just need a sign off that we reviewed it. This
15 is the only job the Board has had that doesn’t go for that sign off. There is State approval for
16 the septic, so they will need that sheet signed for all of the lots. There was a discussion about
17 the pre-determined lots that the design of the lot would be shown with erosion control and the
18 applicant would work with the Town to show what they are doing next to the vernal pool. Mr.
19 Baskerville feels they haven’t done that at all. They do not show where the outlet for the
20 foundation drain is, where the infiltration trench is, they are telling the dirt contractor to put
21 in a septic system. The contractor won’t understand what to do.

22 Mr. Deschaine asked the Board if their position is that the plans aren’t adequate, that they
23 need to be upgraded to be reflective more of the intent which was expressed in prior minutes
24 and that they be reviewed by some third party, in this case Civilworks. Mr. Baskerville said
25 there are written design criteria on the Horsley Witten plans designed around the house for
26 drainage of the subdivision. Somebody from the Town has to review that to make sure it
27 complies with the plan. It deals also with the depth to groundwater table when they decide
28 where to put the septic systems. Mr. Baskerville asked who is qualified to determine that. In
29 his opinion, a designer has to be involved. Mr. House asked if Civilworks would be reviewing
30 the road and asked why Civilworks couldn’t do the specified lots at the same time. Mr.
31 Deschaine said the road is considered a development wide improvement and therefore is part
32 of the overall development approval. The development of an individual lot, is normally just
33 a building permit. Mr. Paine asked if NHDES would be able to look. Mr. Baskerville said
34 they would only check the septic.

35 Mr. Austin suggested another way; the NHDES approvals get turned in with the building
36 permits and plans. Mr. Morong, Building Inspector receives them and looks at the plans that
37 may or may not show a rain garden or infiltration basin and he refuses the application. At
38 that point, the applicant could appeal that. Mr. Baskerville said he was happy that the plans
39 go to NHDES for review, but when the building permit for the house shows up, they have to
40 show that they met the conditions on the plan. Some of them won’t be met. It would make
41 more sense for the applicant to deal with thist now. Mr. Deschaine’s concern is that it could
42 be viewed as a stopple situation because they could argue that we let them get to the building
43 permit phase and now they are being informed it’s not buildable. Mr. Baskerville made
44 another suggestion that they could sign the cover sheets as it says the Town is OK with the
45 applicant submitting their plans to the NHDES and along with that a letter could be given

1 saying that this does not meet the requirements of approval number..... The intent was for
2 erosion control that the Horsley Witten sheet will need to be documented, as being met. How
3 can the Building Inspector document it as being met when there is going to be no plan? Mr.
4 Baskerville said they could put them on notice now that it doesn't meet the criteria from the
5 planning board discussion and does not prove that sheet D3 is being implemented. Mr.
6 Deschaine said they should probably go as far as to say and is not eligible for a building
7 permit.

8 Mr. Deschaine observed that this could lead to 10 individual determinations by the Building
9 Inspector for the chosen lots. The Building Inspector would not necessarily know what he
10 was denying. Mr. Baskerville said that detail about infiltration trenches and there has to be
11 a certain distance to the water table, has to be on every plan for those 10 lots. Mr. Deschaine
12 said he didn't know if Mr. Morong had the expertise to make the determination about the
13 reasonable water table.

14 Mr. Austin asked if it would be appropriate to ask the Planning Board to contemplate a motion
15 stating 'the submitted plans do not reflect the intended detail for erosion control as specified
16 in accordance with Notice of Decision dated November 4, 2015 signed December 9, 2015
17 condition subsequent 3F as they do not reflect the infiltration basins and rain gardens and
18 other details per Sheet D3.' Mr. Baskerville said it would be the most definitive statement.

19 Mr. Baskerville made a motion that the plans submitted do not reflect the intent of Notice of
20 Decision dated November 4, 2015 signed December 9, 2015 condition subsequent 3F include
21 all the details of D3. Motion seconded by Mr. Paine. Motion carried unanimously.

22 Mr. Austin turned the topic to Accessory Dwelling Units (ADU). He reminded the Board that
23 the State regulations are being amended with effect June 1, 2017 so it is appropriate to amend
24 the Town's regulations to include ADUs. Mr. Austin shared his first draft of those
25 amendments. He asked the Board's opinion about ADUs in the PRE and MAH zones as to
26 whether it should remain as a special exception. Mr. Deschaine pointed out that the lot size
27 requirements differ depending on the zone.

28 After much discussion, Mr. Austin asked the Board if there were particular areas he should
29 focus on for the next draft. The Board said they needed to continue to discuss and digest the
30 new laws.

31 **5. Adjournment**

32 Mr. House made a motion to adjourn at 9:35 pm. Motion seconded by Mr. Baskerville. Motin
33 carried unanimously.