

MILFORD PLANNING BOARD MINUTES ~ APPROVED
APRIL 18, 2023 Board of Selectmen Meeting Room, 6:30 PM

Members Present:

Doug Knott, Chairman
Janet Langdell, Vice Chairman
Peter Basiliere, Member
Dave Freel, Selectmen's Rep
Paul Amato, Member
Susan Smith, Alternate
Susan Robinson, Member
Elaine Cohen, Member

Staff:

Terrey Dolan, Director Comm. Development
Darlene Bouffard, Recording Secretary
Andrew Kouropoulos, Videographer

1. Call to order: Chairman Knott called the meeting to order at 6:30 p.m. indicating that tonight's agenda includes a continued public meeting that started in March 2023. Chairman Knott explained that since the March election, Dave Freel will now be the BOS representative on the Planning Board, with Tim Finan serving as an Alternate to the Planning Board. Planning Board members and staff were introduced by D. Knott. P. Amato stepped down for this discussion and recused himself from the voting. D. Knott asked that S. Smith vote in the absence of P. Amato. D. Knott stepped down for this discussion and recused himself from the voting and had Vice Chairman Janet Langdell step up as Chairperson for this meeting.

2. Public Hearings:

- a. Continuation of the Application for Minor Site Plan Amendment SP2022-10. Souhegan Valley Boys & Girls Club Inc. for the property located at 56 Mont Vernon St. located at Tax Map 21, Lot 23.** Public Hearing for the proposed use of the existing 22-foot wide Trail Right of Way Easement, to be co-shared for vehicular access.

J. Langdell asked if there are any changes to the application since the last meeting, after those are presented, she will ask to hear from staff on what they found on review. J. Langdell reminded everyone that speaks, to please use a microphone and identify themselves.

Attorney Thomas Quinn, representing the applicant of Boys & Girls Club of the Souhegan Valley explained this is an application continued from March 21, 2023. Because there are new people here since that meeting, he provided a synopsis. Attorney Quinn stated this is a permanent use of 6.6 acres; it meets the yard requirements and frontage. This meets the yard components; it meets all zoning requirements. There are no waivers requested on this. The proposed use of a 20' strip as a driveway to access Mont Vernon Street. It will be a paved 18' driveway with a 6' sidewalk. There is an existing fence that will be moved to the property line that runs the full length of the BGC property. The driveway length will be created to tie into the existing drainage and into a detention basin. The plan calls for the rare change of direction of the driveway for the BGC. The revised plan does have a note to change the direction for which there will be flag people to direct traffic at both ends. After a theater performance, the driveway will resume in the normal manner. Note 22 on Page 1 captures that. The snow storage area is now on the plan, it was previously closer to the building; it has been made clear that traffic is not limited to buses. The fence runs the full length of the BGC property. There were questions on defining "rare" and how often that is.

P. Amato said the sign still says "do not enter" so a note should be added to the plan. The catch basin on the plan is not there; we have to add that to the plan the drainage works but the detention basin functions as it should, that needs to be added to the plan. Attorney Quinn said the Conservation Easement needs to be modified and Attorney Quinn is working on that with the Attorney General's office, the Milford Conservation Commission approved the draft, but asked for two things: 1) relieve the MCC from the responsibility of monitoring the rules and use, and 2) the MCC was concerned that

the documents be clear that the BGC would also have the use of the scenic area. All agree to those changes and that language has been changed in the easement language. The first draft had certain language in it, but there needs to be rules and the MCC does not feel it is their responsibility. MCC will not be responsible for enforcement. There has to be a means to control that space. The scenic easement grants the MCC access; the easements will go to the Attorneys for review; Attorney Quinn did not submit the draft easements for tonight; he felt they did not need to be part of tonight's paperwork.

P. Amato said on the staff memo of April 15, the fence ends right at the river; Note 22 has language for use as an ingress instead of egress. Attorney Quinn does not know if the applicant wants to come back before the Planning Board again, but to define "rare" might be an issue. Attorney Quinn would rather talk about that now instead of during deliberations. P. Basiliere asked about ingress and on "rare" occasions, what happens if someone uses that as an ingress when there is no flag person there; if people are not using the "Do Not Enter" sign? Attorney Quinn said the BGC would need to make parents aware of the restrictions. Outside of that, he is not sure there is any other way to deal with that. Attorney Quinn said it will be posted and shared with Club members. J. Langdell said it is a driveway that also has a walking path. This is only a shared sidewalk. P. Amato thinks this will look more appealing and people would rather walk on it rather than through a parking lot. P. Basiliere said if someone goes the wrong way, they will get spoken to but what if it happens again, then what? Attorney Quinn said people that use the Club are expected to go by the rules and the Club Board will need to address it. S. Smith, said at Mont Vernon Street, there is a gate, will that be closed? P. Amato said that will be moved back along the easements. Attorney Quinn said that is to provide security to the lumber yard. T. Dolan explained the staff memo took into account the items brought up at the last Planning Board meeting as well as Attorney Ratigan's comments on the application as follows:

"It appears that at most of the issues she's raised relate to items that are indeed issues within the jurisdiction of the Planning Board in the context of site reviews, which they've reviewed and approved. As to the issues she raised about the existing easement, the parties can change the easement, as long as they both agree to do so, and provided that it still functions for pedestrian access. As to the claim that such a revision to enable utilization of a portion of the easement for bus vehicle purposes violates the granting of federal funds, on the one hand, I observed there were federal funds issued for the sidewalk installation along the road, and thus those funds were not for this easement. If there were also other federal funds granted to the town for other aspects of the project based upon a plan, I couldn't find any federal documents that specified that such project work could never be revised or altered, especially since this proposed utilization of the easement for bus travel does not terminate the purpose that the easement would provide pedestrian access to the river and elsewhere.

It makes sense to have the NH AG's Charitable Trust division confirm that his proposed revision of the easement is acceptable, which I imagine will occur."

Attorney Ratigan responded to the Town's request that this can be done by using the process set by the Attorney General. T. Dolan said the conditions set by the Town Engineer that the applicant has to abide by for the plan. J. Langdell said the items provided by KV Partners have not been implemented but will be once the plan moves forward. T. Dolan provided the original plans from February; and any conditions will be put in the final plan. J. Langdell asked about the location of the catch basin and if driving over it is okay, also the tight turn radius for buses should be checked. The applicant's engineer feels it will work. Attorney Quinn said we have to get permission from the State to widen the driveway since it is a State road, so the turn radius will be looked at by the State. We will go to the DOT for that driveway permit. P. Basiliere said the DOT will look at the turn radius for buses since it is a State road. T. Dolan indicated the existing fencing goes down to the Gregg Bridge; the fence is six feet tall with vinyl strips in the fencing to provide privacy. If the applicant feels a traffic count is needed, they could do that depending on what the total volume of traffic is. The applicant was originally just asking for bus passage, but if it is also vehicle passage, a traffic count analysis should be considered. Any vegetation will have to be done on the BGCSV side of fencing; additional vegetation could be added

down there, but there is no space. J. Langdell said the applicant could plant vegetation on the abutting property if it would help the buffering.

P. Amato said that would need to be done before the fence went up and the Club is still open to that. T. Dolan stated the applicant will need to modify the original plan, or the changes have to be reviewed by the Attorney General and be provided to the town. P. Amato said the town still has to sign off on the easement language. The Board of Selectmen signed the easement for the sidewalk because there is no owner of the Conservation Commission Easement. J. Langdell said the scenic view area is for Milford Conservation Commission. Attorney Quinn said the trail easement that runs along the river bank and the scenic view easement are under Milford Conservation, the sidewalk will be under the Town of Milford; with the Town not having the responsibility to maintain the Club having that responsibility.

J. Langdell said in the Town Development Regulations, the definition of sidewalks “shall be 6 inches above grade and with granite curb.” P. Amato said in the past the Planning Board has allowed the striped sidewalk. P. Basiliere asked what the solution should be? J. Langdell said it is not a road, it is a driveway. P. Amato said the Club is asking in good faith, we want to continue to allow the Towns people to walk through, if you make it curbed, we will not be able to maintain it in winter and people will walk in the road. D. Freel asked why can the Club not maintain a curbed sidewalk? J. Langdell said trails are not maintained in winter. P. Amato said by keeping the sidewalk at the same level, it can be plowed. Attorney Quinn said the snow would be a significant expense for snow removal if it were curbed. D. Freel said there is a reason for the curb, it is for safety. P. Amato responded there are a lot of people that use the cut through. P. Basiliere said when there is both vehicle and pedestrian traffic, that is when the curb is important.

J. Langdell said this is a parking lot created over 20 years ago that is now being modified with vehicles proposed for both sides of the driveway; if it was a new road, we would ask for a waiver, but this is just a modification of a driveway. T. Dolan said with the limited amount of use this would get, this does not rise to the level of the Development Regulations. It has a pedestrian walkway, the logistics of keeping it maintained would be the responsibility of the Club for plowing and it is just not enough use for a curbed sidewalk. T. Dolan does not feel a waiver is needed due to the uniqueness of this situation. E. Cohen suggested calling it a pedestrian walkway. D. Freel said this is the connection on Mont Vernon Street between MCAA and Keyes Field, he does not know the amount of pedestrian traffic that uses this. J. Langdell said there is a variation throughout the seasons, that is one example of the use. T. Dolan said the trail used by kids is mostly to come from the Club and use the trail to Keyes Field. P. Amato indicated the Club uses the Gregg Bridge to get over to Keyes Field for swim lessons during summer. J. Langdell said using buffering and maybe a taller fence might help. P. Amato said if it is over a 6’ fence, the Club would need to go to the ZBA for a variance since anything over 6’ is considered a structure. P. Amato would rather work with the abutters, not put up a higher fence.

P. Basiliere said if the fence were taller, would it show on the plan? J. Langdell said it would. P. Basiliere noted the Planning Board could make it a condition of approval that vegetation be added as a buffer. Attorney Quinn said buffering could be part of a conditional approval, with the condition that the applicant work with the abutters to detail a mitigation plan that is agreeable to abutters for screening on their side of the fence and it could be presented to the Planning Board what is agreeable to the abutters. J. Langdell would agree to 30 days to work out a plan that benefits both parties. T. Dolan noted it should be on the plan. P. Basiliere said the easement must be approved by the Attorney General and the Town will focus on the Easement plan, but they will have all the plans. D. Freel asked why the applicant came to the town first, not the Attorney General? Attorney Quinn responded that the applicant has to start somewhere, we started with the Town. D. Freel said the Easement should be dealt with first then it is just dealing with the State for the driveway. Attorney Quinn has been to the Attorney General’s office and explained the whole plan and it was understood that the Town had to be done first. This would be conditioned on the AG decision.

P. Basiliere said if this is the plan, it does not accurately depict the whole site. P. Basiliere indicated the plan submitted to the AG should be an as-built plan that depicts the space in the rear of the building

(buffer) where the busses could also drive round the Club. P. Amato said this is an Easement plan, not a Site Plan. P. Basiliere said it does not depict the property today. P. Amato said everything for the Easement is on the Easement Plan, that is what this is. Attorney Quinn said the materials submitted to the AG office includes the entire Site Plan. Attorney Quinn has sent the earlier Site Plan, Subdivision Plans, and this Easement Plan. J. Langdell asked if on previous plans with the parking calculations, if it is noted that the Theater and BGCSV will not be open at the same time; if that was put on the original of the parking Waiver. If there was an impact on the facility traffic, those notes are not on this Plan, if they are still valid. P. Amato said that's been in effect for 20 years since the Club has been there. We have been very wary in the scheduling of events not to be at the same time. We have used the Colonel Shepard Parking for one event. P. Amato said a Site Plan was done for the gravel parking at the Club. Parking calculations were required on an earlier plan.

There were no further comments from the Planning Board or staff. J. Langdell opened the hearing to the public, asking that they use a microphone and state their name.

Celeste Barr, 12 Sunset Circle, sent a letter from the abutters to the Planning Board, which is part of the packet provided to Board members tonight. Ms. Barr reviewed some of the contents of the letter, indicating there is a lot at stake here when upholding easements. Easements are for all citizens and this seems like it is being pushed for approval. Permanent easements can be changed, but these sorts of easements were created for all and should not get changed based on the different conditions, that is why they are called permanent. This was a Federally funded project with a permanent trail easement and water main easement which were in the notes with a warranty deed so that should be in the notes too. Ms. Barr said the reason for this was for a water main easement that the theater granted to the town and goes down to the river. Ms. Barr asked if Water Utilities or DPW commented on that, the easement allows the town to access it, but if it is paved they cannot access it. P. Amato said it would be difficult to get into the water main now because of the fence. J. Langdell asked if Water Utilities and DPW were asked to comment? T. Dolan said yes, they were asked but did not provide any response.

P. Basiliere said the staff memo was just done. D. Freel said there was no word back from Water Utilities or DPW; T. Dolan was late in getting the IDR out, but still no comments. C. Barr said the Planning Board and Town Staff reviewed the plans and had a chance to read the land files on this property, a permanent easement and what can or cannot be done on a property was in those files. C. Barr said the grantee is responsible to maintain the trail. There was a question of whether motorized vehicles have access; P. Amato responded that the Club allowed motorized vehicles only for the Fletcher Site (clean up) access. C. Barr asked if the land files had been read by everyone, she got them in 2006 when this was first attempted. There is no demonstration made for an additional driveway, and she urged that this not be a two-way driveway.

J. Langdell said the driveway is limited because it is a one-way driveway. Gates are sometimes used for this type of driveway. C. Barr said this is a Commercial property abutting residential properties. J. Langdell indicated that Ms. Barr needs to allow other speakers a turn to speak. Additional details can be added after other speakers have a turn. C. Barr added that without elevations and grading on the plans, it is hard to determine anything. T. Dolan said the Town now has an Engineer on staff, there are plans to transition this to the town engineer and make sure the comments are addressed. J. Langdell asked that the letter being read by C. Barr be provided to T. Dolan regarding elevations and drainage, since it is being presented in a public meeting as testimony and the town has not received that letter. P. Basiliere agreed that the document be provided to the town including spot elevations and a complete grading and drainage plan. C. Barr stated it is just her opinion and she will provide it to T. Dolan.

P. Amato said the Club has dealt with drainage. D. Freel asked if that should be part of this plan? P. Amato said this is just a modification to an easement plan; it is not a full Site Plan. C. Barr asked is there a drainage plan on this? The Town Development Regulations includes buffers, it is required to have a 10-foot buffer from a Commercial site; in paragraph 6.05.7 it states a 10-foot buffer between a Commercial lot and Residential lot and paragraph 6.08.5 requires landscaping. C. Barr read from the development regulations that a Commercial lot next to a Residential district requires a 10-foot buffer.

J. Langdell asked that other abutters have a chance to speak. Cheryl Monnell, Sunset Circle, stated her biggest concern is there are a lot of people that walk down there; a lot of kids run down to the fence, it is dangerous, we were told that was a permanent walk way. It is going to now be a roadway, what are the hours? Who is benefiting from it and who is responsible for the exhaust and notices. If it is a 6' fence as a buffer, why can't it be higher—that is her yard and she does not want a bunch of kids heckling over the fence. Cheryl does not want trees on her property, she pays her taxes. There were no other abutters on Zoom wishing to speak. Vice Chairman Langdell closed the public portion of the meeting at 8:12 p.m.

Vice Chairman Langdell would like the development regulations looked at to identify the distance between a Commercial and Residential district and those requirements; historically this has been there for over 20 years and was presented as a limited use. The privacy fence there now provided quite a bit of privacy in the past. The logistics of the sidewalk with a curb or without a curb is for the ease of plowing. That is for the Club to maintain. The Planning Board has heard little on the amount of traffic on the driveway. P. Basiliere asked if T. Dolan is prepared to answer to the 10-foot buffer between Commercial and Residential? T. Dolan answered that he is not prepared. P. Basiliere said this is important to be answered before a decision is made.

S. Robinson asked if there is a 5 mile per hour limit on this driveway? P. Amato said it is a parking lot, so of course. S. Robinson asked what limited use is this for? T. Dolan said it could have a limitation on the use. S. Robinson is looking for a definition of "rare", which could be a problem. Attorney Quinn said they could change the term "rare" to a number. P. Amato said if the Planning Board said only ingress, no egress that would be fine, we can deal with it. Attorney Quinn said P. Amato just said they could deal with that. D. Freel said the way this plan sits, it is difficult to vote on since we do not know about the 10-foot buffer yet, the drainage plan is not complete, there are so many things not here, how can we vote on it? P. Amato noted when the Interdepartmental memo is sent out, if there is nothing to note, they do not respond.

J. Langdell said the development regulations state a 10-foot buffer is required. Now the applicant is asking for the driveway to be two-way. P. Basiliere asked if the Board can support the plan as it is, it started out as a buffer easement, there are no longer 14 buses coming in, so this is not for busses. Depending on the time of day, there could be a line of cars. P. Basiliere still thinks going around the back of the building is an option. P. Amato stated that is just one opinion. P. Basiliere said those are his concerns, should waivers be considered?

Attorney Quinn said as you can all see, the different directions this has gone in the two meetings thus far, that is why this did not go to the Attorney General first, but came to the town first. Attorney Quinn talked to the Attorney General about what was being proposed and they recommended having the scenic piece offered to the town and come to the Planning Board. Town approval is needed first. J. Langdell understands the need. The buffering that was brought up tonight is important. E. Cohen asked if the six-foot fence could be grandfathered in, since it's been there so long? J. Langdell explained how there needs to be 10 feet of space between the fence and the abutting property line. S. Smith said that is an important issue to clarify, if the fence can be moved to the property line. S. Smith thinks it would be best if it were an egress only. If it is just buses and only egress, it would be safer. The Milford Conservation Commission supports this because they do not want to maintain the path which will be paved, it is the Club's responsibility. Attorney Quinn said the scenic easement is larger than the other easement. S. Smith said if this was egress only, it might be safer for all and still maintain the spirit.

J. Langdell opened the hearing to the public once again. Mary Burdett, Taylor Drive, stated the fence was paid for by the State grant. P. Amato said that was owned by the town. J. Langdell said that is part of the easement plan. Mary Burdett said she values all the kids in town and that walk through is used a lot, the easement was put there and it is permanent, that seems unethical to change it. Originally it was being done for the buses, but now there are fewer buses, so what is this for? This is an easement and now it is being changed. J. Langdell closed the public portion.

S. Smith said buses are run by the school and it changed to 14 buses at some point. The school district does not have a lot of control over that. D. Freel asked what is the reason for this? Did the bus company ask for it? P. Amato answered it is difficult to turn the buses around in the parking lot; they provided a few kids at a time, in the past. P. Amato added that it is safer to do this than to have the buses turn around. So this is for safety, asked D. Freel? J. Langdell said one thing brought forward was for the kids safety and for use of the parking lot. Attorney Quinn said it is for buses, kids and car safety P. Amato said now the kids all come on the same bus at the same time. S. Smith indicated if the Club does egress only, would there be signs stating that? P. Amato said for the time that those programs are there, and it could be ingress and egress only for the Theater.

P. Basiliere moved to continue to the next regular Planning Board meeting May 16, 2023 for the applicant to address the 10-foot buffer between Commercial and Residential use, the sidewalks and drainage, and response from DPW and Water Utilities on the easements. T. Dolan to look at the plans about parking and Note 21; Attorney Quinn create a table with easement references. E. Cohen seconded. All were in favor, motion passed.

D. Knott stepped back up to the Board.

3. Other Business:

- a. **Envision Milford (Master Plan Update) Process:** J. Langdell moved to postpone this RFP Draft discussion to the Work Session on May 2, 2023. E. Cohen seconded. D. Knott indicated all members can submit their ideas to T. Dolan about the RFP. All were in favor.

4. Meeting Minutes:

J. Langdell moved to approve the minutes of 2/21/23, 3/7/23 as presented. S. Robinson seconded. D. Freel abstained, with all others in favor. Motion passed.

J. Langdell had amendments to the minutes of 3/21/23 and will provide to D. Bouffard for update. P. Basiliere moved to approve the minutes of 3/21/23 as amended. S. Smith seconded. D. Freel and E. Cohen abstained with all others in favor. Motion passed.

5. Upcoming Meetings:

5/2/23 – Planning Board Work Session
5/16/23- Planning Board Meeting

6. **Adjournment.** The meeting was adjourned at 9:05 p.m. on a motion made by J. Langdell and seconded by S. Robinson. All were in favor. The motion passed unanimously.

Signature of the Chairperson/Vice-Chairperson: Date: _____

The Planning Board minutes of 04-18-23 were approved 6/20/2023