

**Town of Sullivan, NH
Planning Board
Meeting Minutes, December 15, 2021
Sullivan Town Hall**

Members present: Leslie Casey (Chair), Chris Pratt, Ann Sweet (alternative), Marsha Cook (Selectman member)

Public present: Stephen Key (Key Landscape and Irrigation, LLC, 489 South Rd), Jeannine Key, Zach Key, Wendy Pelletier (Conservation Commission); Roger Sweet, 358 Centre Street, Jim Phippard (Brickstone Land Use Consultants, LLC, Keene); Ann Quirk

A. The meeting was convened by Chairman Leslie Casey at 7:00 p.m. A. Sweet agreed to step up as a voting member in Milton Trimitsis' absence.

B. Casey moved to approve the minutes of December 1, 2021, as written. C. Pratt seconded the motion. All voted Aye.

C. Site Plan Review Continuation/Public Hearing – 489 South Road, Map 5 Lot 41-002

1. Application completeness review and acceptance

A drainage plan was filed December 8th, and a revised site plan was filed December 14th. They were reviewed by W. Pelletier, C. Pratt and L. Casey for preliminary determination of whether information requested in a letter to the applicant on November 18th from the planning board had been provided. The November 18th letter listed missing or inadequately-addressed items that had been identified at the November 3rd and November 17th meetings of the planning board (7 p.m. at the Sullivan Town Hall).

J. Phippard of Brickstone Land Use Consultants (Keene) asked permission to stand to lead the review of the changes to the plat based on Mr. Key's responses to the list of items. Permission was given.

- a. Correct "Septeber" - Sept. abbreviated on every sheet.
- b. Add note re use of all abutting lots – Rural residential, Sheet 1.
- c. Add driveway lengths South Road to ditch, ditch to corner of building - 488 ft and 215 ft, respectively (total approx. 700 ft), Sheet 2.
- d. Add driveway width – 27 ft, Sheet 2.
- e. Add driveway sight distances >400 ft, Sheets 2 and 3.
- f. Add building height – 26 ft., Sheet 2.
- g. Add building use –Commercial/industrial, Sheet 2.
- h. Add location & number of parking spaces – Fifteen spaces, Sheet 2.
- i. Add test pit locations – Added to Sheet 2 and in septic plan. J. Phippard said that the septic plan was also revised to correct an error he had discovered in the profile elevation, and provided a copy to the Board.
- j. Add septic square footage – Leach field 30 x 11 ft, Sheet 2 and Septic Plan. Meets State requirements for planned building.
- k. Add OHE and UE to legend – On Sheet 2.

- l. Provide model with turning radius for largest truck – WB50 tractor/trailer, Sheet 3. It was noted that the turnaround would be adequate for emergency vehicles, and the driveway is wide enough for vehicles to pass each other.
- m. Add note that commercial/industrial use is confined to delineated area – 109,000 sq ft, contiguous, Sheet 2. Will trigger a NH DES Alteration of Terrain permit application, which will be undertaken soon. The need for the permit is noted on Sheet 1. The delineated impacted area includes the temporary storage area for landscaping materials near the driveway entrance.
- n. A field survey of existing conditions, with updated topography, showing all alterations to the land that have been done since the land was purchased, including storage areas near South Road - The Applicant asked not to do this. Mr. Phippard explained that (a) the drainage plan for the developed condition of the site used the original survey as the baseline so there was no need for a survey of the current intermediate condition, and (b) the AoT application will include all prior work since subdivision. The application is being prepared by SVE (Brattleboro, VT).
- o. Delineate the area of impact including the existing storage area. Does this area trigger an AoT (Alteration of Terrain Permit)? – The impacted area is 109,000 sq ft and includes the area near South Road where material is being stored. A question was raised about the storage areas. Mr. Phippard assured the board that all the material there would be moved and the ground refurbished. An AoT is needed and is noted on Sheet 1 of the site plan.
- p. Wetland delineation by a certified wetland scientist of the affected areas of proposed work – The Applicant asks not to do this because they do not plan to alter any existing natural streams or drainage ways. There is a general wetlands note on the Septic Plan (prepared by Nathan Levesque of Forest Design, Keene), indicating that “There are no jurisdictional wetlands within 75’ for very poorly drained soils (Hydric ‘A’) or 50’ for poorly drained soils (Hydric ‘B’) of any part of this proposed sewage disposal system.” N. Levesque is a soil scientist trained by DES to identify jurisdictional wetlands. J. Phippard said that he did contact a certified wetlands scientist who said it was too late in the year to do a survey since frost had eliminated identifying vegetation.
- q. Considering there has been a change of use of the site, need a copy of the permit for the culvert replacement or a letter from DES stating a permit is not required – There is no DES permit. S. Key provided copies of an email exchange that occurred August 23-30, 2021 between him and Eben Lewis (Wetlands Inspector, NH DES) regarding the replaced culvert across the drainage ditch running roughly north-south through the property, including photos of the 18” culvert inlet and outlet. The emails had been provided to the ZBA with the application for Special Exception though they had not yet been seen by the Planning Board. E. Lewis stated in an Aug. 30th email, “With this information we determined a wetlands permit is not necessary to complete the work. I would recommend stabilizing any exposed soils with mulch and seed.”
- r. Proposed grading of driveway with proposed drainage and culverts, including a typical cross section of the driveway construction, noting base and top course material, slopes and ditches – As shown on Sheet 2, the driveway goes uphill from the entrance, and then slopes down to the building. Grades are shown. A cross section of the driveway was added showing the as-built condition.
- s. Erosion and sedimentation control plan and details during construction – The erosion and sedimentation control plan is shown on Sheets 4 and 5 of the site plan. Runoff from the building is directed away from the ditch. There would be a silt fence during construction. The plan will go with the AoT application.

t. Details and sections of stormwater collection system, signed and stamped by a licensed engineer – The Drainage Plan and Drainage Summary Report were prepared and stamped by Liza Sargent of SVE Associates to handle a 50-year storm. Details of the storm drain are shown on Sheets 4 and 5 of the site plan.

u. Well location: site plan and septic do not agree. Will this well be shared? – The site plan and septic plan show the locations of two possible conforming wells, with 75 ft and 100 ft protective radii.

v. Driveway and parking areas around the building: how will the remaining area be finished? – Parking is shown on Sheets 2 and 3. There are 5 spots along the side of the proposed building and 10 spots leading up to the building for a total of 15. The parking area is at a 2% grade. Details of how the areas will be finished are provided on Sheet 2.

w. Plans for mixing and storage of deicing materials in solid OR liquid form – A copy of a letter dated Sept. 8, 2021 was provided from Pierce Rigrod, Supervisor, NH DES Source Water Subsection, to the Sullivan ZBA with respect to S. Key's proposal for two 1,500-gallon tanks to store salt brine and plans to build a containment structure. The location of the proposed brine tanks is not stated. J. Phippard and S. Key said there would be no storage of salt or brine in Sullivan; it will be done at the Keene location.

C. Pratt asked whether there will be fuel tanks at the site. S. Key responded that there would not be any fueling or fuels on the property. All that will be done at the Keene location.

L. Casey asked if there would be disturbance of surface waterways that would require a wetlands delineation, and J. Phippard responded that there would not be. There was an existing culvert in the drainage ditch that was replaced. The drainage ditch is man-made, so it does not need a wetlands permit even though it is a recognized intermittent stream. The application relies on the septic engineer to determine jurisdictional wetlands near the sewage disposal system. The wetlands scientist could not do a survey until April. Mr. Phippard asserted that the DES will accept the available information for the AoT permit.

W. Pelletier said for the record that she would like to see wetlands delineated by a wetlands scientist. The improved culvert use has changed from agricultural and should be looked at. She also expressed her view that topographic conditions had changed since the driveway was put in, and the Conservation Commission should walk the site to ascertain that it was built according to the driveway permit. J. Phippard responded that the Road Agent had signed off on the permit and addendum, and had inspected the driveway and permeable apron. Mr. Phippard added that the Road Agent and the Planning Board should be the most knowledgeable about driveways.

C. Pratt asked if the ZBA addressed wetlands for the Special Exception. M. Cook said wetlands information was requested by the ZBA. L. Casey noted there was nothing about it in the conditional approval letter of October 3rd.

J. Phippard stated that LIDAR data, used to generate the topographical map of pre-development conditions, is widely used and is very accurate in areas such as this that are open and not covered by heavy vegetation. He had walked the site and thought the topography of the undisturbed areas looked right to his experienced eye. Liza Sargent, SVE engineer, had walked the site as well. Sheet 1 of the site plan shows the pre-existing condition, and Sheet 2 shows the post-development condition.

L. Casey asked whether there would be further changes to the impacted area not reflected in the current plan, and whether it was true that blasting would be done to excavate stone from ledge. J. Phippard said there is proposed to be blasting, and the ledge is within the 109,000 sq ft impacted area.

Blasting plans will be addressed in the AoT. L. Casey noted that she understood from NH DES Administrative Rule 1500 that the blasting plan would be reviewed by the DES for potential impacts on wells in the area. Abutting landowners had previously expressed concern about this. J. Phippard responded that that was correct. He also said Key Landscape was aware that if in the future there is additional disturbance for residential development, it will have to be disclosed to the DES.

Mr. Phippard also said the drainage report and plan will go to the DES with the AoT permit application, and that the AoT will require a wildlife assessment.

C. Pratt moved to accept the application of Mr. Steven Key for a site plan for his property on South Road as complete. L. Casey seconded the motion.

In discussion, L. Casey commented that the driveway at 27 ft is wide enough, and the grade would not qualify as a steep slope. A. Sweet mentioned that the ZBA had received a letter in August 2021 from Eben Lewis regarding DES permits. S. Key responded that the emails had been provided.

A. Sweet asked about the Drainage Plan. The Board gathered to review the plan and was satisfied with it. L. Casey commented that the "Pool" symbol on the storm drain was obscured by other lines on the plan. Also, "P1" does not agree with the drainage report where it is designated "P2." J. Phippard said he would bring it to L. Sargent and get back to me.

All said AYE.

L. Casey explained that the notice for this application had gone out October 23rd as "expedited review," on the assumption that the completeness review of the application would be simpler than it had proven to be. The application had remained on the agenda, with continuations to date, time and place certain. Now that the application had been accepted as complete the board could go into the public hearing.

2. Public hearing

The public hearing was opened at 8:15. L. Casey asked if the Board should go through the General Standards in the Sullivan Site Plan Review Regulations, and it was felt that the standards were already being adequately considered.

L. Casey asked why light poles were proposed along the driveway, since it is a rural residential neighborhood and unlighted roads and driveways are the norm. In addition, there is an observatory on Tyler Lane that is adversely impacted by light pollution in the area. Even if the fixtures direct light downward, there will be significant reflection off snow on the ground. She asked if reflectors could be used instead. Z. Key commented that there is a neighboring property that has glaring lights, and similar lighting is seen on other properties in town. L. Casey said that is not typical of Sullivan, does not conform to the town ordinance, and is not to be used as a model.

Z. Key said that trucks need the light to be able to connect plows during snowstorms, for example. He stated that, anyway, the property is zoned commercial. L. Casey explained that, actually, it is still zoned rural residential, and the commercial/industrial use is allowed by Special Exception.

J. Phippard said that there are only 2 light poles on the plan (15 ft height), at least 150 ft from South Road. They would be shielded and would not illuminate the driveway apron. The lights would brighten when vehicles approached and dim to 30% otherwise. They could be put on a timer to turn off at 10 p.m. and turn on only when a vehicle approached, which the Board thought could work. He added that the proposed lighting meets engineering standards for minimal lighting while still providing required safety. M. Cook said she had seen similar lighting at an airport and that it did not seem to affect surrounding properties. R. Sweet commented that the approval letter from the ZBA to Key Landscape

says lighting must be of low intensity and not visible to neighbors. The letter also sets the hours for equipment use (7 a.m. to 6 p.m.).

L. Casey asked the Key's why they agreed to the Special Exception condition regarding hours of operation if the snowplowing business required them to operate equipment outside those hours. S. Key responded that the snowplow business had not been discussed at the ZBA hearing. Z. Key explained that the plow trucks are typically 1-ton pickup trucks with no strobes, so the added disturbance to residents would be minimal beyond what is normal during wintry storms with Town and DOT plows going by. The Board acknowledged that snowplowing is an important part of Key Landscape's year-round business, and the hours of operation are dictated by the weather.

L. Casey asked J. Phippard to confirm that the AoT permit application would come to the Town. Reply: Yes. Chair Casey said the Planning Board has the authority to retain an expert to review the application. C. Pratt commented that we would probably know what we are looking for without expert help. J. Phippard said if the site plan is approved, the Applicant will apply for DES permits. The Board would want to confirm that the plan submitted to DES is what was approved at site plan review. Mr. Phippard said the DES often asks for changes such as swale dimensions. Once the AoT permit was approved, the revised plan would come back to the planning board for review. If the planning board could not approve the revised plan, it would go back to the DES. Towns rely on DES expertise.

L. Casey summarized: No DES permit for the culvert is required. No chemicals will be stored on site, and there will be no fuel tanks. The driveway is adequate for emergency vehicles so no letter from the Fire Chief will be requested. A copy of letter from the Fire Chief to the ZBA regarding the driveway prior to its improvement for commercial use was provided, and it did not express any concerns.

The need for a State-approved septic for site plan approval was discussed. It will be a condition. M. Cook said the Selectmen approve a septic applications before they go to the State. J. Phippard pointed out that if something were to change with the septic plan it would have to go back to the planning board for approval.

L. Casey asked why there were 15 parking spaces planned and how they will be used. J. Key responded that they had to have a parking plan, so they showed that many spaces. She said they won't need all of them. L. Casey said she was just trying to ascertain that the Board's understanding of the commercial use was not missing something that would have necessitated a lot of parking.

C. Pratt recommended that one condition for site plan approval be that all conditions stipulated by the ZBA will be met.

L. Casey asked whether there would be an electric generator. S. Key replied that there might be a generator, which would only be used if the power was out.

L. Casey noted that per the Special Exception conditional approval, construction must begin by October 2022 (12 months) and all conditions precedent must be met by April 2023 (18 months).

L. Casey noted that any determinations of site plan approval conditions having been met require judgment by the planning board, a public compliance hearing will be held. The planning board also has the authority to engage a third-party inspector at the Applicant's expense to ensure terms of the site plan approval are met.

C. Pratt said there are four conditions for site plan approval: (1) Alteration of Terrain Permit, (2) specifying that no salt or brine material be stored on site, (3) no fuel tanks must be on site, and (4) all Special Exception approval conditions.

L. Casey asked whether there were any more comments or questions from the public, and hearing none moved to close the public hearing. C. Pratt seconded. All "Aye." The hearing was closed at 8:48 p.m.

3. Deliberations and Decision

L. Casey asked if the Board had anything that needed to be discussed or deliberated on. There was nothing.

C. Pratt stated: "I move we approve the Site Plan for Key Landscape and Irrigation Company subject to conditions delineated a few moments ago." L. Casey seconded the motion. All said AYE.

Certification of the site plan will occur only when all conditions precedent for full approval are met.

C. Pratt moved to postpone the SPR Checklist and Driveway Regulations Amendments agenda items, given the lateness of the hour. L. Casey seconded. All "Aye." C. Pratt moved to postpone working on the CPO amendment warrant articles. L. Casey asked that the Board try to get through it since there is a deadline for warrant articles, and the draft amendments are straightforward. The motion died for lack of a second.

D. Proposed Community Planning Ordinance amendments

L. Casey opened the public hearing for warrant articles at 8:55 p.m. related to the Community Planning Ordinance. All the public had left, so the public hearing was closed at 8:58 p.m.

The Board went into deliberations. It was decided that inserting "Zoning" in front of every instance where "Board of Appeals" is written would not require a warrant article for town vote; it should be considered a scrivener's error.

L. Casey read a draft warrant article for insertion of the word "contiguous" in two places with regard to road frontage:

ARE YOU IN FAVOR OF AMENDING THE COMMUNITY PLANNING ORDINANCE ARTICLE III, USE APPLICATION, C, (AREA AND DIMENSIONS FOR STRUCTURES AND/OR BUILDINGS), TO INSERT "CONTIGUOUS" (UNDERLINED BELOW) TO READ AS FOLLOWS?:

- 4. The minimum lot width at the road frontage is 200 contiguous feet on a class V or better road, or a road shown on a map or subdivision approved by the Sullivan Planning Board and recorded in the Cheshire County Registry of Deeds, pursuant to RSA 674:41.

AND

ARE YOU IN FAVOR OF AMENDING THE COMMUNITY PLANNING ORDINANCE ARTICLE IV, GENERAL PROVISIONS, N, (ALTERNATIVE DEVELOPMENT), TO INSERT "CONTIGUOUS" (UNDERLINED BELOW) TO READ AS FOLLOWS?:

Minimum lot width at the road frontage shall be 200 contiguous feet on a class V or better road, or a road shown on a map or subdivision approved by the Sullivan Planning Board and recorded in the Cheshire County Registry of Deeds, pursuant to RSA 674:41.

There were no recommended changes to the article from the Board.

L. Casey read a draft warrant article regarding distance of septic systems from wetlands:

ARE YOU IN FAVOR OF AMENDING THE COMMUNITY PLANNING ORDINANCE ARTICLE III, USE APPLICATION, C, (AREA AND DIMENSIONS FOR STRUCTURES AND/OR BUILDINGS), TO INSERT "11" TO READ AS FOLLOWS?:

11. The minimum setback for a septic tank or leach field from any wetland is 100 feet.

M. Cook asked that "wetland" have a qualifier since it is vague. A. Sweet said "designated wetland" was appropriate. C. Pratt moved to amend the draft article by adding "designated." M. Cook seconded. All "Aye." The change will be made to the article before it goes to the Selectmen.

C. Pratt moved to add "Administration" to Article IV. General Provisions, P. (Junk Yards) 1.c to read "(see Article VII, Administration). L. Casey seconded. In discussion the motion was amended to add that the I was a formatting change and did not have to be put on the warrant and voted on. All "Aye."

L. Casey proposed a warrant article to read:

ARE YOU IN FAVOR OF AMENDING THE COMMUNITY PLANNING ORDINANCE ARTICLE XI, DEFINITIONS, JUNK YARD, TO READ AS FOLLOWS?:

Per RSA 236:92, an accumulation of motor vehicles, registered or unregistered, or auto parts amounting to two or more vehicles, or machinery over an area exposed to public view of greater than 500 square feet, is enough to be considered a junk yard.

In discussion, it was agreed that it was important to add the word "inoperable" in front of "motor vehicles." The warrant article will be amended accordingly.

L. Casey moved to advance three warrant articles to the Board of Selectmen for inclusion in the warrant. C. Pratt seconded. All "Aye."

E. Planning Board Membership - 7, or 5?

M. Cook introduced the discussion of planning board membership by saying towns are allowed to have 7 or 5 members on their planning board under the statute. She said it would give the board more flexibility, especially since it has been difficult recruiting new members and ensuring a quorum for each meeting. The Board decided to postpone a decision on recommending a change to the number of members until January when it is hoped more members can be present.

F. Selectmen report

M. Cook said the budget committee has organized and is beginning work. The budget hearing will take place on Nov. 18th.

C. Pratt moved to adjourn; M. Cook seconded. All "Aye." The meeting was adjourned at 9:25 p.m.

Respectfully submitted,



Ann Sweet
Acting Secretary