

AGENDA
PLANNING BOARD
JULY 8, 2019

AGENDA ITEM #2
APPROVAL OF MINUTES

JUNE 10, 2019

DRAFT

LEBANON PLANNING BOARD
COUNCIL CHAMBERS, CITY HALL
MONDAY, JUNE 10, 2019
6:30 PM

MEMBERS PRESENT: Bruce Garland (Vice Chair), Gregory Schwarz, Sarah Welsch, Kathie Romano, Joan Monroe, Matthew Hall, Laurel Stavis, Karen Zook (Council Representative), and Matthew Cole (Alt.)

MEMBERS ABSENT: Jim Winny (Alt. Council Representative)

STAFF PRESENT: David Brooks (Planning and Development Director), Tim Corwin (Senior Planner), Christina Hall (City Engineer)

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1. CALL TO ORDER: Vice Chair Garland called the meeting to order at 6:30 PM.

2. APPROVAL OF MINUTES: May 13, 2019

Page 2, line 20 Change spelling to “Welsch”; Page 3, line 12, change “that” to “those”; lines 15 and 17, change to “...parking lot”; line 30, to read, “...he did not feel one should be invented...”; line 41, add commas after “gravel” and “pavement”; Page 4, line 29, to read “...objected to the idea...”; Page 5, line 45 to read, “...Commission and/or the local Mascoma River Commission as per the State RSA...”; line 46 to read, “...river flooding buildings downstream and causing pollution downstream.” Page 7, line 50, to read, “**The MOTION was approved (5-1).*” Page 9, line 12, to read, “...to get the costs down and...”; Page 10, line 51, to read, “...into a Memorandum of Understanding to ensure...”;

A MOTION by Matthew Hall to approve the May 13, 2019 Minutes as amended. Seconded by Gregory Schwarz.

**The MOTION was approved unanimously (9-0).*

3. NOTICE OF REGIONAL IMPACT:

The following applications were received by the Planning Department on or before June 10, 2019.

QUAIL I, LP, 69 LILY LANE (Tax Map 8, Lot 2, Plot 200), zoned R-3: Request for site plan review to construct a new 32-unit, 50,000 square foot building for senior housing, with associated improvements, to be operated as an extension of the Quail Hollow Senior Living Community off Route 10. #PB2019-13-SPR

PATRICK CASALE and ANDRW DAVIS AVERY II & LIANE MELISSA AVERY, 324 & 320 POVERTY LANE (Tax Map 188, Lot 49 & Tax Map 188, Lot 2), zoned RL-1 & RL-2: Request for Boundary Line Adjustment of lands located at 324 & 320 Poverty Lane. #PB2019-14-BLA

A MOTION by Matthew Hall that the applications (above) have no Regional Impact. Seconded by Matthew Cole.

**The MOTION was approved (9-0).*

4. COMPLETENESS REVIEW OF NEW APPLICATIONS:

5. PUBLIC HEARINGS – Continued

A. TWIN STATE SAND & GRAVEL CO, INC., C/O WARREN AMES, ELM STREET WEST (Tax Map 116, Lots 2 & 3), zoned IND-RA & R-3: Request for an extension of time in

1 order to satisfy conditions-precedent and to record the subdivision plan for the Iron Horse Park
2 project, a phased 13-lot Planned Business Park and Major Subdivision, originally approved on
3 September 24, 2012 (#PB2011-31-FMAJ). #PB2019-06-EXT – Continued from 5/13/19
4

5 **Megan Carrier, Attorney and Peter Goodrich, Pathways Consulting speaking on behalf of**
6 **the application.**
7

8
9 Atty. Carrier asserted that the City’s main focus is whether the extension is necessary to uphold
10 Twin State’s constitutional rights. They have done substantial construction, and \$6.5 million has
11 been expended so far. There have been certain expenditures in VT related to establishing a TIF
12 district. Equipment had to be relocated in order to clear the site. Referring to the letter to the City
13 of May 10 and accompanying spreadsheet, Atty. Carrier stated that Twin State has spent \$5
14 million on requirements to date and believes it has satisfied the fourteen requirements. Atty Carrier
15 addressed the concerns of the City that certain costs may not be related to the project but believes
16 there is no basis for amounts in error or inappropriate. It is their contention that Twin State was not
17 aware that the City required additional backup information, but they would certainly provide it and
18 work with the staff. Atty. Carrier suggested the time requirements for smaller projects are not
19 applicable to the Iron Horse Park project, asserting they could not complete it within the
20 timeframe and adding the public would benefit from jobs and the use of transportation. Atty.
21 Carrier asserted that Twin State’s rights would be violated by a denial of the extension, noting that
22 the City previously granted extensions to others after longer amounts of time and Twin State
23 should be similarly treated. Their equal protection rights could have been violated, and they
24 request it be extended.
25

26 Peter Goodrich read a letter from Rob Taylor dated April 2, 2019 in support of Iron Horse Park
27 into the hearing.
28

29 Mr. Goodrich explained that he was there because Rod Findley was in surgery today. Mr.
30 Goodrich recapped the timeline of many of the previous meetings with City staff, including the
31 most recent meetings since 2018 with Shaun Mulholland, David Brooks, and Paula Maville. Many
32 of the discussions were regarding TIF. They met in April 2019 to discuss a feasibility spreadsheet
33 on the phase-in for TIF, and they met again June 4, 2019.
34

35 Mr. Corwin noted the staff memo, which asked Twin State to provide additional information
36 within a certain amount of time. A denial would be determined if vested rights have not accrued.
37

38 The Board members posed questions about the expenses related to Route 5 and the I91 bridge for
39 relocation. Atty. Carrier stated that they could get specific information from Mr. Findley. Atty.
40 Carrier noted that anything that is incurred in connection with the project itself is a related cost,
41 and they had to move equipment in order to clear the site before construction. Mr. Hall asked
42 about the relationship between the TIF approval and the conditions set by the City. Atty. Carrier
43 explained that the public infrastructure is very large, creating a perfect situation for TIF. The
44 nature and number of conditions causes the need for a TIF. Ms. Romano asked about the
45 timeframe to get TIF through and the impact on the project’s status if there is no TIF approval.
46 Mr. Brooks explained that when a TIF document is completed, the City Council must consider the
47 feasibility. It took 5-6 months to complete the study and was adopted in July 2015. Twin State
48 presented the first few years, but it needs more detailed information as to what work would be
49 done and by whom. It is important that everything is done to protect the City and the concept of
50 how it would work.

51 Vice Chair Garland noted that the plan was approved in 2013, detailing two projects, one with 14
52 conditions and a second with 11 conditions, which have not been satisfied. Mr. Garland asked why

1 it has taken so long to meet those conditions. Atty. Carrier stated that it was due to loss of the
 2 original developer, and the public infrastructure requirements made it difficult to find another
 3 developer interested in TIF. Ms. Welsch asked what would be a reasonable amount of time to
 4 receive information to make a decision. Mr. Brooks acknowledged that they submitted information
 5 today, and there has not been time to review it. They are many months from considering a TIF
 6 district. There is a need for finer itemization of spreadsheet items detailing what has been done for
 7 each condition of approval. Mr. Hall noted that Twin State filed for an extension in early March
 8 and have had time to provide the requested information to clear the regulations.

9
 10 **Vice Chair Garland opened the Public Hearing**

11
 12 Dan Nash from Ward 1 spoke regarding his concerns. With the City’s tremendous storm water
 13 debt, the TIF district could provide income to help with the debt. The City adopted an ordinance
 14 with a very narrow term of vesting, and this company has spent 3-5 years on this project. The City
 15 would incur legal costs if taken to court, but what would it cost the City to grant an extension? Mr.
 16 Nash suggested the Board should consider 5-year horizons for projects of this size. ICB on Etna
 17 Road has been going on for 20 years, and the construction is going on still with one more phase
 18 coming. They are just finishing a cemetery project with a long horizon. This is not like simple
 19 projects. Iron Horse Park needs extensive infrastructure. The industrial park at airport was funded,
 20 and Twin State is asking for TIF for projected tax revenue.

21
 22 Ms. Romano suggested giving time for staff to review the new information and/or meet with the
 23 project leaders. Ms. Stavis noted that Rod Findley’s absence is an extenuating circumstance,
 24 among others in addition to the complexity of project. Ms. Stavis asked the staff to consider a
 25 reasonable amount of time to review new material, meet with the applicants, and inform the
 26 Board.

27
 28 Mr. Brooks suggested it would take 60 days to review material and meet with project
 29 representatives. Staff would also meet with the City’s attorney regarding vested rights.

30
 31 ***A MOTION by Laurel Stavis for the Board to grant a 60-day continuation until August 12,***
 32 ***2019 to allow Staff sufficient time to consider questions raised during the presentation and meet***
 33 ***with project representatives. Seconded by Kathie Romano.***

34
 35 The members discussed the motion. Ms. Monroe requested more specificity as to the work done.
 36 Ms. Welsch asked for a breakdown of \$1million spent on the bridge and the costs for Route 5. Ms.
 37 Stavis would like more information on the possible tie in with Westboro Yard and downtown. Mr.
 38 Hall requested information on the regulations as written and the criteria for violating the
 39 applicant’s constitutional rights.

40
 41 ****The MOTION was approved (7-2).***

42
 43 **B. TWIN STATE SAND & GRAVEL CO. INC., C/O WARREN AMES, ELM STREET**
 44 **WEST (Tax Map 116, Lots 2 & 3), zoned IND-RA:** Request for an extension of time in order to
 45 obtain building permits for the Iron Horse Industrial Planned Unit Development, originally
 46 approved on April 22, 2013 (#PB2011-32-SPR), which consists of the ten (10) Industrial Sector
 47 lots within the Iron Horse Planned Business Park. #PB2019-07-EXT – **Continued from 5/13/19**

48
 49 ***A MOTION by Sarah Welsch to extend the second Twin State project. Seconded by Matthew***
 50 ***Hall.***

51 ****The MOTION was approved (7-2).***
 52

1 C. **XYZ DAIRY, LLC** – Amendment to previous Subdivision and Site Plan Approvals for the River
 2 Park phased development project located at 167-197 North Main Street, Tax Map 44, Lots 3, 7,
 3 and 21-30, and Tax Map 58, Lots 27, and 89-99, West Lebanon, NH, in the R3, IND-L and CBD
 4 zones. #PB2018-34-SPA – **Continued from 5/28/19**

5
 6 **Ms. Stavis and Ms. Romano were recused.**

7
 8 David Clem expressed his regret that he could not respond because he was traveling and delivered
 9 his information on June 5. Mr. Corwin stated that he has version 7 of the draft motion, and they
 10 are making progress. There are still some outstanding issues, but they are on a good track. Mr.
 11 Clem said it is important for the Board to review his changes. He would recommend that with all
 12 the changes, they cannot make a decision tonight. Mr. Clem would like to meet with Staff to create
 13 a final draft motion. He discussed some of the new details and agreed they have made progress.
 14 The Board members discussed the nature and issues around traffic mitigation and the temporary
 15 parking lots during phases of construction. Mr. Hall suggested that the issue should come back to
 16 the Board after Mr. Clem meets with Staff.

17
 18 Matthew Hall asked for a straw poll of those in favor of what is in the current motion regarding the
 19 description of temporary parking. Those in favor were (6-1).

20
 21 Vice Chair Garland stated that the Board could not debate the issue of traffic mitigation at this
 22 meeting. Mr. Clem noted that the new proposal does not increase traffic from what was in the
 23 original draft. Mr. Hall suggested putting it in a timeline perspective, listing what was first
 24 approved as compared to changes to the timeline, which would determine the impact.

25
 26 **Vice Chair Garland opened the Public Hearing**

27
 28 Laurel Stavis stated that she lives on Apple Blossom Drive and asked if there was an estimate on
 29 the increase in traffic with the new number of dwellings increasing to 125. Mr. Brooks explained
 30 that the modified parking requirement provides more than what is required in temporary parking.
 31 Kathie Romano noted that most buildings are office buildings, and the parking lots are vacant
 32 overnight. Originally, phase 7, the residential area was to be the final one built and would have
 33 both finished garages. If they are built earlier, those residents would be on gravel at a distance
 34 from home for up to 3 years with no dedicated parking. It would make sense to build the
 35 residential section when originally scheduled.

36
 37 *A MOTION by Matthew Hall to continue the hearing to August 12, 2019. Seconded by Sarah*
 38 *Welsch.*

39 **The MOTION was approved (7-0).*

40
 41
 42 **6. PUBLIC HEARINGS**

43 **A. SUSAN ACKERMAN & ERIK & ELSA ROTH, 284 & 287 POVERTY LANE (Tax Map**
 44 **188, Lot 7 & Tax Map 188, Lot 31), zoned RL-1:** Request for a Boundary Line Adjustment of lands
 45 located at 284 and 287 Poverty Lane. #PB2019-10-BLA

46
 47 Susan Ackerman of 287 Poverty Lane spoke in support of the request, stating that the properties at 284
 48 and 287 are divided by the road but owned by a common owner. The house is on the 287 side, and the
 49 garage is on the 284 side. When the property was sold in 1985, the properties were divided with a 99-year
 50 lease for 1 acre with the garage to Ms. Ackerman. It is a very awkward situation. She is responsible for
 51 and maintains 1 acre, but doesn't own it. Ms. Ackerman decided to try to buy the 1 acre, and the lease
 52 allows it, for a 1-acre payment. She is asking for a boundary line adjustment. Mr. Corwin stated that they

1 have made the final adjustments and all has been satisfied as of June 7, 2019. The only remaining
2 condition was that they asked that the plan be updated. Staff recommends approval.

3
4 Ms. Monroe noted that in the packet, paragraph 2 it states the property is within a wetland's conservation
5 district. It is important that the owner be aware of what can and can't be done in a wetlands area. She
6 would like to see the conditions to state that it's in a wetlands area.

7
8 **Vice Chair Garland closed Public Hearing**

9
10 Mr. Corwin clarified that the surveyor confirmed where the new points are located, and the width is 3
11 rods from the center of the existing road. Vice Chair Garland suggested having the surveyor discuss it
12 with the City Engineer.

13
14 **MOTION TO APPROVE WAIVERS:**

15 **Date:** June 10, 2019

16
17 *Joan Monroe MOVED* that the Lebanon Planning Board **APPROVE** a waiver for the application of
18 **SUSAN ACKERMAN & ERIK & ELSA ROTH, #PB2019-10-BLA**, from the following section of the
19 **Subdivision Regulations:**

- 20 • **Section 8.2.A(5)**– requiring the plan to depict the location of all existing structures on the
21 subject lots.

22
23 *The MOTION was seconded by Matthew Hall.*

24 **The MOTION was approved (9-0).*

25
26 **MOTION TO APPROVE / DENY THE APPLICATION:**

27
28 **Date:** June 10, 2019

29
30 *Joan Monroe MOVED* that the Lebanon Planning Board **APPROVE** the application of **SUSAN**
31 **ACKERMAN & ERIK & ELSA ROTH** for a Boundary Line Adjustment of lands located at 287
32 Poverty Lane (Tax Map 188, Lot 31), located in the RL-1 zone, and 284 Poverty Lane (Tax Map
33 188, Lot 7), located in the RL-1 & RL-3 zones, #PB2019-10-BLA, as shown on a plan titled
34 "Boundary Line Adjustment Plan for Susan Ackerman and Eric [*sic*] & Elsa Roth", prepared by
35 Pathways Consulting, LLC, dated May 9, 2019, last revised June 6, 2019, Proj. No. 12956, including
36 any and all submissions and testimony provided for and during the public hearing, with the
37 following conditions:

- 38
39 1. Prior to the signing and recording of the final plat, the applicant shall provide two (2) revised
40 plans to the Planning & Development Department adding notes explaining, to the satisfaction of
41 the City Engineer, how the location of the Poverty Lane right-of-way was determined, and that
42 the acreage for the properties is based on the location of the right-of way-line not the closure
43 line.
 - 44
45 2. Prior to the signing and recording of the final plat, the applicant shall provide to the City a
46 draft copy of the deed of the land transfer for review to ensure the transfer will be completed
47 properly for Assessing and recording purposes.
 - 48
49 3. Prior to the signing and recording of the final plat, the applicant shall provide a digital record
50 drawing (Cad.dwg Format using NH State Plane Coordinate system).
- 51

1 4. Future construction and uses on the subject property shall be subject to all applicable
2 regulations of Section 401 of the Zoning Ordinance (“Wetlands Conservation District”).
3

4 *The MOTION was seconded by Matthew Cole.*

5 **The MOTION was approved (9-0).*
6

7 **AUTHORIZATION FOR PLAT SIGNING:**

8
9 **Date:** June 10, 2019

10
11 *Joan Monroe MOVED* that the Lebanon Planning Board authorizes the Chair to sign the plat for
12 **SUSAN ACKERMAN & ERIK & ELSA ROTH, #PB2019-10-BLA.**

13
14 *The MOTION was seconded by Sarah Welsch.*

15 **The MOTION was approved (9-0).*
16

17 **B. BASIC HOLDINGS LLC, 5 & 11 OAK RIDGE ROAD, (Tax Map 4, Lots 5 & 6), zoned R-3:**
18 Request for Preliminary Review of a Major Subdivision for a proposed Planned Unit Residential
19 Development (PURD) pursuant to Section 501.2 of the Zoning Ordinance containing 21 residential
20 units together with related site improvements and amenities. #PB2019-03-PMAJ
21

22 Jeffrey Shapiro, Atty. Nate Stearns, and Luc Buccellato appearing in support of the request.
23

24 Mr. Corwin stated that they received the last piece of information, and the application is complete. He
25 suggested that they use tonight to schedule some meetings. It is now up to the Board. The subdivision
26 reviews are very long, and it will take at least 5 meetings outside of normal schedule. They need a site
27 walk and another four meetings to be scheduled. Mr. Corwin noted they are asking for a waiver to not
28 submit water information until the final approval time, and he would suggest they could grant that waiver
29 request or they can wait. They need the waiver because the plan in the binder was taken from the City’s
30 GIS and is not a ground survey.
31

32 *A MOTION by Matthew Hall that the Planning Board waive the survey topography. Seconded by*
33 *Kathie Romano.*

34 **The MOTION was approved (9-0).*
35

36 *A MOTION by Matthew Hall that the application (above) was found complete. Seconded by Matthew*
37 *Cole.*

38 **The MOTION was approved (9-0).*
39

40 Mr. Corwin noted the need for a Site Visit of 1.5 hours to identify borders and the center line of the road
41 and suggested June 26 at 5:30.
42

43 *A MOTION by Matthew Hall to extend the meeting time to 9:45. Seconded by Matthew Cole.*

44 **The MOTION was approved (9-0).*
45

46 *A MOTION by Matthew Hall to continue the hearing to June 26, 2019 at 5:30. Seconded by Matthew*
47 *Cole.*

48 **The MOTION was approved (9-0).*
49

50 The Board members recommended four meetings to complete the work on the application. The first
51 scheduled meeting would be July 16, 2019 at 6:30pm in Council Chambers.
52

1 *A MOTION by Laurel Stavis to accept the recommended schedule. Seconded by Matthew Cole.*
2 **The MOTION was approved (9-0).*

3
4 **7. STUDY ITEMS: None.**

5
6 **8. OTHER BUSINESS:**

7
8 The public left the chamber for elections.

9
10 Due to the resignation of Keith Davio, elections must be held.

11
12 Mr. Brooks said they could refer to nominations from the City Clerk for new members of the CIP
13 Subcommittee. Nominations were received from the floor and voting began in order of nomination.

14
15 Vice Chair Bruce Garland was nominated as Chair.

16 Laurel Stavis was nominated as Chair.

17 *Bruce Garland was elected as Chair for the remainder of 2019. Voting in favor – 6.*

18
19 Matthew Hall was nominated as Vice Chair. Voting in favor – 4.

20 Laurel Stavis was nominated as Vice Chair. Voting in favor – 3.

21 *Matthew Hall was nominated as Vice Chair for the remainder of 2019. Voting in favor –5.*

22
23 Dates were set for the review of all CIP applications for the week of July 15. The Subcommittee would
24 meet July 15, 17, and 18.

25
26 **9. OPEN DISCUSSION: None.**

27
28 **10. ADJOURNMENT:**

29
30 *A MOTION by Matthew Hall to adjourn the meeting. Seconded by Matthew Cole.*
31 **The MOTION was approved (9-0).*

32
33 **The meeting was adjourned at 9:38 pm.**

34
35 Respectfully submitted,
36 Holly Howes
37 Recording Secretary
38