

FINAL

**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)

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

Matthew Cole was appointed in place of Jim Winny.

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:

The Planning Department recommends that all of the new business applications (below) as submitted on the agenda are ready to be deemed complete enough to accept jurisdiction and commence review.

Lebanon Planning Board, Minutes, Monday, June 10, 2019

- A. **SUSAN ACKERMAN & ERIK & ELSA ROTH, 284 & 287 POVERTY LANE (Tax Map 188, Lot 7 & Tax Map 188, Lot 31), zoned RL-1:** Request for a Boundary Line Adjustment of lands located at 284 and 287 Poverty Lane. #PB2019-10-BLAP
- B. **BASIC HOLDINGS LLC, 5 & 11 OAK RIDGE ROAD, (Tax Map 4, Lots 5 & 6), zoned R-3:** Request for Preliminary Review of a Major Subdivision for a proposed Planned Unit Residential Development (PURD) pursuant to Section 501.2 of the Zoning Ordinance containing 21 residential units together with related site improvements and amenities. #PB2019-03-PMAJ

A MOTION by Matthew Hall that the applications listed above are deemed complete enough to accept jurisdiction and commence review. Seconded by Sarah Welsh.

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

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

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

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

Peter Goodrich read a letter from Rob Taylor, the head of the Lebanon Chamber of Commerce, dated April 2, 2019 in support of Iron Horse Park into the hearing.

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

Mr. Corwin noted the staff memo, which asked Twin State to provide additional information within a certain amount of time.

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

Vice Chair Garland noted that the plan was approved in 2013, detailing two projects, one with 14 conditions and a second with 11 conditions, which have not been satisfied. Mr. Garland asked why it has taken so long to meet those conditions. Atty. Carrier stated that it was due to loss of the original developer, and the public infrastructure requirements made it difficult to find another developer interested in TIF. Ms. Welsch asked what would be a reasonable amount of time to receive information to make a decision. Mr. Brooks acknowledged that they submitted information today, and there has not been time to review it. They are many months from considering a TIF district. There is a need for finer itemization of spreadsheet items detailing what has been done for each condition of approval. Mr. Hall noted that Twin State filed for an extension in early March and have had time to provide the requested information to clear the regulations.

Vice Chair Garland opened the Public Hearing

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

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

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

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

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

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

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

A MOTION by Sarah Welsch to extend the second Twin State project. Seconded by Matthew Cole.

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

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

Ms. Stavis and Ms. Romano were recused.

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

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

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

Vice Chair Garland opened the Public Hearing

Laurel Stavis stated that she lives on Apple Blossom Drive and asked if there was an estimate on the increase in traffic with the new number of dwellings increasing to 125. Mr. Brooks explained that the modified parking requirement provides more than what is required in temporary parking. Kathie Romano noted that most buildings are office buildings, and the parking lots are vacant overnight. Originally, phase 7, the residential area was to be the final one built and would have

both finished garages for parking. If the residences are built earlier, those residents would be on gravel at a distance from home for at least three years with no dedicated parking. It would make sense to build the residential section when originally scheduled.

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

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

6. PUBLIC HEARINGS

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

Susan Ackerman of 287 Poverty Lane spoke in support of the request, stating that the properties at 284 and 287 are divided by the road but owned by a common owner. The house is on the 287 side, and the garage is on the 284 side. When the property was sold in 1985, the properties were divided with a 99-year lease for 1 acre with the garage to Ms. Ackerman. It is a very awkward situation. She is responsible for and maintains 1 acre, but doesn't own it. Ms. Ackerman decided to try to buy the 1 acre, and the lease allows it, for a 1-acre payment. She is asking for a boundary line adjustment. Mr. Corwin stated that they have made the final adjustments and all has been satisfied as of June 7, 2019. The only remaining condition was that they asked that the plan be updated. Staff recommends approval.

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

Vice Chair Garland opened the Public Hearing. There were no comments, and Vice Chair Garland closed the Public Hearing.

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

MOTION TO APPROVE WAIVERS:

Date: June 10, 2019

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

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

The MOTION was seconded by Matthew Hall.

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

MOTION TO APPROVE / DENY THE APPLICATION:

Date: June 10, 2019

Joan Monroe MOVED that the Lebanon Planning Board APPROVE the application of SUSAN ACKERMAN & ERIK & ELSA ROTH for a Boundary Line Adjustment of lands located at 287 Poverty Lane (Tax Map 188, Lot 31), located in the RL-1 zone, and 284 Poverty Lane (Tax Map

Lebanon Planning Board, Minutes, Monday, June 10, 2019

188, Lot 7), located in the RL-1 & RL-3 zones, #PB2019-10-BLA, as shown on a plan titled “Boundary Line Adjustment Plan for Susan Ackerman and Eric [sic] & Elsa Roth”, prepared by Pathways Consulting, LLC, dated May 9, 2019, last revised June 6, 2019, Proj. No. 12956, including any and all submissions and testimony provided for and during the public hearing, with the following conditions:

1. Prior to the signing and recording of the final plat, the applicant shall provide two (2) revised plans to the Planning & Development Department adding notes explaining, to the satisfaction of the City Engineer, how the location of the Poverty Lane right-of-way was determined, and that the acreage for the properties is based on the location of the right-of way-line not the closure line.
2. Prior to the signing and recording of the final plat, the applicant shall provide to the City a draft copy of the deed of the land transfer for review to ensure the transfer will be completed properly for Assessing and recording purposes.
3. Prior to the signing and recording of the final plat, the applicant shall provide a digital record drawing (Cad.dwg Format using NH State Plane Coordinate system).
4. Future construction and uses on the subject property shall be subject to all applicable regulations of Section 401 of the Zoning Ordinance (“Wetlands Conservation District”).

The MOTION was seconded by Matthew Cole.

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

AUTHORIZATION FOR PLAT SIGNING:

Date: June 10, 2019

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

The MOTION was seconded by Sarah Welsch.

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

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

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

Mr. Corwin stated that the Planning Department received the last piece of information, and the application is complete. He suggested that the Board use tonight to schedule some meetings. It is now up to the Board. The subdivision reviews are very long, and it will take at least five meetings outside the normal schedule. They need a site walk and another four meetings to be scheduled. Mr. Corwin noted that Basic Holdings is asking for a waiver to not submit water information until the final approval time. Mr. Corwin suggested the Board could grant that waiver request or wait. The applicant needs the waiver because the plan in the binder was taken from the City’s GIS and is not a ground survey.

Lebanon Planning Board, Minutes, Monday, June 10, 2019

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

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

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

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

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

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

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

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

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

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

A MOTION by Laurel Stavis to accept the recommended schedule. Seconded by Matthew Cole.

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

7. STUDY ITEMS: None.

8. OTHER BUSINESS:

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

Mr. Brooks said they would follow the procedure for nominations from the City. Nominations were received from the floor and voting began in order of nomination. Mr. Brooks explained that the first nominee receiving a majority of votes, when taken in the order of nomination, would be elected.

Vice Chair Bruce Garland was nominated as Chair.

Laurel Stavis was nominated as Chair.

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

Matthew Hall was nominated as Vice Chair. Voting in favor of Mr. Hall – 4.

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

As neither nominee received a majority of the votes (9 members present), a second vote was taken.

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

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

9. OPEN DISCUSSION: None.

10. ADJOURNMENT:

Lebanon Planning Board, Minutes, Monday, June 10, 2019

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

The meeting was adjourned at 9:38 pm.

Respectfully submitted,
Holly Howes, Recording Secretary