

MILFORD PLANNING BOARD MINUTES ~ APPROVED
MARCH 7, 2023 Board of Selectmen Meeting Room, 6:30 PM

Members Present:

Doug Knott, Chairman
Tim Finan, Selectmen's Rep
Elaine Cohen, Member
Susan Robinson, Member
Susan Smith, Alternate
Pete Basiliere, Member
Paul Amato, Member (via Zoom)

Staff:

Terrey Dolan, Town Planner
Andrew Kouropoulos, Videographer

Excused:

Janet Langdell, Vice Chairman (arrived 7:55 pm)
Darlene Bouffard, Recording Secretary

1. **Call to order:** Chairman Knott called the meeting to order at 6:30 p.m. indicating that tonight there is one application that was continued at the February 21, 2023 meeting. Susan Smith was asked to vote in the absence of Janet Langdell this evening. Planning Board members and staff were introduced by D. Knott. P. Amato is attending via zoom this evening therefore there will be a roll call vote.

2. **Public Hearing:**

- a. **Application for Major Site Plan Amendment SP2023-01**, Adam Vaillancourt Roofing and Construction, LLC for the commercially-zoned (5.026 acre) property located at 15 Stoneyard Drive, located at Tax Map 43, Lot 69-1. This Public Hearing shall be for the requested approval of a proposed addition of a new 4,000 sq. foot auxiliary garage with required associated parking spaces. A total of 45,000 sq. feet of land disturbance (1.03 acres) is proposed for the site. A new 3,200 sq. foot rain garden is also proposed to aid in stormwater treatment. **(Continued from February 21st 2023 Planning Board Mtg)**

Earl Sandford of Sandford Surveying was representing the applicant and indicated the biggest issue at the last meeting was getting more accurate elevations for the plan, which were just provided this evening. A cupola was added to the elevation as suggested at the last meeting as well as two windows on each side. More lighting was added to provide adequate lighting as well. Light fixtures were added on the building, that are downlit as was requested; said lighting should not affect the traffic on Route 101. The closest building to this sight is over 300+ feet away. In the winter time when vegetation is low, there will be visibility to this site as any residents in the proposed apartment complex drive in or out of that site. D. Knott asked if that apartment complex is a potentially proposed project? E. Sandford said that is correct, if this potential project happens; the distance from residential to this commercial site has ample separation.

D. Knott said if that potential apartment project is approved, it will be built after the Vaillancourt project is complete; E. Sandford agreed and agreed it is not tied to tonight's proposal in any manner. E. Sandford said he is looking for additional feedback on the stormwater management. Sheet 5 of 8 has the notes regarding stormwater; language has been added to address the MS4 requirements. E. Sandford has met with the Milford Engineer. E. Sandford said this is new territory for Milford, but he understands what is coming down the pike and the applicant wants to follow the requirements. The Notes on Sheet 5 address those requirements. Earl noted the inspection and maintenance for this site has always been done in house with an NOI (Notice of Intent) since it was over an acre. Those records are kept on site in case a Federal Agent came on site, all the records can be checked, for erosion control after any major storms. At the last meeting, E. Sandford felt the application was very close to a conditional approval and he is unsure how that will be worked out.

D. Knott stated the Planning Board was concerned with all of the “shalls” provided by the Town Engineer that the Board was not accustomed to seeing, and quoting (town) documents that the Board was not accustomed to seeing. Earl noted he had difficulty in finding the regulations on-line since they were in several places on the website and the numbering did not line up with what was quoted by the Town Engineer. It was there, and there is an ordinance that the Engineer was speaking to, that had that the language in it, it was just a matter of education, but there are still some areas that are not well defined such as the escrow. D. Knott asked how much will that cost the owner? E. Sandford said that is what they are asking. D. Knott asked if the Town Engineer is here tonight and if so, would she please step up.

Town Engineer, Dawn Tuomala stepped up to the Board table. D. Knott asked if the applicant and she have spoken and worked out the requirements, to which she responded they have and she has read through all the Plan Notes and is satisfied with them. Since the Stormwater Ordinance just passed in December 2022, Dawn stated there are a lot of moving parts that need to be created as a result of that and she has been trying to work on that and the escrow is one of those things. In this particular case, Dawn stated it will not be extravagant. T. Finan asked if the ordinance gives the Planning Board the ability to request an escrow or does it require it? D. Tuomala said it is an ordinance so it is required; it is more than just a regulation. T. Finan seemed to recall that it said the Town had the option to do that. D. Tuomala is still working through that. D. Knott asked if there is a guess at how much it will cost the property owner? D. Tuomala said they are working that out and a final cost has not been identified. D. Knott asked if it is a hundred or a thousand? D. Tuomala said her guess is it would be between \$1,000 and \$2,000 for this job, it does not get looked at every day. D. Knott was asking about the annual inspections? D. Tuomala said that is not the town, that is the owner who can do that themselves or hire someone with the check sheet to look at whatever BMPs they have on the lot; the Engineer will create a check sheet for them and they will go through to check everything on that sheet. D. Knott confirmed they don’t have the town go out to inspect? D. Tuomala agreed, they do not have the town go out, but the owner is required to provide the reports whenever they do the inspections and that’s what the Operations Plan will create and once a year those reports will be submitted to make sure their operations are working properly.

D. Tuomala indicated the only inspections the Town needs to go out to do is the inspections while they are under construction. P. Basiliere asked if this is a new practice or have times and requirements changed? D. Knott said the site contractor used to do this. D. Tuomala said the laws have changed and she will get into a little of that when she has her MS4 Stormwater Presentation after this applicant presentation. The law has changed and there are different requirements today than there were even a year ago. P. Basiliere said so they may not have had that expense originally? E. Sandford said at that time there was discretionary language and Fred Elkind would always give his input at that time but he cannot think of any site plan where the client was charged. D. Knott asked if this is the same as what the contractor would have to do? E. Sandford said they still have to do that and it is a matter of how much oversight is necessary from the town? E. Sandford said clearly in the right of way there is oversight, but in the new regs it states “any stormwater” in MS4. There was discussion on the size of the disturbance. D. Knott said the Board wanted to see additional design elements and get clarity on the MS4 stormwater requirements. T. Finan noted he likes the architectural provided tonight much better. D. Knott asked if Paul Amato had anything to add? P. Amato thinks it is fine. P. Basiliere is not opposed to the project but he wants to make sure the Board is getting it right. At the last meeting on this application there were a lot of items in the Engineering report that had to be done, do we have a document that says that the requirements previously identified are not necessary? When P. Basiliere is looking at the staff comments, it does not seem to negate what was seen at the last meeting.

Dawn Tuomala, Town Engineer, stated she was reviewing the notes as she walked in tonight, and everything that she identified as “shall” is included in the notes on the plan, so she is happy with that. Did she write anything, no, because she did not get anything until she walked into tonight’s meeting. D. Knott stated so the Town Engineer is satisfied with what Earl Sanford added to the plan in the notes since the last meeting. T. Dolan said he is also happy that the notes are on the

plan as well. T. Finan indicated there might be some procedure items that still need to be worked out; essentially this is the test case. D. Knott noted that the Board also does not want the applicant to be saddled with something after the fact. T. Finan stated that the items that still need to be worked out should not hold up the applicant.

Seeing no further comments or questions from the Board, D. Knott opened the hearing to the public, asking that they state their name and address. Seeing no comments or questions, D. Knott closed the public portion of the meeting. S. Smith asked if the Board will just waive the escrow portion of the ordinance since we have no specifics? T. Dolan said that needs to be worked out. T. Finan asked how the condition would be worded in a motion? D. Knott does not think there needs to be conditions, since they satisfied everything. Earl Sanford put "as needed" on the plan regarding the escrow, since he was not sure what would be needed. T. Dolan stated that setting up Escrow accounts is a standard part of the Town process when an engineer needs to be hired to perform certain inspections, that the payment is drawn from that Escrow account financed by the owner. T. Dolan said if the funds set up in Escrow are not fully utilized, those funds are returned to the originator after project completion. T. Finan asked if staff identified the cost expected? T. Dolan said either that or a projected cost estimate by the consultant that does the work on the town's behalf. T. Finan said that would not come to the Planning Board previously? T. Dolan that is correct.

P. Amato added that the escrow is more applicable on a much larger plan that has a lot more sophisticated stormwater requirements; this is a very small addition to this site plan. It would be expected if a town road was being proposed or a subdivision. P. Amato asked Earl if he kept it under 100,000 sf so an AoT was not required? Earl responded no, that was the 2018/19 site plan when it was capped at 99,000 because we did not want to get an AoT, but not with the huge success of the business, the State looks at it as a whole when it goes over 100,000 sf. P. Basiliere feels that the approval of the AoT from the State should be a condition of approval, it is in the Staff notes. P. Amato noted that if the AoT approval is listed as a condition, then the plans can't be signed until the AoT is officially approved. That could hold up any construction progress, P. Amato is aware that there are many contractors that will not move forward with a plan until the AoT is approved, because that is not worth the trouble. T. Finan indicated that is good to point out. Earl Sandford stated there is no intent of doing any construction until the AoT is approved. D. Knott said there is no reason to hold up the applicant; if they don't get the approval they will be held up anyway. P. Basiliere said it will not hold them up. D. Knott disagreed, reminding P. Basiliere of what Paul Amato just said, that it WILL hold them up, we can't sign the plans. There is no point in holding them up for something like that.

T. Finan said Paul Amato just stated they will not start without the AoT approval. Either way, Paul Amato re-stated the applicant will not start without an approved AoT because if the State changes something, the way Earl designed it versus the way they want it designed, that has to get dealt with and he does not think that needs to come back to the Planning Board. D. Knott asked Paul Amato if he feels that should be a condition? Paul Amato said he does not believe that needs to be a condition of approval for the Planning Board to have an approval for a Site Plan. Paul Amato thinks the Board can approve this, the Planning Board can sign the plan and when they get the AoT and if it is different, then the as-builts of the plan will be forwarded to the Town at that time. Usually, the AoT makes only minor changes. D. Knott asked for a motion.

T. Finan moved to approve the Major Site Plan Amendment SP2023-01 for Vaillancourt Roofing and Construction as presented. E. Cohen seconded. A roll call vote was taken: P. Amato yes; P. Basiliere yes; S. Robinson yes; S. Smith yes; E. Cohen yes; D. Knott yes. Motion passed. Earl Sandford thanked the Board for their time. D. Knott reminded audience members that the meeting started a little late since there was a page missing from the packets, normally meeting do not start late.

- b. U.S. Environmental Protection Agency's Municipal Separate Storm Sewer System ("MS4") Program Overview-** Presentation by Town Engineer, Dawn Tuomala, P.E. presented the

Stormwater Management Municipal Separate Storm Sewer System (MS4) 2017 NH MS4 Permit (updated January 6, 2021). D. Tuomala explained this will be a 30,000 ft overview of MS4 regarding the Town Ordinance approved in December 2022. This ordinance was previously passed in 2017 and updated in December 2022. This is the Municipal Separate Storm Sewer System (MSSSS) or MS4 under EPA for water treatment. Milford falls under the small storm system. This is a permit with the EPA for five years; there needs to be time for the public to speak to this requirement. The towns became somewhat lax in the first years until 2013 when a NH Coalition group fought the EPA on this. The Coalition sued the EPA. NH and MA are two of five states that have requirements that are written for them. D. Tuomala could not remember the other two states. July 1, 2018 is when the MS4 Permit began. For the past five years, Milford has been building up what satisfies the requirements, now the town needs to get into some heavier lifting. S. Smith asked if Milford is no longer under the EPA on this? D. Tuomala said no, it was asked by the Governor for the town to have assistance from the EPA on this, each time a permit is sent out the work ramps up and there are no waivers.

Most of NH does not need to deal with MS4, most areas affected are centralized in Southeast NH. NH Lower Merrimack Valley is where Milford falls. There are two different coalitions in NH and the two groups try to share strategies and templates/forms. Everything that drains to the Merrimack River is what DES has assisted with and they attend all of the Coalition meetings and assist with creating templates to help one another. Every couple years, a report must be submitted to the EPA which is done by DES. If the State of NH took this over, the entire state would be looked at. The urbanized area in Milford were presented and D. Tuomala guarantees that the area has probably expanded since the last census and ultimately this water all ends up in the Souhegan River.

The Notice of Intent (NOI) was created originally and a Stormwater Management Plan, both of which have been done, now we need to update them before June 2023. In the past 3 years, Merrimack was audited randomly and had to produce the requested documents and the EPA also did some testing; Dawn noted it was not a pleasant experience. A 19-page letter was submitted to Merrimack that stated what the town of Merrimack “shall” do. One big item is to always comply with schedules/deadlines. If these need to be changed, change them. The EPA will work with the towns to a certain degree but they also want this work to be done.

D. Tuomala introduced the flyers she has created in response to the MS4 requirements, these are town recommendations not requirements and are available now in Town Hall, DPW, Milford Fire Department and at the Wadleigh Library if they allow them. To save money, the flyers are being given out at different town gatherings and when dogs are registered, the point is to get the word out to residents. An example of stormwater that went bad in Merrimack, was shown to members, to identify that this was in a small subdivision with small lots and the water almost made it to Baboosic Lake. If a stormwater issue gets the attention of the Town Engineer, that is not good. The size of the lots does not matter, a good contractor could be used but a really bad storm comes and complicates the stormwater flow, which results in the example shown. D. Knott understands what occurred in this example. D. Tuomala noted that this example could have been controlled at its point of origination and kept up to date, and there would not have been a problem. Bottom line for Dawn is that lot size is not always the only criteria, soil types, slopes, etc, are also factors when developing lots.

The Board thanked Dawn for the presentation and welcomed her to Milford.

3. Other Business:

D. Knott asked for any other business. J. Langdell came to the meeting about 7:55 p.m. The Envision Milford committee met last night, and she asked Pete Basiliere, as Moderator, if the Envision Milford postcards could be passed out at the election on March 14? P. Basiliere stated he can designate an area outside of the polls to have those items given out, it would be difficult due to space, but they can also be handed out outside. J. Langdell asked if there are members available that could take care of that at the election? S. Robinson asked where they would be located, if it is inside she is willing to assist. S. Smith asked if a committee member could assist? J. Langdell said yes she will look into that.

4. Upcoming Meetings:

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- 5. Adjournment.** The meeting was adjourned at 8:15 p.m. on a motion made by S. Robinson. S. Smith seconded. A roll call vote was taken: T. Finan yes; P. Amato yes; P. Basiliere yes; J. Langdell yes; S. Robinson yes; S. Smith yes; E. Cohen yes; D. Knott yes. The motion passed unanimously.

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Date: _____

Signature of the Chairperson/Vice-Chairperson:

The Planning Board minutes of 03-07-23 were approved 4/18/23