

MILFORD PLANNING BOARD MEETING MINUTES ~ APPROVED
December 18, 2018 Board of Selectmen's Meeting Room, 6:30 PM

Members Present:

Doug Knott, Chairman
Christopher Beer, Vice Chairman
Tim Finan, Member
Paul Amato, Member
Susan Robinson, Member (arrived 6:40)
Janet Langdell, Member
Kevin Federico, BOS rep
Jacob LaFontaine, Alternate member

Staff:

Lincoln Daley, Planning
Robin Lunn, Zoning Administrator
Darlene Bouffard, Recording Secretary
Videographer, Tyler Berry

Excused:

Veeral Bharucha, Alternate member

1. Call to order:

Chairman Knott called the meeting to order at 6:30 p.m., introductions were made of Board members and staff. Doug Knott indicated there has been some interest for new Planning Board members to fill an alternate position and the full position effective in January. Chairman Knott indicated that Jacob LaFontaine is an alternate member and will not vote this evening, but will participate in the discussion at the table.

2. Review/Approval of Meeting Minutes: November 27, 2018 and December 4, 2018 – C. Beer moved to approve the minutes of November 27, 2018 as presented. P. Amato seconded. All were in favor. Motion passed unanimously. C. Beer moved to approve the minutes of December 4, 2018. T. Finan seconded. J. Langdell requested amendments to the minutes of December 4. C. Beer moved to approve the meeting minutes of December 4, 2018 as amended. T. Finan seconded. All were in favor with K. Federico abstaining. Motion passed 5/0/1.

3. Public Hearings:

- a. **Burbee Sand & Gravel, 35 North Mason Road, Tax Map 58, Lots 1, 2 and 3.** Major site plan application for an earth and sand removal operation to excavate and regrade approximately 4.7 acres within the residential R district. L. Daley indicated that there was never a motion to accept this application for review when it first came to the Planning Board in July 2018, therefore it must be accepted which starts the timeline. J. Langdell moved to accept this application as complete. C. Beer seconded. All were in favor.

P. Amato noted that this property is in Milford, but it cannot be accessed from Milford, it is accessed from Brookline. P. Amato asked if Brookline was ever notified? L. Daley believes Brookline was notified back in 2007 when the project first began; this application tonight is for Phase 9 of the project. P. Amato asked for an explanation of what Regional Impact is for. L. Daley explained that both Planning Boards (Milford and Brookline) have to be notified and then decide if it should be considered. J. Langdell said there is regional impact to Brookline. C. Beer asked if there is regional impact to Brookline, can this application be discussed tonight? L. Daley said it should not. Nathan Chamberlin explained tonight's application is for the last portion of this pit; there will be no additional impact through Brookline. P. Amato said the Town of Milford does not know if this will impact more than it has, asking has there been any discussion with Brookline about if it might additionally impact Brookline which is what regional impact is for. J. Langdell asked how many trucks go in and out of the pit currently? Nick Burbee answered there has been no activity here for the past year, it is going to be reclaimed and finished. Any activity being seen is for his wood business with the trucks and is on the Brookline side. The truck traffic has remained the same for 35 years. L. Daley asked the applicant if this is to Phase out the Phase 8 and Phase 2 and move into Phase 9? Nate Chamberlin answered yes, there is some stockpile that needs to be processed. D. Knott asked for a timeline. Nate responded one year, the plan says three years, but it will be more like one.

Susanne Fournier, Brox Environmental Citizens Group, tried to speak, but D. Knott noted the discussion has not been opened to the public yet. T. Finan asked if this had been identified for regional impact in the past? L. Daley is not aware of what happened in 2007. Nate Chamberlin responded there is no expiration on the AoT permit and that was approved in 2007. He will go to Brookline if this Board feels it is necessary. L. Daley said this was going to be an expansion of the pit to close Phase 8 and move into Phase 9 but no increase in the number of trucks. Nate responded Phase 8 and Phase 9 will both be worked on, all of Phase 8 has been reclaimed except for the stockpile. L. Daley added there is a \$33,000 bond held on this project; \$7,000 per acre. D. Knott asked why were there delays over the past several months? K. Federico asked if that question could be held, and said there previously has been truck activity out there, it has been quiet for the past year because there have been delays but this will not be any more regional impact than previously, so Kevin feels whatever we had previously was dealt with already.

P. Amato asked if Phase 9 is in the current plan? L. Daley answered no, this is an expansion of that plan. D. Knott asked if it will actually impact or change the impact to Brookline? T. Finan responded there is regional impact either way. J. Langdell said there is regional impact to Brookline but because of the history, she is leaning the other way. We do not know if there have been any problems in Brookline, if that is the only question for regional impact, maybe we can move forward tonight or go with the staff recommendation to continue to January and during that time notify Brookline to find out the impact. P. Amato said if we are asking Brookline to take additional trucks maybe we should ask Brookline.

L. Daley explained in 2007 there was regional impact and at that time Brookline did not provide any comments to Milford. Based on the lack of comments at that time, Milford felt there was no impact. D. Knott said it is an existing pit and it is winding down. K. Federico asked what is the impact to the region? Knowing this has been a 25 year operation and it is not at its peak, he would say it has a regional impact but it is not outside of what is already there. D. Knott said the firewood operation also works out of that area. L. Daley said if you determine there is regional impact, it is based on six specific criteria. C. Beer said this pit is literally right on the border of Brookline. K. Federico said the staff recommendation is to continue this to January 22, 2019. If the Board determines there is regional impact, L. Daley said the application stops.

C. Beer moved that this application does have potential regional impact based on the proximity to the Brookline border and it uses Brookline roads for access. K. Federico seconded for discussion. C. Beer said it is pretty clear in the criteria what regional impact is. K. Federico asked how did we get to this point and everyone is just now concerned with regional impact? L. Daley said the applicant has tried to bring all the information up to date, and it took some time to do that and they had to go through an evaluation process for it, they are also working with the State of NH on the AoT which took time as well. Regarding regional impact, this is just an expansion of the current plan and the applicant has stated it is being closed out and the truck traffic will wind down. It is maintaining what has been done through history. K. Federico indicated based on that, he would not have seconded the motion for regional impact. L. Daley said if the Board feels Brookline should weigh in on this, now would be the time to do it, they are aware of the operation but are not aware of Phase 9. P. Amato said the applicant had six months to visit with Brookline and asked if there was any issue; this has been on the Planning Board agenda since July 2018. Nate Chamberlin said there is no regional impact, it is an existing operation. There were questions about what is open and what is not reclaimed. L. Daley stated the AoT was submitted in December. The AoT has not been approved yet and is required for this operation regardless. D. Knott said if this is approved by the Planning Board tonight, it may still not get an approved AoT from the State. L. Daley said we are here to talk about the Phase 9 expansion only.

D. Knott called the question. The motion is that this project has potential regional impact. C. Beer and J. Langdell were in favor with K. Federico, T. Finan, J. Lafontaine and P. Amato opposed. Motion failed 2/4. K. Federico moved that this does not have regional impact. T. Finan seconded. T.

Finan, K. Federico, P. Amato and J. Lafontaine were in favor, with J. Langdell and C. Beer opposed. Motion passed 4/2.

N. Chamberlin said this was submitted last July, the Phase 8 was approved in 2007. An analysis was done, there is new growth in Phase 2. Fish & Game has asked them to fill in Phase 2 for nesting. The 2.6 acres has been started, it is open but all self-contained. The AoT permit application was submitted to the State. D. Knott said Lincoln has identified 17 questions which are in the process of being answered. P. Amato asked if this still requires reclamation? L. Daley responded that after discussion with Fish & Game, some of the areas are recommended to be left as fields. P. Amato said reclamation is really to get some growth to avoid erosion, but Fish & Game might want the fields but that might not be as good. T. Finan asked how do we determine if an area is reclaimed? J. Langdell said our requirements should state that but could be out of date. L. Daley said RSA 155e is what Milford follows. K. Federico asked if we could go through the pictures of the landscape. Nate Chamberlin went through the photos for the Board. K. Federico asked what are we looking for the reclamation? L. Daley would say it is not reclaimed currently. P. Amato said there is no loam spread in any of the areas. Phase 2 has not been worked in ten years and looks like it has not been reclaimed.

L. Daley said they can only have ten acres open at a time. Nate said it is growing back naturally. P. Amato said that is not being "reclaimed." K. Federico said it does not look reclaimed to which D. Knott noted it has not been loamed and seeded. C. Beer said it is not reclaimed and it needs to be. J. Langdell and J. Lafontaine agreed. J. Langdell would like more information about the sand and gravel regulations. K. Federico said there have been several continuances, asking what work has Lincoln used to come up with the detailed recommendations. Lincoln worked with what was provided by engineers and Fish & Game, the area provides nesting opportunities for various animals. D. Knott said it sounds different than what the regulations say. P. Amato does not think it needs to be left barren, the town keeps a bond so it can be reclaimed. K. Federico asked if Fish & Game is satisfied with the reclamation of Phase 2? Lincoln has not gotten that response yet. P. Amato said lets allow the applicant and public to speak and then table it to await the needed information. T. Finan asked if a pit is mined, how could it not be reclaimed? Lincoln said that would be a different application.

Seeing no other comments from the Planning Board, D. Knott opened the discussion to the public. S. Fournier, 9 Woodward Drive, asked about the 2.6 acres, noting the application is for Phase 9, within that, there is 2.6 acres excavated without a permit. It is because of the Assessor that we even know about that, and we realized that Current Use land had been excavated. That work is beyond Phase 8 without a State or local permit. Something like this has been done before, in 2006, they went into a pit before getting a permit. This is a very serious non-compliance without a permit. Ms. Fournier is asking the Planning Board not to just approve this. The State is taking it seriously as well. If the State issues a permit, it can be appealed. Ms. Fournier asked about the current bonding in the file. Lincoln said the letter from their bonding expires in 2019. Ms. Fournier brought information from the State and indicated Burbee previously had four open permits and did not update as they were supposed to. DES closed three permits. The 2007 permit is open. Ms. Fournier gave copies to the Planning Board Chair. The company also failed to pay the State the fee which the town became involved in. That was just paid in 2018. Ms. Fournier said the Conservation Commission provided comments to the Planning Board, there was no site visit. Spaulding Brook was not mentioned.

Lincoln said this has been discussed with the Conservation Commission, and they have no issues. The July 2018 memo identifies that. D. Knott asked if Ms. Fournier is saying Burbee has a history of non-compliance and the Conservation Commission has not done their duty? You are free to have your opportunity to speak but we cannot drag this out. J. Langell said to have Ms. Fournier get to the point. Ms. Fournier said the 2.6 acres that were excavated without a permit. The application has to do with wildlife and they did not find any specific wildlife, there is no survey on the site. This site is in a special area for wildlife. The Spaulding Brook is considered a prime wildlife area. She talked about Mason and Mitchell Brooks, this is a very special place and you should think carefully about this application. The wetlands are very near this site.

Lincoln indicated Milford has not adopted the prime wetland overlay, but the AoT is through the Fish & Game and DES. J. Langdell said the town works with the State departments so that it is a collaborative solution. L. Daley said we do take this seriously to bring things up to speed. This would not be here if questions had not been taken to get this up to date. Ms. Fournier said Burbee did not report to the State nor provide an update every six years. There are cellar holes on this site, Ms. Fournier asked if a site visit was done? Dave Palance, Heritage Commission Chairman, reviewed the plans. This goes back to the 1750's and there is evidence of very interesting things out there. The owners have been very careful to preserve and protect and took a lot of pictures. There have been two site visits from the power lines to Brookline, the people that own the place are avoiding that area where there are historic items. We were on the site with permission. Seeing no further comments, D. Knott closed the public hearing.

P. Amato moved to table the Burbee application to January 22, 2019 for various reasons. J. Langdell seconded. All were in favor. Motion passed unanimously.

- b. **Ricardo De Silva, First Choice Tires for property located at Tax Map 19, Lot 25, 189 Elm Street.** J. Langdell moved to accept the application as complete. P Amato seconded. All were in favor. Motion passed unanimously. J. Langdell moved no regional impact. C. Beer seconded. All were in favor. Motion passed unanimously. Abutters were read into the record; abutters present included: Ricardo De Silva, applicant, and Town of Milford.

Ricardo De Silva explained this is a request for a change of use, he owns one location in Nashua and two in Massachusetts. He is trying to put a custom wheel shop in at 189 Elm Street, the Granite Town Plaza. He has been driving around Milford for two months and there is no place that does this type of work. He wants to bring back the traditional type of store where you see it in front of you, not on a computer. This is in the location where the Liquor Store was previously. Mr. De Silva explained that the customer will come in the front door to take care of paperwork, after which an employee will drive their car around to the back, into the garage door where the work gets done. It will be by appointment only. Two customers per hour can be processed. D. Knott asked if this store will follow the same model as his other stores? Mr. De Silva said yes, we do the tire disposal properly as well. The store is 4,500 sf and the hours will be 8-6 pm Monday through Friday and 8-3 pm on Saturday, closed on Sunday. Lincoln indicated a building permit will be required for the overhead door in the back. P. Amato asked why is this a change of business if it is still retail? Lincoln explained it is actually a service business because they do the work. J. Langdell asked how many deliveries will there be each day? Lincoln responded the idea is to not store items outside and not affect the emergency vehicle access. The tires will be stored inside. No cars will be parked outside. Lincoln asked what is the level of noise? Ricardo indicated the noise will be far from the public and the tools are actually very quiet. J. Langdell said out back the traffic is emergency vehicles only. Ricardo does not think storage will need to be outside. If it is needed at some point, he would only need a storage container of 10'x10'. Seeing no further questions from the Planning Board, D. Knott opened the meeting to the public for comments. There were no comments. D. Knott closed the public hearing.

P. Amato moved to approve the application with the condition that there be no outside storage. K. Federico seconded. All were in favor. Motion passed unanimously.

- c. **Scarlett Homes, Inc. for the property located at 61 Webster Street, Tax Map 30, Lot 109. Minor subdivision to subdivide the subject parcel into two (2) total lots.** P. Amato moved to accept the application for review. K. Federico seconded. All were in favor. Motion passed unanimously. C. Beer moved no potential regional impact. J. Langdell seconded. All were in favor. Motion passed unanimously. Abutters were read, those abutters present included: Scarlett Homes, Inc.; James Heald; Town of Milford.

Gregg Lisciotti presented the minor subdivision for 61 Webster Street, Tax Map 30, Lot 109, indicated this is in accordance with the ordinance. He has spoken to Lincoln Daley about this being a buildable lot. There is a pretty good slope front to rear and a 38' drop. The area will be built up for a yard, there is one new building lot. Abutter John Heald talked about water coming off one of the properties, a stream of water comes down to his property, and he indicated there should be a plan to handle excess water. Lincoln indicated a stormwater management plan will be submitted as part of this application. There is the possibility of a rain garden or a detention pond to handle any additional water so there is no run off. P. Amato asked about the retaining wall, how large and how long is it and has it been engineered? Lincoln said it has been engineered, it is 8-10' high. P. Amato asked if a stormwater management plan is required for this lot? Lincoln said it is required for a disturbance over 5,000 sf. D. Knott read into the record a letter that was hand delivered tonight by Ed Densmore, abutter, (who is unable to be here tonight) as follows:

Dear Mr. Knott:

Regarding petition of Scarlett Homes, Inc. for subdivision of the 61 Webster Street, Tax Map 30, Lot 109.

I am totally opposed to that lot becoming two lots and I am pretty sure Mr. Heald and Mr. Botazzi would agree for the following reasons:

1. That lot was purchased to construct 1 house, not two.
2. The house that has been built has been placed in the only location that is suitable.
3. The present retainer wall may become a massive liability should it fail. Note that all of the walls built along that bank have already failed at least once.
4. The new lot would occupy a sand bank that has been stripped of vegetation.
5. There are springs and wells all through that bank making it unsuitable for a building lot.
6. Proper drainage of that lot would shift water flow back onto the properties below which all of us have already spent 10's of thousands to address. It simply cannot be accomplished.

The list goes on. Please leave what is as is which means ONE LOT.

Ed Densmore

250 South Street

D. Knott opened the meeting to the public. James Heald has lived at 246 South Street for 60 years in August. He provided pictures of drainage coming down from the new lot that has the new home. Mr. Heald said it has always been wet out there but it has been worse since the wall was put up. He has a catch basin on each side of his house and one of them is filling up all the time. D. Knott asked if he has talked to the builder? John Heald, James' son, asked if a stormwater management plan was done for that first house with the wall? J. Langdell said it was not required because it was a pre-existing lot and less than 5,000 sf were disturbed. J. Langdell would be in favor of a stormwater management plan (SWMP) to be requested for that lot now that it is a problem. S. Robinson asked if the SWMP includes the slopes, to which L. Daley answered that it does. C. Beer asked if the subdivision plan is approved with the SWMP, would that make it better for the people on the down side of the site? L. Daley said it provides assurances that the water would not increase; the water will not stop, but it cannot increase. Seeing no further questions from the public, Chairman Knott closed the public hearing.

L. Daley would like to have one SWMP for each of the two lots. That should be a condition for approval. P. Amato asked if the new lot is steeper than the existing lot? Mr. Lisciotti said it is between 25-37%. Once it is done the hope is that there will be detention ponds used. There is a ridgeline on the house that will shed some water to the roads. S. Robinson said Mr. Densmore mentioned that the retaining walls in the area were not effective? L. Daley said the new wall is a stamped plan, which means it was engineered. Mr. Lisciotti said these types of walls are designed for this use. L. Daley said if the wall fails, it is the responsibility of the home owner.

C. Beer moved to conditionally approve the subdivision, based on staff recommendations 1) A not shall be added stating that prior to the signing of the plan all monumentation shall be set and noted on

the plan or a security be provided to the Town to cover the cost of monumentation; 2) a note shall be added to the plan stating that Map 30, Lot 109-1 is subject to applicable police and library impact fees; and 3) the applicant shall submit stormwater management permits for each lot for review and approval by the town. The SWMP shall include a property grading plan displaying the proposed residential home, driveway, accessory structures/walls and associated drainage structures and improvements. P. Amato seconded. All were in favor. Motion passed unanimously.

- d. **KSH Realty LLC for the property located at Tax Map 26 Lot 174, 52-54 Nashua Street. Minor site plan application for a change of use from office space to a restaurant.** Paul Amato, applicant, stepped down from the Planning Board to present the plan. J. Langdell moved to accept the application as complete. C. Beer seconded. All were in favor. Motion passed unanimously. C. Beer moved no potential regional impact. T. Finan seconded. All were in favor. Motion passed unanimously. Abutters were read into the record, those abutters present included: KSH Realty, Ronald Racicot, Town of Milford.

Paul Amato, applicant, presented the plan explaining this restaurant will be a Farm to Table Dinner restaurant; the plan shows 81 seats but there is really about 56 seats. We have some parking available as one of the adjacent parking lots is owned by this property. L. For this use, some changes need to be made including a fire escape stairway being added in the back. Deliveries for the restaurant will be in the rear of the building (Middle Street). Storage will be downstairs and the cooler storage will be in the back of the bank. The office section will be made into a co-working space to rent an office or meeting space. That will take the first section and maybe go to the basement side. On that side, the second floor will be office space leases. That side does not require a change of use, but the restaurant is a change of use. The two vaults will be used, one will provide dining and the other probably will be for wine storage. S. Robinson asked if the vault doors will be removed or will remain? P. Amato said the doors will remain but be welded so they cannot close.

J. Langdell asked where are the 11 parking spaces that are owned by this building? P. Amato said there are a few on Middle Street and also the small lot immediately adjacent to the building (School Street). If it is needed, the restaurant can rent parking spaces for staff. P. Amato said the restaurant will not have sprinklers. L. Daley explained after extensive meetings in the building and about the requirements, it was determined that the code does not require sprinklers. P. Amato introduced Keith Sereson and Chris Vio as the restaurateurs. The concept is straightforward, the history of the building is very cool. Chris Vio is an Executive Chef and would like an open kitchen using local farms in the area. He plans on establishing relationships with the local farms in the area. L. Daley asked if one parking space owned by the building could be designated as handicapped. P. Amato would like to do that and would also like to have an electric car charging station. The hours of the restaurant will be 4-10 p.m. and the office hours will be 8-5 p.m. Seeing no further comments or questions from the Board, Chairman Knott opened the discussion to the public.

Dave Palance, Heritage Commission, said this is a fabulous use of this property. The Historical Society has a number of artifacts from the bank sitting in storage. Ronald Racicot, abutter, said he is thrilled about this but asked about the dumpster location. P. Amato answered that they have not determined that yet. He would like to keep the trash inside the building. There is 5,000 sf for restaurant use but there might be a small dumpster outside in front of the parking space on School Street. Hearing no further comments, the public hearing was closed.

P. Amato commented that Middle Street is kind of open parking to everyone so he would rather have a dumpster located there. C. Beer asked if there would be a sign on the building? P. Amato said that is being considered. K. Federico moved to grant the change of use permit. C. Beer seconded. All were in favor. Motion passed unanimously. J. Langdell motioned that the Planning Board go into a Work Session. K. Federico seconded. All were in favor. Motion passed unanimously.

4. **Public Meetings:**

- a. **Work Session – Draft Zoning Ordinance Amendments**

Solar Collection System – C. Beer moved to post and publish the Solar Collection System Draft ordinance. T. Finan seconded. C. Beer, T. Finan, S. Robinson, P. Amato, J. Langdell and D. Knott were in favor, with K. Federico abstaining. Motion passed 6/0/1.

Home Based Businesses (formerly Home Occupations) – This was discussed at the December 4, 2018 meeting with changes to allow wiggle room. R. Lunn said the special exception has criteria, and this change is about the intensity (of use). D. Knott questioned the certain number of employees and if a business is one employee over that threshold, can we have any wiggle room? R. Lunn explained that is what the Conditional Use Permit (CUP) is for. J. Langdell noted the “waiver” language should have been added to this draft as was discussed at the December 4 meeting. J. Langdell said we are running out of time for these draft ordinances, we need to have the waiver allowance somewhere in the ordinance. L. Daley suggested the waiver be part of the ordinance and indicated he will add what was used in another town, presenting that language to the Board and will double check the Milford Site Plan Regulations. It was agreed that the language from the development regulations would be used in the ordinance. With that addition, J. Langdell asked if everyone is ready to move this forward?

C. Beer moved to approve the Home Based Business draft ordinance amendment, with changes noted, S. Robinson seconded. All were in favor, with K. Federico abstaining. Motion passed 6/0/1.

J. Langdell moved to post and publish the Home Based Business ordinance amendment with the changes noted. P. Amato seconded. All were in favor with K. Federico abstaining. Motion passed 6/0/1.

Sign Ordinance – R. Lunn explained most of the content has not changed in this amendment but it has been re-organized to be easier to review and explain to customers. The formatting was changed and the content sent by NRPC has been incorporated, she asked what happens if Milford does not meet the deadline to get this change made? L. Daley responded the town would be out of compliance at the Federal level. P. Amato suggested approving this tonight and moving it forward, which will be better than what was on the books and address the Freedom of Speech issue. R. Lunn agreed saying this allows her to deal with sign companies that want to do electronic signs; this amendment has a whole lot more specificity with electronic signs. L. Daley said we are under a lot of pressure especially for the downtown signs. C. Beer moved to post and publish the amended Sign Ordinance. T. Finan seconded. All were in favor with K. Federico abstaining. Motion passed 6/0/1.

5. Other Business:

- a. **Community Development Updates** – There were no updates
- b. **Planning Board Updates** – There were no updates
- c. **Commission/Committee Updates** – There were no updates

6. Adjournment: The meeting was adjourned at 9:32 p.m. on a motion made by C. Beer and seconded by D. Knott. All were in favor. Motion passed.

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

MINUTES OF THE 12/18/18 MEETING WERE APPROVED 1/8/19