

TOWN OF HIGHGATE

Development Review Board

September 10, 2015 @ 6pm

Approved Minutes

NOTE: All actions taken are unanimous unless otherwise stated.

I. CALL TO ORDER

The meeting was called to order by chairman, Rick Trombley at 6:00pm.

Present at this meeting:

- **DRB members:** Rick Trombley, Chairman; Woody Rouse; Tim Reynolds; Scott Martin; *absent – Julie Rice*
- **Staff:** Wendi Dusablon- Planning & Zoning Clerk; Heidi Britch-Valenta – Zoning Administrator
- **Public / Other:** Jay Spaulding – applicant; Katelyn Ellerman – Murphy, Sullivan & Kronk

II. PUBLIC HEARINGS

- **Jay Spaulding**
Conditional Use & Site Plan Review
Jay Bird Lane
Industrial / Commercial District

This is a continuation from the August hearing. Jay Spaulding had been previously sworn in, Rick read the oath to Katelyn Ellermann, from Murphy, Sullivan & Kronk, who was here to represent Mr. Spaulding. A list had been sent to Jay on 8/26/15 outlining what the board would like to see at this meeting. They had a plan to present, which was presented previously in a smaller version. Katelyn explained that the board has seen this subdivision several times before and are aware that Mr. Spaulding operates a landscaping business on lots 1, 6 and a portion of 7 for storage. The current proposal is to move all activity entirely to lot 1. There are some physical elements to the proposal as part of this proposed shift. Katelyn has reviewed the regulations and the letter from 8/26 as to what the board wants to have clarified. There is an existing residential unit on lot 1 and Mr. Spaulding's business is a service business, with some retail aspects to it. Mr. Spaulding would like to have the option of having his customers stop by and pick up materials. Issues have been raised regarding the dimensions of the proposed lien-to addition to the existing garage and how that interacts with the water easement. Also, there are issues being raised with regard to access. Katelyn is happy to answer any questions. Heidi noted there are also questions regarding the storm water system and the criteria that is outlined in the ACT250 permit and the status of paving the road. The board feels that having a comprehensive packet of information regarding the ACT250 permit and other pertinent permits is important to see if things are in compliance. Katelyn addressed the access first. She appreciates their concern with ACT250 compliance, and they are open to getting the board's input as to what is appropriate for an access. They are willing to incorporate concerns as appropriate. She is unsure how they can address compliance with ACT250, as Mr. Spaulding has pursued amendments as the subdivision has changed. He came before this board as changes were being made. Katelyn views the paving concerns as an ACT250 enforcement issue, as that is outside the jurisdiction of this board. They are looking for this board's input at the municipal level and they will then approach ACT250 and clarify the requirements regarding access. Tim asked for clarification, Jay will amend his ACT250 permit – yes, it will at least be an administrative amendment with ACT250. Rick asked if an ACT250 permit was issued for access – yes, for the subdivision as commercial initially, and it was then transitioned for the remainder of the lots being used for residential purposes in 2010. The 2010 amendment did not address any changes with lot 1. Scott asked which amendment that was, it was amendment 9. Katelyn

brought a number of items as handouts for this meeting, which she passed out and shared with the board. She went through a historical timeline of the parcels:

- 2004 – ACT250 administrative amendment authorizing the permittees to extend the construction completion date and identifies the landscaping business on lots 1 & 2, and allows planting of trees on lot 7. No reference is made to the access. This was all part of amendment 7.
- 2005 – the town board approved use of lots 1 & 6 and potentially lot 2, for use with the landscaping business. Katelyn read from the approval back in 2005, which was approved with no specifications regarding the access. She noted that the current proposal is very similar.
- 2007- this is amendment 8, and reference is made to the completion date of the access road, which is to be paved for the first 150'. It does not state any phases, only that it will be dense packed gravel for access with 150' portion to be paved by October 2011. Tim thought he recalled another phase that indicated another 150' to be paved. Jay noted that a certain amount had been paved with the radius going out at the intersection of Route 78, and that has been done. Tim read from a letter Jay wrote to Geoff Green, regarding additional paving. Katelynn pointed out that was a proposal, not a permit. They have a permit, signed by Geoff Green and that permit would be the controlling document, not the application. The 2007-2008 permit specifically references paving. She respects the concern, and they will need to satisfy the regulations and road standards. They will also have to communicate with ACT250 to open up another amendment. Tim noted that the town has the right to set some standards at the town level. Woody asked about the culvert on lot 6 that was recently purchased by the Barretts. He recently drove by and it appeared they were cleaning out a culvert by the pond. Katelyn noted that Mr. Spaulding has the capability to get the culvert out. They will be going back to ACT250, and the plan will be changing. ACT250 could say that they now want the water to be diverted. Tim added that ACT250 can give you direction to do something, and it isn't done, then the plan changes, so the applicant doesn't end up doing what they were supposed to do. Katelyn noted that there has not been any enforcement action with regard to Mr. Spaulding. Given what she is hearing, it is likely to be a condition and a site visit might be needed to be sure this takes place. If not, a notice of violation would be issued.
- 2010 - this was the last amendment and there has not been any notice of violation or enforcement issues. Often times with land use applications, there are concurrent or staggered applications for a municipal board and ACT250. It will be helpful to them to know what the local board will require before going to ACT250. Something similar happened in 2010 when the subdivision was shifted to add the duplexes on the other lots. That came before this board as part of a conditional use application, which was approved. Tim commented that the approval was probably issued by the town on the assumption that ACT250 was being followed. Amendment 9 from 2010 was approved without specifications as to access requirements.

Katelyn noted that there is a clerical error on amendment 9 which can be presumed it should read 'amendment 8 from 2007' that would potentially require the first 150' to be paved. It is an ACT250 issue as far as what is in that permit and how it was amended and enforced. She is open to concerns that this board has regarding access, noting it is a private road. There are multiple users beyond just the applicant, but it is still privately owned and maintained. At this juncture, it is applying the zoning regulations and road standards, but only so far as it being a private access. Tim pointed out that this driveway adds another access point to the whole maze. This will be considered a driveway, so adding this driveway would give a total of 4 driveways on Mr. Spauldings parcel(s) and a total of 7 lots. It was noted that lot 6 is now sold and lot 7 is common land. Katelyn asked for other questions or concerns regarding safety or aesthetics of the proposal, regardless of whether or not it is paved. She reminded the board that it is Jay's responsibility to maintain it. Woody added that paving would give other homeowners in the development a nice road to drive on and noted that down the road if everything is sold, who then would maintain it. Jay replied that there is no homeowners association, and presently he owns all of it, with the exception of lot 6 that was just sold in January 2015. Heidi added that there are covenants on the property, and she

gave Jay a copy the last time he was in the office. Katelyn noted that the deed for the sale of lot 6 and any covenants are public record and would be found here in the Highgate land records, those are accessible to anyone. The covenants are recorded under New England Ventures, as that was the original project, and it does indicate that lot 7 was for common use. Katelyn added, with that being said, the access, whether Jay is there or not, is a private road, and that until the town accepts it, it is not the towns responsibility. Heidi asked for dimensions to be noted for the record. The existing garage would be used for office space, with some repair work to be done inside as well. The proposed addition for the lien- to off the back of the garage would be to keep equipment under cover, and the size is 10' x 40'. This takes it right up to the edge of the water easement, still leaving 20' for access if needed for maintenance along the easement. Rick asked for a list of what he has for equipment; 2 one ton trucks, 1 F650, 2 skid steers, 1 tractor, 2 trailers and 1 mini excavator. These would be stored in the back of the garage area and under the lien-to. In the back is also the proposed gravel surface and stockpile area. Scott asked if there are any facilities in the garage structure presently, Jay said there is a bathroom that has not worked for years, and he doesn't know what it is hooked to. Jay has never put water in there, when the well was drilled, a point was put in, but it is not plumbed. Heidi asked about the size of the parking spaces and driveway. The width of the driveway might be tight for two cars, and there will be parking spaces available as required. Katelyn noted that Jay is more of a service business. If trucks are coming into the yard, they usually call in advance and he meets them there. Jay will not have any full time employees on site selling product. Tim believes there should be enough room for two vehicles to pass through. The proposal of 18' will be tight, and 20' would be better, to which Woody agrees. There has been no formal site visit by the DRB, just driving by. Jay noted that his business is seasonal and most of the product will be on job sites (mulch, top soil, pavers, natural & concrete products and possibly compost material). Only about a quarter of the material will be sitting on site, which would be lot 1. The board asked for clarification on the size of some of his equipment. The trailers are 8' x 22' and they ride behind a one ton truck, they are approximately 30'-32' in length, combined. These would be on site at some points during the day being loaded up. Normally the trucks are loaded up without the trailer hooked up, so they are backed up to the trailer and hooked on. The tractor is 12' long, including the bucket. The proposed parking area is 117' x 45', and each parking space is 10' x 20'. There won't be any stairs or steps, everything will be on a level grade. Scott asked about the flow of water prior to the amendment to change to residential and asked about the flow of water now, which Jay explained. Tim asked if approval has been received by wastewater, yes all of that has been done, per Jay. That was done when they came before this board to change to residential / commercial. A natural buffer will surround lot 1 and will consist of cedars, which will be 15' on center. They will mature out at between 25'-30' in height. Average height to start will be 3'-4'. Heidi asked if there is a plan on how the storage area will be used, half for parking and half for materials? Jay won't know, as they are constantly going through material, and Katelyn noted it will also depend on sales. If he is within the confines, the issue could be monitored. Tim asked who would be monitoring that, she assumes it would be the zoning administrator, if that is of concern. If it's a busy summer, equipment would be on job sites. Parking spots are proposed for employees, and four are required. Woody noted that the bobcats (equipment) are small and could likely share one spot. Katelyn commented that they are in the industrial / commercial zone and this is a conditional use in the zone, which go hand in hand for this property. The width is available to alleviate concerns about passing as well as visibility. Rick asked about lighting, to which Jay noted his business sign does not need to be lit up and will be within size regulations. Rick asked about lighting for security purposes, which is a private concern. The business hours will dictate what Jay needs and if the board has concerns about impacts and lighting impacting neighboring properties, they could address that. Scott asked, with regard to the unused facilities in the garage, if there is anything on the plans showing where the leach field discharges and where that ends up. Katelyn noted that is not currently proposed. There may be a town permit back when this was done, and it may be in his best interest to find out. Heidi noted there were multiple vehicles parked on lot 7 when she drove down there recently. Jay asked Heidi if she took pictures when she was on the property - yes, Heidi did take some pictures. The board would like to do a site visit. The October DRB meeting

date will be changed from October 8th to **Wednesday, October 14th @ 6pm, with a site visit prior to the meeting @ 5pm.** Jay will stake it out prior to the site visit on October 14th. Katelyn encouraged the board to entertain conditions and hopefully observing the site will be helpful. Motion by Rick Trombley to recess the hearing @ 7:08pm. The motion was seconded by Tim Reynolds – **APPROVED.**

III. APPROVAL OF MINUTES

Motion by Rick Trombley to approve the minutes from August 13, 2015, as amended. The motion was seconded by Tim Reynolds – **APPROVED.**

IV. DECISION LETTERS FOR REVIEW

- Michael Gosselin
- The Tyler Place, Inc.
- Andy Leduc Construction, LLC.

These will be further discussed and reviewed in deliberative session.

V. OTHER BUSINESS

Heidi noted that as a general rule, the Tyler Place application are becoming complicated. She would like to have them be more clear in their applications. Rick added that Heidi should not accept an application if it is not clear, and the onus is on Heidi. Sometimes time is of the essence, but Heidi will write a separate letter with regard to this and future Tyler Place applications.

VI. UPCOMING EVENTS

Sept. 15	6pm	PC w/ Selectboard – Capital Budget discussion
Sept. 20		Summer Sounds 25 th Anniversary Concert @ Field Days
Oct. 1	7pm	Selectboard Mtg. w/ Capital Budget Public Hearing
Oct. 8		DRB MEETING RESCHEDULED UNTIL OCT 14
Oct. 14	6pm	DRB Mtg. with site visit @ 5pm
Oct. 15	7pm	Selectboard Mtg.
Oct. 20	6pm	PC Mtg.
Oct. 27	by 5pm	Property Taxes are due!

VII. DELIBERATIVE SESSION

Motion by Tim Reynolds to enter into deliberative session @ 7:15pm. The motion was seconded by Woody Rouse – **APPROVED.**
Motion by Rick Trombley to exit deliberative session @ 8:18pm. The motion was seconded by Tim Reynolds – **APPROVED.**

VIII. ADJOURNMENT

Motion by Rick Trombley to adjourn the meeting @ 8:20pm. The motion was seconded by Woody Rouse – **APPROVED.**

Minutes respectfully submitted by:

_____, Planning & Zoning Clerk
Wendi Dusablon _____ Date

Minutes approved by:

_____, DRB, Chair
Richard Trombley _____ Date