

**Town of Boscawen
PLANNING BOARD
Boscawen Municipal Complex
FINAL MEETING MINUTES
Tuesday, January 3rd, 2023**

Members Present: Mark Varney—Chair; Loren Martin—Vice Chair; Barbara Randall; Gary Tillman; Roberta Witham; Lorrie Carey—Alternate Ex-Officio (Virtual)

Members Excused: Rhoda Hardy

Members Absent: Paul Dickey—Ex-Officio

Staff Present: Kellee Jo Easler—Planning and Community Development Director; Kearsten O’Brien—Deputy Planning & Community Development Director (Virtual); Kara Gallagher—Planning & Community Development Assistant; Katie Phelps—Town Administrator; Tim Kenney—Fire Chief

Guests: Mike Tardiff, Executive Director—Central New Hampshire Regional Planning Commission; Alan Hardy—Conservation Commission Chair; Eric Munro—Building & Loan Development, LLC; Spencer Tate—Meridian Land Services; Tim Bernier—T.F. Bernier, Inc; Neil Arruda—Operations Manager of Materials Division for GMI Acquisition, LLC; John Lemeris—Public; Jeff Abbe—Public; Tracy Huckins—Public; Kevin Sullivan—Abutter

Chair Varney opened the Public Meeting at 6:30 p.m.

PCD Assistant Gallagher completed roll call.

Minutes:

Ex Officio Carey requested two changes:

- Line 100-Change “development” to “project”.
- Line 101-Add a comma after “Capital Reserve Fund”.

Mr. Tillman requested two changes:

- Line 120-Change “believed” to “believes”.
- Line 127-Change “stating” to “listing”.

Vice Chair Martin motioned to accept the 12.06.22 draft minutes as amended. Seconded by Mr. Tillman. All in favor. None opposed.

Old Business:

Public Hearing-Continuation of an Application for a Major 5-Lot Subdivision Map 94 Lot 23:

PCD Assistant Gallagher read the following: Notice is hereby given in accordance with NH RSA 676:4, I, D1 and the Town of Boscawen Land Development Regulations that the Planning Board will meet on Tuesday, December 6, 2022 after 6:30 PM at the Boscawen Municipal Complex, 116 North Main St, during a *regular meeting* of the Board to hear an **Application for a Major 5-Lot Subdivision Application submitted and owned by Building and Loan Development LLC of 23 Bush Hill Road, Kinnelon NJ, 07405 with a location of Map 94 Lot 23, 477 High Street, located in an AR zone.** Upon a finding by the Board that the application meets the submission requirements of the Zoning Ordinance and the Land Development Regulations, the Board will vote to accept the application as complete and a Public Hearing on the merits of the proposal may follow. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

Chair Varney asked for clarification on whether the application was for a 5-lot or a 4-lot subdivision. PCD Director Easler said the new application that was submitted was amended to a 4-lot subdivision to meet lot coverage requirements and provide waivers for completion. The Public Notice was not changed to reflect the lot difference because the meeting was continued to a date certain.

Chair Varney opened the Public Hearing at 6:36 p.m.

Chair Varney asked if the application was complete. PCD Director Easler said it was complete with waivers.

Mr. Tillman motioned to accept the application with waivers as complete. Seconded by Mrs. Witham. All in favor. None opposed.

Chair Varney discussed that this application may be of regional impact to Salisbury. He asked if the Planning and Community Development office had received anything from Salisbury. PCD Director Easler said no. Chair Varney asked if the information had been sent to Salisbury. PCD Director Easler said no, only the Salisbury abutter had been notified and determination of regional impact (DRI) had not been determined by the Board at the time. Chair Varney asked if the notification was the applicant's responsibility. PCD Director Easler said yes, but we mail out the packages. She said it also has to be sent to Central New Hampshire Regional Planning Commission (CNHRPC) and the application has an extra 30 days when it is considered of regional impact. At this time the Board discussed how this subdivision would impact and affect Salisbury.

Ex-Officio Carey stated within five days after a Planning Board hearing concerning a major subdivision, a copy of the minutes where the decision was made must be sent by certified mail to CNHRPC and to the neighboring municipalities affected.

Chair Varney motioned that the application is of regional impact and should be sent to Salisbury for their consideration. Seconded by Mr. Tillman. All in favor. None opposed.

At this time Chair Varney invited Mr. Eric Munro and Mr. Spencer Tate to present the application to the Board. Mr. Tate informed the Board that he and Mr. Munro did reach out to Salisbury and are on their January 16th agenda as a discussion item. Mr. Tate explained to the Board and members of the public that the new application is for a 4-lot subdivision. Map 94 Lot 23 is a 139.1 acre piece of land with 880 feet of frontage along Route 4. The site is mostly forested with a quarry site on it equaling approximately 10-12 acres. The quarry is currently vacant. There is a large wetland complex that bisects the lot which flows easterly and parallel to Route 4. The proposed subdivision of land is a frontage subdivision along Route 4. Mr. Tate said the proposed lots meet the geometric requirements: 94/23/1 will be 5.7 acres with 492 feet of frontage and 120,000 square feet of buildable upland area; 94/23/2 will be 3.5 acres with 200 feet of frontage and 120,000 square feet of buildable upland area; 94/23/3 will be 3 acres with 200 feet of frontage and 120,000 square feet of buildable upland area. The test pits on the site indicate the soil is suitable for single family residential septic systems. Mr. Tate has applied for state subdivision approval for lots 94/23/2 and 94/23/3. They have not heard back yet. It is common for approval to take up to three weeks along with a site visit. The other two lots do not require state subdivision approval. Mr. Tate provided some exhibits to demonstrate the buildability of the lots without additional wetland impacts or buffer impacts. Since this is only a proposed subdivision of land, there is no proposed infrastructure improvements or proposed impervious area. Mr. Tate said this application went before the Conservation Commission on December 20th, 2022. They have not received any formal comments as they are still pending in the draft minutes.

Chair Varney asked if there were any comments by abutters for or against.

Kevin Sullivan of 451 High Street in Boscawen expressed concerns of what the availability of water would be for the existing wells that about 94/23, as well as what impact this subdivision could have on the environment in that area. Mr. Sullivan was also concerned about the potential stress on the Fire and Police Departments.

Chair Varney asked if there were any comments by public for or against.

Tracy Huckins of 166 King Street and 35 Goodhue Road, both in Boscawen, expressed concerns that the ultimate goal of the owners will be to create a much larger subdivision after the 4-lot subdivision is approved. She had concerns about how many waivers were requested in the application, and also wondered if the owners plan to apply for a 4-lot subdivision each time until they reach their ultimate goal of 40-50 additional house lots.

Chair Varney asked if there were any comments from staff.

Fire Chief Kenney asked for clarification on whether a house was required to be built on the new lot(s) in order to be considered a major or minor subdivision. Chair Varney said no. Fire Chief Kenney believes this subdivision to be premature and scattered. The infrastructure of the town is not capable of handling a large subdivision. He said the Fire Department is not capable of

providing service to homes built on the town line. The town of Salisbury's Fire Department has even less man power and, therefore, cannot provide support for fire protection or ambulatory services. He stated the applicant is requesting a waiver for water supply and that he disagrees as the nearest water source is 3.6 miles away. PCD Director Easler asked if Fire Chief Kenney could speak about Life Safety Officer Chuck Bodien's review because he was not present at the meeting. Fire Chief Kenney explained that in the rules for a major subdivision, a fire protection system is required. The applicants offered to have houses, when they are built, install sprinkler systems in lieu of a fire protection system. Sprinkler systems fall under a life safety aspect, which would not fulfill the major subdivision requirement. At this time Chair Varney read Life Safety Officer Bodien's review for the record. The review states that a fire protection design, as requested by the Fire Chief, should be prepared by a New Hampshire licensed Fire Protection Engineer and be on the plan prior to the Public Hearing. Any Planning Board approval should include who is responsible for the maintenance of the fire protection system. He recommends the developer should hold responsibility for two freeze/thaw cycles. Then the town should assume responsibility through an easement. As this application is for a major subdivision, no waivers should be granted for the installation of an approved fire protection system.

Chair Varney asked Mike Tardiff of CNHRPC if he had any comments to add. Mr. Tardiff recommended that the Board read the second review submitted by Matt Monahan.

Vice Chair Martin asked for clarification on whether this application should be considered a major or minor subdivision. She said the definition in the Land Development Regulations and Zoning Ordinance states that any subdivision that creates 3 lots is a minor subdivision. PCD Director Easler said there will be 3 new lots created, but there will be 4 total including the mother lot. Historically the Town's position is to include all the lots if the acreage is changed. Discussion ensued.

Chair Varney suggested getting a legal interpretation from the Town's lawyer before moving forward to help the Board decide if this application should be considered a major or a minor subdivision. He said that will also allow contact to be made to Salisbury for the determination of regional impact (DRI).

Chair Varney invited Conservation Commission Chair Alan Hardy to speak at this time. Mr. Hardy read a letter that was provided by the Commission. He described some concerns including the preservation of natural resources and how the proposed lots would be accessed. At this time many concerns of the Commission lie with the plan of a future larger subdivision.

Chair Varney asked Mr. Tate if he'd like to address some of the concerns from the public. Mr. Tate began by stating that he and Mr. Munro plan to continue conversing with the Conservation Commission as this development unfolds. He recognized the Commission's concerns about wildlife corridors and knows they'd like to have some say in the future. He also stated that he and Mr. Munro went before the Technical Review Committee with a conceptual plan of a conventional subdivision and a cluster subdivision. It was recommended to separate the applications and begin with the conventional subdivision. He said it was not the intention of the owners to withhold information, but to follow the advice of the TRC. He acknowledged that there is a larger subdivision in the design phase. Chair Varney confirmed this statement to be

true as he was a part of that TRC meeting. The next concern Mr. Tate addressed was about the fire protection system. He said they did not request a waiver because they plan to ask for conditional approval to provide a cistern that would be bonded. That cistern would benefit the larger subdivision in the rear. They are trying to avoid placing a cistern for the 4 lots in the front and a second cistern in the rear.

Chair Varney motioned to amend the earlier decision of the approval of the application pending legal and regional impact clarification. Seconded by Mrs. Randall. All in favor. None opposed.

Chair Varney closed the Public Hearing at 7:26 p.m.

Chair Varney motioned to continue the Major Subdivision application to a date certain of February 7th, 2023. Seconded by Mrs. Witham. All in favor. None opposed.

New Business:

InvestNH Project Update: Mr. Tardiff said that InvestNH has given the thumbs up to start this project soon, but they are still working through the contractual mechanics. This is funding available through the American Rescue Plan Act (ARPA). He said there is about a year until Town Meeting 2024 to talk about potential changes. The proposal to kick off the project is to update the housing section of the Master Plan, which would include the Mill Redevelopment District, Cluster or Planned Unit Development, tax increment finance and more. Mr. Tardiff said the plan is to stay on the agenda to talk about zoning changes and for work sessions with the Board. Chair Varney thanked Mr. Tardiff for the update.

Public Hearing-Modification to the Operating Conditions Map 81 Lot 24: PCD Assistant Gallagher read the following: Notice is hereby given in accordance with RSA 675:3 that the Boscawen Planning Board will meet on Tuesday, January 3rd, 2023 after 6:30 PM, to hold a public hearing for the following:

- **Modifications to the operating conditions contained within Earth Excavation Permit #PB01212020-1** for GMI Acquisition, LLC, 267 Queen Street Boscawen NH 03303, located at Map 81, Lot 24 in an A/R zone.

Chair Varney opened the Public Hearing at 7:38 p.m.

Mr. Tim Bernier explained the reason GMI was seeking modifications to the operating conditions was that the industry has changed quite a bit in the last few years. GMI has contracts with many municipalities, many of whom did not receive their funding until late September. Because of this, GMI was forced to fulfill contracts that took them outside of their allowed time frame for crushing. The current condition limits the use of the gravel crusher to May 1st-November 1st, Monday-Friday 7am-5pm and Saturdays 7am-12pm. GMI requested the condition be amended to change the dates of the use of the crusher to be April 1st-December 1st with no crushing on Saturdays.

Chair Varney asked if the times would remain the same. Mr. Bernier said yes.

Chair Varney asked if there were any comments by abutters for or against.

Eric Munro of 215 Queen Street in Boscawen stated that he was in agreement with the change. He said the other gravel pits in town are allowed to operate throughout the year and GMI should not be excluded.

Chair Varney asked if there were any comments by public for or against.

John Lemeris of 253 Queen Street in Boscawen stated that the current permit for GMI allows operations starting May 1st, but he observed operations starting on February 2nd with their floating days. He said they had used 36 or 37 of those floating days before May 1st and then continued to operate after November 1st. He believed GMI had gone over their limit for floating days in 2022. He also said they start operations before 7:00 a.m. He discussed other concerns and stated that he would prefer to see an 8:00 a.m.-4:00 p.m. or a 9:00 a.m.-5:00 p.m. day instead, as well as his wish to keep the permit as is.

Jeff Abbe of 243 Queen Street in Boscawen said that he has witnessed that GMI has gone over their permit on both ends of the month allowance as Mr. Lemeris mentioned. He also witnessed crushing on December 9th. Mr. Abbe said his biggest concern was the dust created at the pit. He also expressed concerns about the increase in traffic recently and said that finding another location might be a good idea.

Chair Varney asked if there were any comments from staff.

Vice Chair Martin asked how many gravel pits are in Boscawen. PCD Director Easler said 5 or 6. Vice Chair Martin asked if GMI was asking to amend the condition for just crushing or for crushing, blasting and the hydraulic hammer. Mr. Bernier said all three. Vice Chair Martin asked if similar conditions were put on the other pits in town. PCD Director Easler brought out the permits for all pits for review by the board. Discussion ensued about consistency throughout the permits. It was determined all of the other pits have been approved for the same hours and there are no restrictions on the crushing, blasting or the hammer. PCD Director Easler suggested cleaning up the permit and removing the conditions of approval that have been met on GMI's permit. Mrs. Randall asked how many complaints are received per year. PCD Director Easler said one in 2022. Vice Chair Martin asked if the 40 floating days would still be a part of this condition. PCD Director Easler said yes. Ex-Officio Carey stated if the Board removes the conditions to which they are currently complying with there would be no way to enforce them if they were to go out of compliance in the future. She said the Board should just vote on the noticed changes.

Mr. Arruda asked if he could address some of the concerns raised. He said GMI invested quite a bit of money in 2022 on alleviating dust from the crusher and the employees are monitored by Mine Safety and Health Administration (MSHA). As for the concerns about operations starting before 7:00 a.m., all equipment and vehicles are required to have back up alarms, including the workers trucks. No crushing is happening before 7:00 a.m. Mr. Arruda offered to put a different

style back up alarm on the permanent equipment at the pit that would be less disturbing to the residents.

Chair Varney closed the Public Hearing at 8:05 p.m.

Mr. Tillman motioned to accept the modifications to the operating conditions contained within Earth Excavation Permit #PB01212020-1. Seconded by Vice Chair Martin. All in favor. None opposed.

Public Hearing-Amendments to the Zoning Ordinance: PCD Assistant Gallagher read the following: Notice is hereby given in accordance with RSA 675:3 that the Boscawen Planning Board will meet on Tuesday, January 3rd, 2023 after 6:30 PM, to hold a **Public Hearing for Amendments to the Zoning Ordinance as listed below:**

- Article X Administration & Enforcement-Amended
- Article XII Definitions-Amended
- Article XXII-Renewable Energy Systems Ordinance-Amended

A public hearing is scheduled for the proposed amendments to the Boscawen Zoning Ordinance. This hearing is being held in preparation for town meeting, with a second hearing scheduled for Tuesday, January 17th, 2023 if necessary.

Chair Varney opened the Public Hearing at 8:08 p.m.

Chair Varney asked if there were any comments by public or abutters for or against.

None seen or heard.

Chair Varney closed the Public Hearing at 8:09 p.m.

Mr. Tillman motioned to accept the amendments to the Zoning Ordinance as presented. Seconded by Mrs. Randall. All in favor. None opposed.

Public Hearing-Amendments to the Master Plan: PCD Assistant Gallagher read the following: Notice is hereby given in accordance with RSA 674:3 that the Boscawen Planning Board will meet on Tuesday, January 3rd, 2023 after 6:30 PM, to hold a public hearing for amendments to the Master Plan listed below:

- Energy/AgCom

Chair Varney opened the public Hearing at 8:10 p.m.

Chair Varney asked if there were any comments by public or abutters for or against.

None seen or heard.

Chair Varney closed the Public Hearing at 8:11 p.m.

Mr. Tillman motioned to accept the amendments to the Master Plan as presented. Seconded by Mrs. Witham. All in favor. None opposed.

Other Business:

Official Map of Boscawen Discussion: PCD Director Easler informed the board that there is no official map of the Town of Boscawen. Discussion ensued. Chair Varney asked PCD Director Easler to consult with the town's lawyer on how to proceed with the adoption of an official map.

Kennel Definition vs Chapter 437 Sale of Pets and Disposition of Unclaimed Animals: PCD Director Easler asked the Board to define a kennel. She said depending on their viewpoint, this topic could be a Code Enforcement matter. Discussion ensued.

Mr. Tillman informed the Board that he would not be in attendance for the February meeting.

The next meeting will be held February 7th, 2023 @ 6:30 p.m.

Motioned to adjourn made by Mr. Tillman. Seconded by Mrs. Randall. All in favor. None opposed.

Respectfully submitted by Kara Gallagher.