



TOWN OF BOW

Planning Board

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Approved as amended on August 20, 2020

MINUTES July 16, 2020

The Town of Bow Planning Board met on Thursday, July 16, 2020 at 7:00 PM via Zoom Meeting. Chair Berube began the meeting with the reading of the meeting checklist and roll call introduction of the Board.

7:00 ROLL CALL

Other members present were Sandra Crystall, Vice Chair, Tony Reynolds, Secretary, Adam Sandahl, Willis Sloat, David Glasier (alt), Garth Orsmond (alt), and Selectboard representative Mike Wayne. Also present were Matt Taylor, Community Development Director, Bryan Westover, and Alvina Snegach, recording secretary. Bill Oldenburg was excused. Kristen Hayden was absent.

Mr. Berube noted that Mr. Oldenburg was not present and appointed Alternate Glasier to vote in his place. He then directed everyone's attention to item I.I on the Agenda.

MINOR MODIFICATION

Minor Modification for Extreme Machines culvert replacement.

Mr. Berube read the item into the record. David Moffett introduced himself as the owner of Extreme Machines and spoke about the proposed culvert replacement and the new location for the driveway to make it safer. He answered Board' questions about the size of the culvert (12"), restoration, and state approvals.

Ms. Crystall made a motion to approve the minor modification submitted by Extreme Machines. Mr. Glasier duly seconded and motion passed by 6:0 by a roll call vote: Ms. Crystall – yes; Mr. Reynolds – yes; Ms. Sandahl – yes; Mr. Sloat – yes; Mr. Glasier – yes; Mr. Wayne – yes.

Minor modification at 10 Noyes Lane for additional storage of equipment and vehicles.

Mr. Berube read the item into the record. Mr. Reynolds recused himself as he was the one making the request for a modification. Mr. Berube appointed Alternate Orsmond to vote in his place. Mr. Reynolds and Jeff Knight spoke about the proposal to keep some of Mr. Reynolds' off season equipment on site. Mr. Reynolds went over the aerial image and listed the equipment that he is requesting to remain on the Keller Products property that was just approved for a special exception to excavate. He and Mr. Knight answered questions about the fencing suggested by the Bow building inspector, availability of a previous site plan from 1981, whether the area identified for storage will be sufficient, the property owner's permission, drainage, containment of potential oil leaks, etc. Mr. Taylor provided a summary of the issue, which came up after the ZBA put the condition to clean up the site prior to beginning the excavation. He also showed the site plan from 1981. Mr. Knight offered to table the issue to the next meeting and come back with more details marking up the existing 1981 site plan to show the area for storage and listing what equipment will be there. After a short discussion about what else may need to be shown on the site plan (drainage, containment, etc) the Board agreed to take up the issue at the next meeting.

PUBLIC HEARINGS

Application #404-20w: Andrew J. Mattiace – Block 4, Lot 127-1 located at 1 Beaver Brook Dr. Wetlands Protection Conditional Use Permit for construction of an accessory building and a footbridge within wetland buffers. For Final Approval.

Mr. Berube read the item into the record. Mr. Reynolds was voting again. Andrew Mattiace from 1 Beaver Brook introduced himself and went over the presentation with the details of the project which is to impact a small amount of wetland and wetland buffer in order to put in a sugar shed and a foot bridge on a trail to reach the back of his property for tapping maple trees. Mr. Mattiace noted that he had presented the project to the Bow Conservation Commission (BCC) and addressed some of the comments he received from them. He then addressed the conditional use permit criteria and answered questions from the Board about the location of the trail, which is currently shown to go onto the neighbor's property, for which he has received permission; an alternate location for the trail, should the neighbor change his mind or move; location of the bridge; the need for a variance to encroach into the front and side setbacks. Ms. Crystall reiterated the BCC's concerns with the lack of information and exact impact amounts on the plans that were submitted by the applicant. Discussion ensued about the abutter letters received for the project and Mr. Mattiace's operation. A question was posed whether it would be classified as a cottage industry. Mr. Taylor mentioned that it is protected as an agricultural use under the state statute. Mr. Berube opened the public hearing at 8:16 PM and having nobody there to address the Board, closed it at 8:16 PM. A short discussion followed about the State wetlands permit and comments from the BCC. *Ms. Crystall made a motion to approve the application #404-20w with the following conditions: (1) that a copy of the NHDES Trail Notification submittal be provided to the Town; and (2) a copy of the plan showing the numbers for impacts to the wetlands and buffers for the construction of the bridge, sugar house, and the trail. Mr. Glasier duly seconded and motion passed by a 6:0 roll call vote Ms. Crystall – yes; Mr. Reynolds – yes; Ms. Sandahl – yes; Mr. Sloat – yes; Mr. Glasier – yes; Mr. Wayne – yes.*

Application #405-20w: Kristopher P. McDaniel & Mary K. McAlister – Block 4, Lot 87 located at 125 Page Rd. Wetlands Protection Conditional Use Permit for construction of a driveway crossing with 950 sq ft wetland impact and 8,027 sq ft wetland buffer impact. For Final Approval.

Mr. Berube read the item into the record. Jacques Belanger from J.E. Belanger Surveying introduced himself and went over the details of the project for a wetland crossing for a driveway to a single house. A 4'X3' box culvert will be used under the driveway. Mr. Belanger addressed the BCC comments and added that the owners do not have any further plans to develop the property. He then answered questions about the width of the driveway, possibility of making narrower at the crossing, NHDES permitting, and erosion controls for steep slopes created by the culvert placement. Discussion ensued about stabilizing the slopes, needing to mark the wetland buffers, and placing the culvert.

Mr. Berube opened the public hearing at 8:41 PM and having nobody there to address the Board, closed it at 8:41 PM.

Mr. Glasier made a motion to approve the Application #405-20w with the following conditions: (1) erosion matting is used to stabilize slopes greater than 3:1 around the culvert placement; (2) wetland markers placed on trees to mark the wetland/stream buffer and White Brook buffer (75 feet); (3) NHDES wetlands permit has been approved. Mr. Sandahl duly seconded and the motion passed by a 6:0 roll call vote Ms. Crystall – yes; Mr. Reynolds – yes; Ms. Sandahl – yes; Mr. Sloat – yes; Mr. Glasier – yes; Mr. Wayne – yes.

MINOR MODIFICATION

Minor Modification and site plan compliance hearing of previously approved Site Plan Review Application #201-07: Stan and Pete, Inc. (dba Bow Recycling Center/Zero Waste) - Block 2, Lot 160-A located at 330 River Rd. To temporarily use an existing 6,400 square foot maintenance

building as a recycling transfer building due to fire damage to the existing 12,000 sq ft recycling transfer building.

Mr. Berube read the item into the record. Laura Hartz and Jonathan Eck from Orr and Reno, and Bruce Scamman from Emanuel Engineering were there to present the modification request and answer questions. Ms. Hartz went over the proposed operations flow chart, details of the requested modification and possible scenarios to move forward. Ms. Hartz proposed the following:

- Continue the waste sorting and processing operations in the damaged building until October 1, 2020 with all the necessary precautions;
- Construct the 6,000 sq ft addition to the already existing 6,400 sq ft maintenance building with slight modifications from what had been approved in 2008, namely make the addition 40 ft high, install taller overhead doors, replace translucent panels with smaller windows, and install sprinklers.
- If the 6,000 sq ft addition is complete before October 1, 2020, move the waste processing to it with reduced operations capacity to 50% of the tonnage allowed by NHDES (from 600 tons daily to 300 tons; from 4200 tons weekly average to 2100 tons);
- If the above addition is not complete before October 1, 2020, move the waste processing to the existing 6,400 sq ft maintenance building with reduced tonnage until the 6,000 sq ft building is complete;
- There will be no simultaneous use of the maintenance building sections for the waste processing purposes;
- Once the damaged building is vacated, rebuild it in the same footprint (hopefully within a year) and move the operations back to it returning to the full tonnage allowance and go back to using both sides of the maintenance building for maintenance purposes only;

Ms. Hartz and Mr. Scamman then answered Board's questions about installation of sprinklers, operating in the existing maintenance building with construction going on right next to it; construction timeframe for the addition; and structural analysis of the burnt building and actions taken to make the operations safe while working there until October 1, 2020.

Ms. Hartz also went over the phasing plan for the Bow Recycling Center and explained that maintenance building was built out of phasing order, which she stated was allowed by the Planning Board in 2015. She then compared the plan presented at the last meeting to the new site plan modification and explained the rationale behind switching from simply using the existing maintenance building, which is less suitable to serve as the tipping floor, to the additional space which they hope to build before the October 1, 2020 deadline. Additional questions followed about the possibility to connect the two parts of the building; about the fate of the currently employed staff in case the waste processing volumes are reduced, which the owner confirmed that everyone should keep their job as long as the business remains operational; about the changes to the site plan outside of the buildings, which would be internal traffic patterns only.

A short discussion ensued about procedure and whether abutters need to be notified or this temporary change of use can be handled via a minor modification. Ms. Hartz clarified the situation with the objecting abutters, which according to her has recently changed as they were no longer objecting and showed how moving the waste processing operation to the maintenance building will actually move it farther away from these abutters. Mr. Taylor clarified that there was a letter from Bruce Marshall submitted prior to the meeting listing multiple issues with the minor modification, which since then has been withdrawn.

Ms. Hartz then went over criteria for minor modifications and how these were met for this case.

Discussion ensued about a possibility of putting an end date to the temporary use of the maintenance building, and the applicant was amenable to a one-year timeframe from October 1, 2020.

Another discussion ensued about the multiple complaints received about the current state of affairs onsite from many abutters, NHDES, Bow Fire Department, etc. Ms. Hartz addressed the statement with a list of

actions that have been undertaken by Stan and Pete, Inc. to clean up the site and bring it closer towards compliance. She noted that her client is submitting weekly reports to NHDES after receiving a letter of deficiency from the agency and has clearly demonstrated the effort to clean up.

Ms. Hartz and Mr. Scamman answered questions about landscaping for the proposed addition; landscaping proposed before; other site plan developments through the phases, like pavement and drainage features; and concerns from the withdrawn letter that were still valid.

Mr. Eck and Ms. Hartz presented a list of remedial actions that their client undertook since the fire among which were:

- Storage trailers consolidated in one location;
- Dumpsters all gathered together;
- Many items moved off site;
- Detention pond cleaned up and stoned;
- Detention areas around the building;
- Locking gates installs at entrances on Dunklee and River Roads;
- General areas that have been cleaned up;

Mr. Eck noted that there have been only one complaint received by the July 9th deadline and that complaints has since been withdrawn.

Mr. Eck also referred to a weekly facility status report to NHDES and items listed there that are related to compliance and clean up.

Discussion ensued about the NHDES requirements going further, and how long their oversight will continue with the same rigor given the circumstances that had led to this need to report to the agency on a weekly basis. Another issue raised was the one of rats and pests mentioned by the Fire Department and abutters. Mr. Eck explained that they pest service company hired by his client did not bait any; however, he asserted the Board that the company will be contracted with his client from now on.

Then Mr. Taylor asked Mr. Eck or Ms. Hartz to address the discrepancies with the phasing plan as it is still unclear which stage the site plan is at. Ms. Hartz and Mr. Scamman spoke about the elements that have been built already, like the transfer building itself or the maintenance building, and the elements that are still planned, like paved surfaces, stormwater management features, or a 28,000 sq ft addition to the transfer building. Mr. Scamman spoke about current stormwater management and the fact that there is still acres of pavement that have not yet been put in. He explained the site topography and showed how the water stays on site with the partial drainage features that have been put in place. He concluded that drainage is adequate for what is currently on site and is not causing any issues or complaints, except for one issue with the driveway on River Road which had existed before the 2008 site plan approval. He also noted that the stormwater features are planned to change with the progress of the build out.

Ms. Hartz and Mr. Eck reiterated the details of the minor modification and that they were in front of the Board to answer any questions related to either the modification or compliance.

Discussion ensued about the need to ensure compliance after NHDES review and which enforcement mechanisms were there to keep the business operations in accordance with the allowed site plan parameters. Mr. Eck suggested that his could client submit a compliance program/plan listing some deadlines and members discussed whether it could be tied to the modification approval. Modification elements were discussed and whether they were met in this case and what would the mechanism be to ensure compliance in the future. Mr. Taylor also mentioned that there is a letter from the Town Engineer (Dubois & King) in response to the submitted structural analysis for the burnt building. This letter has 13 points that need to be addressed by the applicant. Ms. Hartz noted that due to the timing constraints, her client has not had a chance to respond and asked Mr. Scamman to corroborate that there will be a response provided very soon. Mr. Scamman said that most of the issues raised in that letter were minor. He spoke about the steel analysis and how it came out above the required standard, therefore making the building

safe to use, unless there are wind and snow loads. He noted that the recent high winds did not cause any harm to the building or any foundation movement.

Mr. Berube left the meeting at 10:55 PM and Ms. Crystall took over the Chair position from then on. There were concerns with the operation moving to a smaller size building and Mr. Scamman explained how equipment will be able to fit and not cause any safety issues even in the existing maintenance building that has offices, bathrooms, and a mezzanine. Mr. Sandal spoke about his concerns with moving the operation closer to abutters and not notifying them of such significant changes. Ms. Hartz clarified that NHDES would still have to approve the move and this process does include abutter notification and public input.

Ms. Crystall noted that even though this was not a public hearing she would open the floor for public comment. She did so at 11:04 PM.

- Bruce Gowan, from 7-A Dunklee Road, spoke about odors emanating from the property every weekend from all the garbage stored on site; public health issues; smaller footprint in the maintenance building making it harder to be used as a tipping floor; the new location of the tipping area being too close to the gymnastics place where there are a lot of kids and parents and the odors are quite present and it may be a health hazard. He asked the Board to attach conditions to the approval, such as no waste storage at night or on weekends/holidays; sorting buildings to be closed every evening and on weekend/holidays; oversight of this operation by the Town or NHDES. He added that there were complaints going back as far as when the phasing was introduced. Mr. Gowan asked who he can complain to, especially on weekends and have someone come out and corroborate his complaint. He continued to say that wildlife increased significantly and he has been taking care of the rodent problem himself. Mr. Gowan asked the Board to make sure that the operation is frequently monitored for compliance.
- Mr. Eck responded to the issues raised by Mr. Gowan by saying that they have hired a specialist to do a comprehensive assessment regarding the odor issue; they have addressed the garbage on the floor as NHDES mandates that the should be none left on the floor at the end of day; the space being too small in the maintenance building is being addressed by building the addition to it without any offices; locking the buildings will be achieved by having overhead doors (operational now); oversight by NHDES is quite extensive; and there were never any complaints submitted by the gymnastics business.
- Ms. Hartz added that Mr. Gowan's residence is about 640 ft away from the existing building and will be about 880 ft away should the operation be allowed to move and there will be two berms in between;
- Mr. Gowan noted that smell still travels and it is much worse on the weekends that is why he is asking that there is no garbage left at night or on weekend/holidays including in the trailers.

Ms. Crystall closed the public comment at 11:18 PM.

Mr. Sloat made a motion to approve the minor modification with the following conditions:

- 1) Maximum amount of storage per day is limited to 300 tons and weekly average be limited to 2100 tons (which is 50 percent of the currently allowed amounts by NHDES;*
- 2) That the modification is limited to maximum of 6400 sq ft which is the current maintenance building; and when the 6000 sq ft addition gets built, it would be limited to 6000 sq ft, and that two building will not be used simultaneously for the dumping of the materials;*
- 3) This temporary modification of approval will cease as of August 1, 2021.*

Mr. Glasier clarified the date that should be October 1, 2021 and Mr. Sloat agreed to the change.

- 4) The applicant addresses the 13 points referenced by the Town Engineer within 30 days and if they do not address them within this timeframe, they would need to come back to the Board to explain why.*

Mr. Sandahl asked if NHDES approval should be part of the motions. Mr. Willis agreed and added:

5) The applicant cannot use that building without the NHDES approval;

Discussion ensued about whether it was needed to include any provisions about oversight after NHDES becomes less attentive, knowing that the Bow Fire Chief had noted the need to be more involved with the oversight.

Ms. Crystall said that since Mr. Berube was not able to come back to the meeting she will appoint Alternate Orsmond to vote.

Mr. Glasier suggested to add another condition

6) that the Board should ask Orr and Reno to submit a compliance plan and require the applicant provide quarterly updates to the Board about following it.

After a short discussion Mr. Orsmond seconded all of the above. Mr. Sloat noted that he accepts both friendly amendments.

Ms. Crystall reiterated all the points Mr. Sloat made. Mr. Eck asked to clarify the compliance program, and Mr. Glasier said that Mr. Eck spoke earlier about Orr and Reno coming up with an internal compliance program, so it should be something like that. Then Mr. Sloat also noted that maybe addressing the smells should be included in the conditions, and general consensus was that it was a separate issue and would need to be looked into outside of the minor modification.

A roll call vote was taken Mr. Orsmond – yes; Mr. Sloat – yes; Mr. Sandahl – no; Mr. Reynolds – yes; Mr. Glasier – yes; Mr. Wayne – yes; and Ms. Crystall – yes. Motion passed with a 6:1 vote.

OTHER BUSINESS

Hamilton Court road approval and bond reduction.

Ms. Crystall read the item into the record. Members discussed the request and noted the lack of information in the request as there was no reduction amount listed in the email. Mr. Taylor noted that the Town Engineer had already reviewed the numbers. Given the lack of information the Board decided to table the matter until it becomes available.

Ms. Crystall also noted that the minutes review will be deferred to the next meeting.

ADJOURNMENT: *Mr. Glasier made a motion to adjourn which was duly seconded by Mr. Sloat and passed with a unanimous vote in favor. Meeting adjourned at 11:40 PM.*

Respectfully submitted,

Tony Reynolds

Secretary