

**APPROVED**

**TOWN OF PELHAM PLANNING BOARD  
MEETING MINUTES  
June 1, 2020**

Chairman Tim Doherty called the meeting to order at approximately 7:00pm.

The following notice was read aloud “A Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State Of Emergency” (*regarding access to the meeting*)

Secretary Cindy Kirkpatrick called the roll:

**PRESENT ROLL CALL:** Tim Doherty – present  
Jim Bergeron – present  
Cindy Kirkpatrick – present  
Danielle Masse-Quinn – present  
Selectmen Representative Kevin Cote – present  
Alternate Bruce Bilapka - present  
Planning Director Jeff Gowan – present

Via Telecommunication:

Roger Montbleau – present via telephone; no one in the room  
Paul Dadak – present via Zoom; no one in the room  
Alternate Selectmen Representative Hal Lynde – present via Zoom; no one in the room  
Alternate Sam Thomas – present via Zoom; no one in the room

**ABSENT/**

**NOT PARTICIPATING:** Mike Sherman  
Alternate Richard Olsen

**PLEDGE OF ALLEGIANCE**

Mr. Doherty stated Conservation Chairman Paul Gagnon was in attendance of the meeting via Zoom platform. He understood Mr. Gagnon had hired Mark West to assist the Conservation Commission with vernal pool and wetland issues and suggested the Planning Board also seek the same information from him. Mr. Doherty entertained a privileged motion from the Board to seek Mark West’s help and information in this matter. A privileged motion is a motion granted precedence over ordinary business because it considers matters of great importance/urgency and are not debatable.

**MOTION:** (Cote/Bergeron) A privileged motion- To seek Mark West’s help and information for the Conservation Commission and the Planning Board pertaining to wetland and vernal pool issues.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Abstain (due to technical difficulties with Zoom)  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(6-0-1) The motion carried. Mr. Dadak abstained due to technical difficulties with Zoom.

## **MEETING MINUTES**

**May 18, 2020**

**MOTION:** (Cote/Bergeron) To approve the May 18, 2020 meeting minutes as amended.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

## **OLD BUSINESS**

### **Case #PL2020-00007**

#### **Map 2 Lot 1-3-1**

**GULBICKI, John & BREAUT, -GULBICKI, Lesa - 17 Greeley Road – Proposed 2-Lot Subdivision for Single Family Homes**

Representing the applicant was Shayne Gendron of Herbert Associates. Since the last hearing they were looking to do a subdivision of a lot with an existing single-family home. He stated the prior plan did not meet Zoning as it showed a shared driveway, but they did not have a Variance to do a shared driveway. At the last hearing, the Board voted to allow him to come back with sight lines for a proposed driveway associated with the proposed lot. Plans were submitted showing the amendment and sight line profiles for both the existing and proposed driveways. Both driveways meet the sight line Regulations for the roadway. Mr. Gendron believed with the approved Variance (and equitable waiver) (Case #ZO2018-00031 & #ZO2018-00032) they met all the Zoning criteria. He mentioned there was previously some questions regarding frontage. He stated their position had not changed since the lot had been subdivided and approved by the Planning Board originally and believed the lot had frontage on Greeley Road; the right-of-way opens up in front of the lot and there was no other lot they needed to cross to gain access. He said it was not necessary to have an easement.

Mr. Doherty asked M. Gowan to explain the correspondence received from Town Counsel. Mr. Gowan spoke about the letter received from Town Counsel John Ratigan dated May 28, 2020. He said they found no record or reason to believe any easements are necessary and the proposal contained anything but appropriate road frontage. He saw no harm in reading the legal opinion into the record; doing so would violate attorney-client privilege but would make it clear why the Board may take action.

Mr. Cote asked if there would be a well easement. Mr. Gendron replied there were a couple of waivers contained in the application; 1) well easement for an existing well, and 2) waivers for the radius to fall within the 15ft. side setback. He reviewed the plan and noted the well notation was for an existing well; an easement had been set up for the (75ft. protective) well radius. Mr. Cote asked if the well would be used. Mr. Gendron replied the well was currently being used by the existing home; however, they proposed a new well in the event there was ever a problem.

Mr. Bergeron asked if two waivers were being requested; both well radii. Mr. Gendron stated that was correct.

Mr. Doherty confirmed the plan had previously been accepted for consideration during the April 6, 2020 Board meeting. He asked if waivers had been submitted in writing. Mr. Gendron answered yes; they submitted a waiver request on February 25, 2020 to Section 11.11-B,2 to allow the well radius on Lot 1-3-1 and 1-3-2 to be within the side and rear building setbacks. Mr. Doherty asked if any member wanted to make a motion to accept for consideration. No motion was made. Mr. Gendron stated the well radius was completely encompassed within the lot, but the radius went into the building setback. Mr. Culbert stated he had seen the Board grant similar waivers; they had always taken the position (during his thirty years on the Board) that if the radius was within the lot line a waiver is granted. Mr. Doherty agreed they had seen it a lot.

Point of Order called by Mr. Cote to clarify if the Board had to accept the waivers for consideration prior to opening discussion to the public.

#### PUBLIC INPUT

Attorney Robert Shepard of Smith-Weiss, Shepard & Spony came forward in person representing abutter Alfred Gagnon of 13 Greeley Road. He reminded the Board he submitted a letter at the last hearing (emailed – dated April 6, 2020). It was their position there was no frontage on Greeley Road and if the Board grants the request the applicant will need to get an easement from the Town of Pelham to cross Town land to access the proposed property. He said the boundary line was at the existing stone wall. The boundary line from the stone wall to Greeley Road was approximately 75ft. and was approximately 50ft. at the location of the proposed driveway. Attorney Shepard noted in the April 6<sup>th</sup> letter certain conditions they were looking for the Board to consider: 1) ranch-style house, 2) site specific for where the house would be located on the plan, and 3) buffering between the new lot and his client's lot. He said these were issues the applicant indicated they were willing to do when they met with the Zoning Board.

Mr. Doherty inquired where Attorney Shepard's client's property was located in relation to the subject parcel. Attorney Shepard replied next door; 13 Greeley Road.

Mr. Bergeron asked Attorney Shepard if his client's property was located to the east of the proposed parcel. Attorney Shepard did not have a plan in front of him. He said when facing the property his client's property was to the left. Mr. Gendron believed the abutter's property was located to the east and believed it was Lot 1-3, owned by Alfred Gagnon Revocable Trust.

Mr. Doherty wanted to know if the applicant would consider the points. Mr. Gendron explained it was a good-sized lot and believed there was reasonable area to locate the proposed house. They have not done a septic design and therefore preferred not agreeing to a site-specific location. He told the Board the owner was more than happy to give the abutter a 15-foot no-cut buffer along the building setback line.

Ms. Kirkpatrick asked about the size of the house. Mr. Gendron replied they do not currently have anything 'set in stone'; a ranch has a bigger pad whereas a two-story home would have a smaller pad.

Mr. Doherty asked if there was anyone via telecommunication that was connected in for the hearing.

Ms. Debbie Raposo and David Simone of 19 Greeley Road (Enhanced Properties) via Zoom stated they could not hear the hearing and was unsure what the Board was asking them to speak about or if they needed to speak. She said she could hear Mr. Thomas (also via Zoom) and asked if there was a recommendation they should be talking about. Mr. Thomas did not answer. Mr. Doherty believed the abutter was indicating they did not hear the case discussion. Mr. Simone stated the discussion was 'garbled and echoed'. Ms. Raposo said she recalled from the previous meeting the applicant was looking to put in a separate driveway.

Mr. Gowan believed the Board had to adjourn the meeting. He said if people could not hear, they would not be able to continue. Mr. Doherty asked if they would have to adjourn the entire meeting or just the one case. Mr. Gowan replied it would depend on if abutters could hear the meeting later on. Cable Coordinator Jim Greenwood told the Board the system had to be re-booted. The sound was corrected for those joining the meeting via telecommunication.

The Board discussed how to proceed. Ms. Raposo and Mr. Simone informed the Board they could now hear the Board clearly via telecommunication. Mr. Montbleau also confirmed the audio had been cleared up via telecommunication. The Board made the decision to reopen the case and repeat the proceedings.

Mr. Shayne Gendron of Hebert Associates re-introduced himself as the applicant's representative. He stated the plan previously submitted to the Board did not meet Zoning. He said Mr. Bergeron had pointed out a common driveway was not allowed, and the Board voted to allow him to come back with a plan showing a separate proposed driveway for the proposed lot. He informed they sent their survey crew out to check the sight distance for the existing and proposed driveways; both met the required sight distance of 250ft. There is a waiver in the application for two proposed wells in relation to their 75ft. radiuses being within the 15ft. setback ; there is an existing well on the existing lot still in use. Mr. Gendron mentioned there was discussion during the last hearing whether or not the lot has frontage. He explained when the lot was originally subdivided it met Zoning and the Planning Board signed off on the plan which was subsequently recorded. It was their contention the lot has frontage on a piece of right-of-way that opens up in front of the lot wider than 50ft.; being a country road the right-of-way happens to be wider in front of the applicant's lot. He found no record of a separate parcel they were crossing that would require an easement; it was simply a wider opening of right-of-way owned by the Town. He felt it was inconsequential to have a longer driveway over that right-of-way. Mr. Gendron reiterated they believed the lot met the frontage requirements and they were granted a Variance for the proposed lot.

Mr. Doherty opened discussion to public input.

Ms. Debbie Raposo and David Simone of 19 Greeley Road (Enhanced Properties) via Zoom. Mr. Doherty asked if they could hear the applicant's discussion. Ms. Raposo answered yes; it was much clearer. Mr. Simone also answered yes. He wanted to know where the 15ft. offset was located and if it was between the existing and the proposed property. He wanted to know if it meant the proposal would be 15ft. closer to his lot. Mr. Doherty asked if he was referring to the well radius setback, the building setback, or both. Mr. Simone replied both. Mr. Doherty stated when there is a large-scale development the Board normally requires the well radii to be distanced from the (lot) setbacks. Mr. Gendron explained typically when a new lot is being set up the well radius is outside the side and rear setbacks; however, it is allowed to go within the front setback. Mr. Doherty stated when one large lot is being subdivided into two lots it is common practice to waive the Regulation because it is not a large parcel with a lot of lots being developed. With two-lot subdivisions, he said the Board often gave waivers for the radius as long as the well was entirely within the lot; in this case it is. Ms. Raposo told the Board she had no further questions.

Mr. Gowan suggested the Board consider accepting the waivers.

Attorney Robert Shepard of Smith-Weiss, Shepard & Spony came forward in person representing abutter Alfred Gagnon of 13 Greeley Road. He restated that he had appeared at the Board's previous meeting and submitted a letter (dated April 6, 2020) stating their position that there was no frontage. He said the applicant obtained a Variance to allow 50ft. of frontage when in fact the applicant's lot had no frontage. This was the reason the Town granted an easement to the lot in the past. He explained Greeley Road was relocated; when it was relocated the boundary, line was 50ft-75ft away from the road. He said the Town can take that issue up. Attorney Shepard believed if the Board approves the plan the applicant will need to get either a deed from the Town for that area or an easement. He commented they have asked for certain conditions to be imposed if the Board moves forward to grant an approval: 1) site specific for the home location, 2) ranch-style home and 3) buffer to be placed between Mr. Gagnon's property and the applicant's property.

Mr. Doherty asked if the Zoning Board included a condition (with the Variance) for a ranch-style home. Attorney Shepard replied it was not a condition. It was a representation made by the applicant.

Mr. Gowan understood Attorney Shepard stated earlier they would like a 15ft no-cut buffer between the new lot and his client's lot. Attorney Shepard said that was correct.

There were no other members of the public wanting to speak to the plan. Mr. Doherty asked the abutters that had already spoken if they were able to hear the in-person discussion by the other abutter (Attorney Shepard). Ms. Raposo and Mr. Simone both stated they were able to hear the discussion clearly.

Mr. Doherty brought the discussion back to the Board.

Mr. Montbleau asked for Attorney Ratigan's opinion read into the meeting minutes as it was not attorney-client privilege; it was an opinion regarding what had already transpired. He believed reading it aloud would provide a point of clarity for the public to understand (certain) matters involving frontage had already been challenged, litigated, and upheld. Mr. Gowan read aloud the letter dated May 28, 2020 addressed to him for the Board regarding Gulbicki Subdivision/Road Frontage Issue. In conclusion it read: *'Based upon the information that is before the Board, I believe the Board can conclude that there is no evidence in the record to support the claim that Lot 1-3-1 lacks frontage on a public way, as Lot 1-3-1 continues to have frontage on Greeley Street (Road), for the Greeley Street (Road) right-of-way abuts Lot 1-3-1.'*

Mr. Cote inquired if the Planning Board was forced to abide by a Variance granted by the Zoning Board. Mr. Gowan commented he was not an attorney; however, whatever a Variance is granted for that had upheld an appeal in court, he would assume that is what the Board should work with in terms of frontage. Mr. Cote stated his question was if the Planning Board, by law, had to honor the Variance. Mr. Gowan replied he could not answer the question in the way it was asked because he was not an attorney. He mentioned during the 25-30 years he was involved with planning in Pelham he had never seen the Planning Board ignore a Variance that was legally approved and not challenged successfully. Mr. Cote stated he had a problem with the 56ft of frontage the applicant was looking for, as Pelham has a 200ft. frontage Zoning Ordinance. He said the Zoning Board had granted relief to the applicant, but that relief depends on the Planning Board granting the approval of the subdivision. Mr. Gowan replied the frontage issue has been resolved. In his opinion, if the Board does not approve the subdivision, they need to find a reason other than frontage. He said it was not a good idea if the Planning Board began to question every Variance undertaken by another land use board. Mr. Cote understood a Variance allows an applicant to deviate from Zoning. Mr. Gowan replied that was correct. Mr. Cote said if a Variance is granted and the Planning Board grants approval to a plan; what it says is the Planning Board needs the Zoning Board to legally grant the Planning Board the authority to allow an applicant to build a house, or 'break the rules.' Mr. Gowan explained there could not be rules without relief to those rules. He said any resident could seek a Variance (amongst other things) to any section of Zoning. In this case the applicant was successful in the matter of frontage; a Variance was granted, appealed, and upheld by the court. He reiterated the Variance piece was done as it pertained to frontage. Mr. Cote inquired how many properties in Pelham besides conservation subdivisions had frontage of 56ft or less. Mr. Gowan believed there were lots of them (since Zoning was enacted) but felt it was unfair to ask the question knowing research has not been done on it. Mr. Cote asked if there had been Variances granted for lots with 56ft. or less of frontage. Mr. Gowan replied he had seen Variances granted for 25ft.; the application was not creating a new precedence. He added with Zoning no precedence is created because each case was de novo.

Mr. Montbleau stated in his 30+ years of being on the Planning Board believed there were hundreds of Variances like this (granted to the applicant) all over Town. He stated Variances were a 'relief to the rules' with certain criteria. He stated the applicant had been granted relief (through Variance) that had gone to court and upheld. He added the applicant had the right to subdivide their land. He said they were not 'disobeying' the rules; they were going by the rules. He stated if the Board were going to hold the applicant responsible for 'breaking rules'

they have a legal Variance for, the Board would be acting 'way off base'. Mr. Montbleau pointed out the request was for a simple one-lot subdivision; the applicant had met all the conditions. He did not know where the discussion was leading and felt it was not in the right direction.

Mr. Bergeron asked to address Mr. Gowan's and Mr. Montbleau's comments regarding 'granting of Variances'. He said granting of Variances for frontage was something the Board had historically done; however, typically/usually the relief is granted on lots that pre-date Zoning. He said they were not typically granted on subdivisions that existed at the time the requirement for frontage was in place. He said currently the Board had in front of them a Variance that was granted, after 200ft. frontage per parcel was made law; the (applicant's) lot was non-conforming for frontage. Mr. Bergeron said they were the Pelham Planning Board, and if the creation of the lots violates the Site Plan Regulations and the Board finds they are not willing to accept those, they could deny it. They could do so not based on frontage, but on other issues the subdivision cannot comply with because of its lack of normalcy with the current Site Plan Regulations.

Mr. Bilapka wanted to know why the proposal did not come in front of the Planning Board first before it went in front of the Zoning Board. He felt the Planning Board should have seen it first. Mr. Doherty replied it would have been immediately turned down and appealed with the Zoning Board. Mr. Bilapka believed the Planning Board should have seen the plan before it got to this point as it was a subdivision. Mr. Gowan explained the Planning and Zoning Boards each had their own job. He stated the Planning Board could not hear a case unless it met Zoning; the first stop is the Zoning Board to seek Zoning relief. In this case the applicant was granted a Variance. Mr. Bilapka stated the plan went against all the Town's Regulations and did not believe they had frontage. Mr. Gowan replied that was irrelevant because of the Variance.

Mr. Culbert recalled the Board recently approving a 25ft. frontage for three house lots on a cul-de-sac (Foreman Lane). Mr. Gowan replied he would have to research the case; however, that application would have been required to go to the Zoning Board if it were not a conservation subdivision and they had substandard frontage. Mr. Bergeron noted the referenced case has not yet been decided.

Mr. Doherty noted the applicant had requested two waivers to Section 11.11,B,2 to allow the well radii on Lots 1-3-1 and 1-3-2 to be within the side and/or rear setbacks. Mr. Montbleau made a motion to accept both waivers for consideration. Mr. Dadak seconded the motion.

Mr. Lynde asked if there was an issue with water drainage onto (the abutter) Mr. Gagnon's property the Board would be addressing. Mr. Doherty asked Mr. Gendron if he wanted to respond. Mr. Gendron did not hear anything from the abutter's representative (Attorney Shepard) about drainage onto Mr. Gagnon's lot. He added they would be happy to provide a 15ft. no-cut buffer. Regarding drainage, Mr. Gendron stated they promised the Zoning Board they would install underground dry wells to infiltrate stormwater from the roof, as was shown on the plan in front of the Planning Board. He was unaware of any drainage issue that pre-exists. Mr. Dadak recalled drainage was brought up during the previous hearing and understood the applicant would do whatever they could to control water from the lot; there would be no increase in the release of water from the lot. He also recalled there as an existing drainage issue, but the applicant's lot would not affect it.

Mr. Doherty asked the Board to address the motion on the floor.

**MOTION:** (Montbleau/Dadak) To accept for consideration the two waivers to Section 11.11, B, 2.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes

Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Gendron addressed the question regarding drainage. He noted a letter was submitted to the Board from Earl Sanford (engineering company) that spoke to drainage along Greeley Road. In conclusion the letter indicated: *The erosion and drainage issues along and through the east side of the Gagnon land and down to the Ramos property (158 Marsh Road) would not be affected by any change in the Gulbicki property and there will be no appreciable improvement at the Bergeron (160 Marsh Road) property from the conversion of impervious to pervious grass area on the proposed new Gulbicki lot.* Mr. Gendron said when drainage is reviewed it is done in large drainage areas and then apply the factors (i.e. roadway, roof areas) to the calculation. In this case, because they are doing a two-lot subdivision the number is so small it would not make an affect in the property whether they have impervious or pervious surface.

Mr. Montbleau made a motion to approve the two waivers to Section 11.11,B,2. Mr. Dadak seconded the motion.

**MOTION:** (Montbleau/Dadak) To approve the two waivers to Section 11.11, B, 2.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – No  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – No  
Mr. Cote - No

(4-3-0) The motion carried. Mr. Bergeron, Ms. Masse-Quinn and Mr. Cote voted in opposition.

Mr. Cote stated they could not keep splicing up properties. He held up a piece of paper (to reference one acre) and tore it lengthwise and said if each of the pieces torn off represented one lot, they still would not be good lots. He did not feel the Board should split off lot and also did not feel proposed lot was a good lot.

Mr. Montbleau made a motion to approve the two-lot subdivision. Mr. Dadak seconded the motion.

Mr. Gowan asked if the motion would consider previously discussed conditions for a ranch-style house and 15ft. no-cut buffer. Mr. Montbleau amended his motion to include both conditions: 1) ranch-style house and 2) 15ft. no-cut buffer. Mr. Dadak amended his second.

Mr. Bergeron asked for clarification of the motion. He asked if the ‘ranch-style house’ also included a reference to a septic load or specified square footage. Mr. Montbleau replied his motion was to approve the two-lot subdivision with the agreement for a 15ft. buffer and the house style to be built will be a ranch-style house. Mr. Dadak agreed that his second was done based on the mentioned conditions.

As Ms. Kirkpatrick called for Ms. Masse-Quinn’s vote, Ms. Masse-Quinn questioned if the Board was voting on the full plan ‘as is’. Mr. Doherty replied they were voting to approve the plan. Ms. Kirkpatrick answered yes; including the conditions they discussed. Ms. Masse-Quinn confirmed they were approving the plan and accepting the variance included with the approval. Mr. Doherty stated the Board was voting to approve the plan with everything they discussed. He told her if she was uncertain, she should probably abstain. Ms. Masse-Quinn understood and said she was certain.

**MOTION:** (Montbleau/Dadak) To approve the two-lot subdivision with added conditions: 1) ranch-style house and 2) 15ft. no-cut buffer.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau – Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – No  
Mr. Cote – No

(5-2-0) The motion carried. Ms. Masse-Quinn and Mr. Cote voted in opposition.

Mr. Bergeron offered a parting comment. He wanted everyone to realize a detached accessory dwelling unit ordinance had been passed; he would have felt a lot better if the Board had held the motion's condition of a 'ranch-style house' to a septic load adequate for the lot. He said the applicant had every right to come before them for a detached dwelling unit; now they have created a lot that was very unlike the surrounding lots. He understood there was relief through other means but felt the case was handled bad from the beginning.

Mr. Gowan reassured the Board and public the applicant would need a State approved septic design to get a building permit from the Town; the 'loading' would be included in that process.

### **NEW BUSINESS**

#### **Case #PL2020-00008Map 41 Lot 6-119**

**JUSZAK, Brandon, Birch & Brick Realty (owner) / KNOWLTON, Joshua & NORMANDIE, Alyssa (applicants) – 49 Bridge Street, Unit 1 – Site Plan Review for a change of use to permit the operation of a dog training facility that will also offer limited boarding.**

Mr. Gowan read the list of abutters aloud. There were no persons present or via telecommunication who had not been notified who asserted standing in the case.

Representing the applicants was Attorney Robert Shepard of Smith-Weiss, Shepard & Spony. He came forward in person and told the Board his clients were looking to occupy the former 'Pips Store' and submitted information for a change-of-use from a store to a business that would provide dog daycare, obedience training and limited boarding. He provided the Board with a letter and summarized the contents. The proposed use was permitted and none of the other occupants of the plaza had any objection to the business. The plaza owner was connected via Zoom.

Attorney Shepard offered the following conditions for approval:

- 1) Hours of operation: Monday through Friday 6am – 7pm  
Saturday – 9am – 5pm  
Sunday – Not open to the public
- 2) Limited boarding: No more than six (6) dogs at one time. Security measures (including video) will be installed when no one is at facility.
- 3) Daycare – No more than twenty (20) dogs per day. Not to coincide with training. He noted Daycare would be held Monday, Wednesday, and Friday. Training would be held Tuesdays and Thursdays.
- 4) No outdoor facilities (no cages or dog runs).
- 5) Measures to be in place for dog waste to ensure it is properly and promptly picked up and disposed of.



Attorney Shepard described the business set up within the building unit. He called attention to the fact that the representative for Prolyn Corporation (abutter), Attorney James Tamposi, Jr., submitted a letter to the Board. He stated the property the applicants were looking to operate their business was located on Route 38 in an industrial zone. Also, within the plaza was a t-shirt business, a martial arts business, possibly a realty office and the owner of the plaza had their own contracting business directly adjacent to the plaza. Across the street is Metropolitan Auto Sales and Discount Madness. There was a dental office and child daycare center in the area. In Attorney Tamposi's letter it states dog facilities are located on large lots. Attorney Shepard commented this was not true; there are dog daycare facilities are located everywhere and noted one on Amherst Street in Nashua. He informed there would be no sound coming from the dogs as they were being trained not to bark. He noted the closest townhouse (owned by Prolyn Corporation) was approximately 150ft. away; there is a fence between the two properties. He believed his client had addressed all the issues raised. He stated the proposed business was good and hoped the Board would review the application and grant approval.

Ms. Kirkpatrick wanted to know how much time the dogs being boarded would be left alone within the facility. Mr. Knowlton replied approximately eight (8) hours. Ms. Kirkpatrick inquired how extreme barking would be handled. Mr. Knowlton replied there may be some barking overnight. He informed they had done sound proofing within the building; little could be heard through the walls. Additional soundproofing will be added to ensure sound will be contained. As part of the behavior training, they work on barking. He said a little may be heard but did not believe it would qualify as 'nuisance'. Ms. Kirkpatrick asked what measure were in place in the event there was a nuisance. Mr. Knowlton stated they had cameras set up. He said if a dog continues to bark, they will remove them from the building.

Mr. Culbert understood a maximum of six (6) dogs would be boarded. Mr. Knowlton answered yes. Mr. Culbert asked if they boarded dogs on Sundays. Mr. Knowlton said they would be on site as a training operation; the reason for 'six' dogs was they were not opening as a 'boarding facility'. The maximum was six from a training standpoint, so they are not overloaded. Mr. Culbert asked if there was boarding on Sundays. Mr. Knowlton answered yes, although it was from a training standpoint by leaving during the day and returning at night. Mr. Culbert believed the hours of operation would need to be adjusted to include Sundays. Mr. Knowlton replied Sunday would not be open to the public; however, the facility would be open for training.

Mr. Dadak inquired how they determined the sound level was not excessive to another renter or abutter. Mr. Knowlton replied the renter next door to their unit was present when they brought dogs in to check sound levels. The building owner recorded the noise. He noted the recordings were done without sound proofing, which will be added to the separating wall between tenants. He said there was not much sound that came through. Mr. Dadak asked if there was a time when the dogs would be outside of the building. Mr. Knowlton replied the dogs would go from vehicles in the parking area to the building quickly.

Ms. Kirkpatrick understood sound testing was done between the building walls. She asked if any testing had been done outside. Mr. Knowlton answered yes; they did a walk-through from the rear entrance and along the sides of the building. Ms. Kirkpatrick asked if sound proofing would be in the area around where the dogs were kenneled. Mr. Knowlton replied the sound proofing would be added to the adjoining wall. It was quiet near the rear entrance of the door; the wall is concrete.

Mr. Cote wanted to know Mr. Knowlton's experience with training. Mr. Knowlton replied he had been training for approximately thirteen (13) years and spoke about his experience. Mr. Cote asked Mr. Gowan if the applicant was required to go in front of the Board of Health or Health Officer. Mr. Gowan was unsure but felt it would make sense. He said prior to the current Health Officer (Karen McGlynn) the Town had not had any 'health' inspections. He would defer to the Health Officer and thought it was reasonable to do so. Mr. Cote said there was a concern for public health since there would be indoor boarding. He made a suggestion to the Board to have the business reviewed by the Health Officer.

Ms. Kirkpatrick questioned how the 'waste' would be managed. Mr. Knowlton explained they would have a company do a daily pick up; they would not be using the dumpsters for cleanup. They will have waste stations and specific pails set up for outside break times.

Mr. Gowan mentioned the request was for a minor change-of-use for the facility and confirmed with the applicant they had no planned changes for the exterior of the building, except for signage. Mr. Knowlton replied the only 'change' would be to have dog cleaning stations. Mr. Gowan was interested in changes relating to the building.

Mr. Doherty asked if there had been any complaints with K-9s in the past given the previous renter always had their dog with them. Mr. Gowan replied the complaints received from Prolyn in past years related to a different facility.

Mr. Cote questioned if a decibel test was taken. Mr. Knowlton answered no.

Mr. Doherty opened the discussion to public input.

The building owner Brandon Juszac via Zoom told the Board the average decibel rating for one dog is between 60-110dB. For comparison, a vacuum cleaner is 70dB and a car horn is 110dB. He confirmed for the Board that Mr. Knowlton would supply and install sound proofing within the space. Mr. Doherty asked if any complaints had been received from bringing lawn mowers from inside to outside (at Mr. Juszac's business) from the abutters. Mr. Juszac replied he had received no complaints.

Mr. Cote questioned if there was specific insurance or a special license with the State to open the business. Mr. Knowlton was not aware of any special license. He knew there were various insurance companies that covered facilities depending on the offerings. He said they already carry insurance for care of dogs, pet sitting/training etc. Mr. Culbert asked if he knew of any required license. Mr. Knowlton replied there was no governing body to qualify someone as a dog trainer so licensing was not available; although there were various schools where someone could become accredited. Mr. Culbert asked if the State required a license. Mr. Knowlton answered no.

Mr. Bergeron was familiar with the construction of the building and believed the likelihood of sound coming from the back wall was low, if at all. He also believed the front glass would hold in any barking sound. He questioned if there would be any grooming. Mr. Knowlton replied there were absolutely no plans for grooming.

Mr. Gowan recommended any approval make reference to the hours of operation, 'no grooming', and the other items listed in the applicant's letter. He noted without specifying items in a motion the Town's Code Enforcement would have difficulty.

Ms. Masse-Quinn made a motion to approve the Site Plan with stipulations contained in the applicant's letter received by the Planning Department March 5, 2020. Mr. Cote seconded with a friendly amendment that the applicant seek guidance from the Town Health Officer and follow their recommended guidelines. Mr. Culbert asked that the motion include a stipulation for 'no grooming'. Mr. Cote added the stipulation. Ms. Masse-Quinn agreed to the amendment.

Mr. Doherty asked Mr. Dadak and Mr. Montbleau if they understood the motion and conditions. Both Mr. Dadak and Mr. Montbleau answered yes.

**MOTION:** (Masse-Quinn/Cote) To approve the Site Plan with the stipulations contained in the letter submitted by the applicant and received by the Planning Department March 5, 2020. Also, to include 'no dog grooming' and that the

applicant seek guidance from the Town Health Officer and follow their recommended guidelines.

**ROLL CALL VOTE:**

Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - No  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(6-1-0) The motion carried. Mr. Montbleau voted in opposition.

**Case #PL2019-00016**

**Map 39 Lot 1-49**

**WILLIAMS, Bruce & Rhonda–157 Mammoth Road-Proposed 4 Lot Subdivision and Special Permit for Wetland & WCD Crossing for Access to proposed homes**

Mr. Gowan read the list of abutters aloud. There were no persons present or via telecommunication who had not been notified who asserted standing in the case.

Representing the applicant (in person) was Shayne Gendron of Herbert Associates. He stated the proposal was for a four-lot subdivision of an existing 10.4-acre parcel located on Mammoth Road. The parcel has an existing home and detached garage. The property has long frontage, approximately 1,200ft. on Mammoth Road. He explained the property was unique in that it was cut off by a wetland complex that basically broke the property into two parcels. He said the applicant hired his firm to do the best subdivision. Mr. Gendron stated they took the application to the Highway Safety Committee ('HSC') early on; the HSC gave a recommendation for a single driveway leading to the back of the property. The HSC asked for additional items that Mr. Gendron indicated were shown on the plan. He said the application was also brought to the Zoning Board (granted February 10, 2020) for a common driveway so they would cross the wetland in one spot and have a safer situation for access onto Mammoth Road. He understood the Town and State would be expending quite a bit of funds to rebuild the Mammoth Road/Marsh Road and Mammoth Road/Sherburne Road intersections. Mr. Gendron said the proposal shows the access as far away from the intersections as possible with one wetland crossing. He informed Gove Environmental had done the soils and wetlands on the parcel; they found the area that had the least amount of impact. The plan in front of the Board proposed a 22ftx24ft. open-bottom box culvert. The wetland crossing impact will be approximately 369SF. Mr. Gendron told the Board they were looking for a Special Permit for the driveway, the grading and area of improvement; there are two impact areas. He provided a plan showing both impact areas and described the proposal. The plan set in front of the Board also reflects the HSC recommendations. Mr. Gendron informed they met with the Conservation Commission, who recommended they cross the wetland only once. The Commission asked if there was a way to 'lessen' what the HSC was asking. He mentioned there were a couple waivers within the application. Gove Environmental was doing the wetland impact permit for the wetland crossing. All houses will be on individual wells and septic. He ended by informing although there was a large wetland that had to be crossed, the land to the rear of the property was very productive and the test pits were very good.

Mr. Cote asked for the distance between the proposed driveway and the Marsh Road intersection. Mr. Gendron believed it was approximately 800ft and then corrected himself to say it was approximately 400ft. Mr. Cote asked if they took the whole State's (intersection) plan into account. Mr. Gendron answered yes.

Mr. Gowan explained the Town was currently in the process of working with the Department of Transportation on two roundabouts. He said they were working through the plans. One roundabout will be where Mammoth Road and Marsh Road meet. In this instance he said it made sense to push the driveway access as far away from

the Marsh Road intersection. The proposed location also accommodated a minimized wetland impact. Mr. Gowan said he would not recommend the Board approving the plan until Keach Nordstrom (Board's engineering review firm) conducted their review.

Mr. Doherty said the plan looked like it was ready to be accepted for consideration. Mr. Gowan stated it was.

**MOTION:** (Montbleau/Cote) To accept the plan for consideration.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Doherty noted there were waivers the Board should also accept the waiver requests for consideration so they could be discussed.

Mr. Gendron explained the first waiver was to allow the well radius to be less than 90ft. from the side lot line. He said when the 75ft. well radius was added to the required 15ft side setback, it totaled 90ft. Mr. Doherty believed the setback should be 15ft. Mr. Gendron offered to re-write the request. Mr. Bergeron made a motion to accept the waiver to allow the well radius for Lot 1-49-5 to be less than 15ft. from the side lot line.

**MOTION:** (Bergeron/Dadak) To accept the waiver to Regulations, Section 203-1 B.4 – to allow well radius of Lot 1-49-5 to be less than 15ft from side lot line.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

The Board then considered a waiver to Section 203-4 C.1 of the Regulations to allow a shared driveway for Lots 1-49-4, 5 & 6.

**MOTION:** (Bergeron/Kirkpatrick) To accept the waiver to Regulations, Section 203-4 C.1 to allow a shared driveway for Lots 1-49-4, 5 & 6.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes

Mr. Cote - Yes

(7-0-0) The motion carried.

The waiver for consideration was from Section 203-1 B.2(d) of the Regulations to allow the driveway to cross the Wetland Conservation District ('WCD') to access the lots.

**MOTION:** (Bergeron/Montbleau) To accept the waiver to Regulations, Section 203-1 B.2(d) of the Regulations to allow the driveway to cross the Wetland Conservation District ('WCD') to access the lots.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Gowan questioned if the Board felt a waiver was needed for lot shape. Mr. Bergeron suggested the applicant write a waiver request for lot shape. Mr. Doherty felt it would be appropriate. Mr. Gendron told the Board he would speak to Mr. Gowan for the appropriate section of the Regulations and submit a wavier request.

Mr. Doherty stated he spoke with the Conservation Commission Chairman Paul Gagnon and understood he had spent quite a bit of time with the proposal. Mr. Gowan replied he would have it in advance of the next meeting. Mr. Doherty asked the Board's opinion of having Keach Nordstrom review the plan since it had wetland impacts. He asked Ms. Kirkpatrick to read the roll for a consensus that the plan be reviewed by Keach Nordstrom.

**ROLL CALL CONSENSUS:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

They will be forwarded to Keach Nordstrom for review. Mr. Doherty understood it had already been reviewed by the Conservation Commission (letter to follow).

Mr. Dadak said there appeared to be a 'trail system' on the plan and recalled there was no real trails that crossed the property as he believed it was only an old farm road. Mr. Doherty believed there was a possible access into the Town property. Mr. Gendron explained the existing roads shown on the plan were farm roads maintained by the owner. There was a small bridge (page 3 of the plan) and possible old logging roads that did not lead anywhere. He stated there were trails on the north end of the property.

Mr. Gowan informed any driveway serving two or more residences must be named according to the Selectmen's road naming guidelines. Mr. Gendron replied road names were emailed December 17, 2019 and provided Mr. Gowan with a copy of the correspondence.

Mr. Bergeron saw there was a request for a serious waiver for shared driveways. He understood the plan showed it for the protection of the wetlands. He said he spoke with Conservation Chair Paul Gagnon about the box culvert proposal and understood Mr. Gagnon felt it was the best way to handle the area; however, he will wait to see what Keach Nordstrom advises. Mr. Bergeron stated his vote would be based on how well the applicant convert a covenant or homeowner's association document (passed on in perpetuity) for further owners pertaining to maintenance and snow removal. Mr. Gendron replied Mr. Bergeron's comments were well taken and would do so. He pointed out having one access to Mammoth Road would be a safer situation in relation to public health and safety. Mr. Gowan said he would like to see a notation on the final plan to be recorded.

Mr. Doherty inquired if consideration had been given to allowing the two southerly lots to have their own separate driveway (15ft. wide). Mr. Gendron did not have an issue with separating the driveways and asked if the Board preferred 15ft or 20ft. Mr. Doherty said he had seen a similar layout in other towns that had a paver/brick up the middle. Mr. Gendron replied he had no objection and asked the Board for direction. Mr. Cote agreed. He was not sure of the distance between Mammoth and the culvert and asked if the driveway could be curved and moved further away. Mr. Gendron replied there was a possibility to do so but would not recommend a curve. He suggested the Board look for the Town engineer's input. Mr. Cote then suggested reducing the asphalt (size of driveways) after the culvert. Mr. Gendron wanted direction on the width. Mr. Gowan said he would bring the plan to the HSC. Mr. Bergeron was not sure if having 15ft. split driveways would be better for emergency responders. He felt a rough calculation should be done with Keach Nordstrom to understand if the design had an effect on the wetlands through the impervious surface. He was not sure what the better solution would be. Mr. Doherty said by splitting the driveway with brick pavers (inlaid not raised) simply gave a distinction between the access for each house. Mr. Bergeron believed HSC liked to see at least 20ft width.

Mr. Lynde asked if the proposal were for a private way; the Town would not be responsible for maintenance. Mr. Gendron replied that was correct. Mr. Lynde felt the design should be able to accommodate the safety equipment.

Mr. Doherty suggested the Board hear back from Keach Nordstrom before going any further on the plan. Mr. Cote wanted to know if the calculation for pervious surface was included on the plan. Mr. Gendron replied they did not propose any porous pavement. Mr. Cote asked if the applicant would be open using it. Mr. Gendron replied he might be able to; however, it was very maintenance 'hungry'. If porous pavement is not maintained it does not work. He noted it could not be sanded or salted the same as regular pavement which could be a safety issue. Mr. Dadak recalled there was only one development in Town that had porous pavement. Mr. Gowan answered yes, Boulder Hills, a private parking lot. He added Mr. Keach was not an advocate of porous pavement or concrete because it was a maintenance nightmare.

The case was date specified to the July 20, 2020 meeting.

**Case #PL2020-00009**

**Map 22 Lot 8-31**

**C & T BEAUREGARD LAND HOLDINGS, LLC –91 Main Street –Site Plan Review to remove existing buildings and construct two 34' x 84' buildings (Original application Case #2019-00027 to be withdrawn)**

Mr. Culbert (in person) and Mr. Lynde (via Zoom) left the meeting.

Mr. Gowan read the list of abutters aloud. There were no persons present or via telecommunication who had not been notified who asserted standing in the case.

Representing the applicant was Shayne Gendron of Herbert Associates (in person). The applicants Chad and Tim Beauregard were present in person. He provided the Board with a brief history of the property and the used equipment sales business, which is located on the corner of Bridge Street and Main Street. On the site is an

existing wood frame two-story building that did not suit the needs of the business (equipment sales/maintenance/repair). The proposal is for two steel buildings that will meet the business needs better, which would be done through phased construction. Photo depiction of the building style was displayed. Each building would be 34ft x 84ft. Mr. Gendron stated they had gone in front of the Zoning Board for a Variance to building setback based on the building's height. The Variance, Case #ZO2020-00006 was granted. He told the Board nothing was changing other than the applicant was cleaning up the site and constructing steel buildings. The plan showed the parking area and dedicated display area. The storage areas would also remain the same. A proposed landscaping plan was included with the plan.

**MOTION:** (Cote/Bergeron) To accept the plan for consideration.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Cote said the plan looked like the applicant was only taking down the current structure and putting something new on the existing pad. Mr. Gendron said nothing was changing, the applicant was currently selling equipment and would continue doing so. They were re-doing the buildings and would clean up the pavement and parking and include landscaping. The display areas had already been defined by Code Enforcement. The proposed buildings would look nicer and fit the business better. Mr. Gendron said it was a simple site plan review. The applicant would like to go over the hours of operation. The lighting is mostly existing; they were not proposing any new lighting.

Mr. Gowan pointed out the proposal may be simple; however, it was a major site plan review, not a minor site plan review. He felt it would be important to have Keach Nordstrom (Board's engineering review firm) do a light review of the plan. He asked if the photo of the proposed building would be the same color as the one being proposed. Mr. Gendron replied it was the same building.

Mr. Dadak asked what kind of maintenance would be done in the building and if there would be any fluid draining. He also wanted to know if the Fire Department had to review the plan. Mr. Gendron stated the applicant would be doing equipment maintenance and repair on equipment they sell. The plan was developed to deal with hazardous chemicals, oil etc. He provided the Board with a copy of the plan.

Mr. Gowan questioned if the buildings would include floor drains. Mr. Gendron answered no.

Mr. Dadak appreciated the fact the applicant was adding/proposing landscaping.

Ms. Kirkpatrick asked if there would be any changes made to the existing business. Mr. Gendron explained the existing 'white' building would be going away and replaced by two buildings (Morton-style steel) put up in phases. The buildings would be heated spaces for people to be able to work inside. Ms. Kirkpatrick asked if the hours of operation would stay the same. Mr. Gendron believed they would. The hours are: Monday-Friday 7am-8pm, Saturday 8am-6pm, Sunday 9am-5pm. He told the Board they worked 'by appointment' and not regular hours.

Mr. Bergeron understood the buildings would be phased but when everything was done the roof would have an 'east-west' pitch. Mr. Bergeron noted the first building to be replaced was the current 'temporary' structure.

After which the existing 'wooden' structure would be taken down and replaced with the second structure. Mr. Bergeron inquired how long the phasing would take. Mr. Gendron replied three years. Mr. Bergeron recalled previously seeing plan. Mr. Gendron replied the Board saw a previous plan, but it was not from his office. He believed the applicant had come in front of the Board on their own. When they began to develop a plan, they realized the need for a Variance for setback based on building height. He stated the Zoning Board was happy with the proposal because they felt it would clean up the corner and make the site fit what the business was doing. Mr. Bergeron understood the Variance was for building setback because of the building's height. He recalled it was only partially out of compliance. Mr. Gendron called attention to note 7 on the plan, which specified the setback. Mr. Gowan stated the Variance was granted for an undersized (commercial) lot.

Mr. Cote inquired if the buildings would have special fire suppressant equipment inside. Mr. Gendron answered no. Mr. Gowan said that was something they would have to confirm with the Fire Department.

Mr. Montbleau questioned what kind of spill containment equipment would be on site and indoors. Mr. Bergeron informed the Board was provided with information during the meeting regarding containment and how waste oil, etc. would be treated. Mr. Montbleau asked if New Hampshire required a hazardous waste manifest license number. Mr. Chad Beauregard stated the documentation submitted was the same information previously submitted. He recalled Mr. Montbleau commenting it was above and beyond the regulations.

Mr. Doherty opened the hearing to public input.

Mr. Alan Demers, 106 Main Street recalled when the business began (2016) there was not supposed to be any working on vehicles at all. He said the 2016 approval was only for selling things online and the applicant said they would not be working (on vehicles) at the site. He pointed out the proposed building would be bigger than the currently existing building. He wanted to know how they would be allowed to put two buildings up. He said it was a small parcel of land. Mr. Demers questioned if there were any established working hours. He reiterated the business was not supposed to be changing oil, etc. He said the vehicles brought onto the site had water drippage that went into Beaver Brook, which was only 100 yards away and no one seemed to care.

Mr. Gendron replied they brought the exact same plan to the Zoning Board and nothing had changed. The same plan was being presented to the Planning Board. It was presented as two buildings and shown on the plan as such. He noted when the second building was built it would be one building. The applicant would like to do the buildings in a phased approach because it was more economically feasible to do so. Mr. Gendron told the Board he had no problem with Keach Nordstrom looking at the plan. From what he understood Mr. Keach had already been on the site and did not have any problems with what was being proposed. He asked for the opportunity to work with Mr. Keach so the Board could look favorably on the application. Mr. Doherty believed Mr. Demers was indicating he did not believe there was going to be anything done on site other than sales and no work was going to be done on vehicles on site. Mr. Gendron did not know the history of the site. He knew the applicants work on their own vehicles there and knew it was presented in previous cases and at the Zoning Board hearing. He stated the Zoning Board granted a Variance based on the applicant working on their own vehicles.

Mr. Bergeron wanted to know if the setback in a business zone was lineal from the centerline of Route 38. He asked how far to the east the line extended; specifically, if it ran from property bounds or the centerline of the road. Mr. Gowan went to his office to retrieve the map of the zone.

Mr. Bergeron asked Mr. Demers if his property was in the same business zone (as the applicants). Mr. Demers replied his property abutted the applicant's property. He said there were only two abutters to the applicant's property. He told the Board the other abutter did not have internet or a smart phone (to connect to the meeting) but had told him they were against the proposal. Mr. Demers believed his property was in a mixed-use district; he purchased his property with a body shop. Mr. Doherty asked if Mr. Demers was telling the Board the applicant was not allowed to work on vehicles at the establishment. Mr. Demers believed the applicant was



partly on his property with some of their vehicles. He added the applicant had no limit for how many vehicles they could have on a small parcel of land, less than an acre. He told the Board the Variance had an attached clause for no working at the location. He did not understand how the applicant could say they were just going to keep doing what they were doing. He stated they were approved for only selling things online. He told the Board that was stated during the meeting in 2016 and he brings it up at every meeting and gets 'more or less blown off'.

Mr. Gowan returned with a map of the business district for display. He outlined the location of the zoning district. He stated the Variance was for the size of the lot and for the setbacks as was evidenced by the Zoning Board Notice of Decision. He believed the abutter (Mr. Demers) was referring to the use on site as the applicant was indicating they would be doing more than what they were doing at the time of the original approval.

Ms. Kirkpatrick recalled the Board discussing the 'white building' and knew at that time the applicant would be doing on-site work. She said that was when the hours (of operation) were set. At present, she said it did not seem like anything was changing except for the structure they would be working under.

Mr. Gendron clarified the applicant was not working on anybody's equipment other than the equipment they sell to get it up to working order. Regarding previous approvals, he said they had gone to the Zoning Board and now were in front of the Planning Board.

Mr. Doherty asked the Board if they wanted Keach Nordstrom to review the plan. Mr. Gowan believed it would be an extremely minor review. He had no personal objection to the Board making a motion referring to receipt of a letter from Keach Nordstrom subsequent to their decision. The only difficulty would be if Keach Nordstrom found issues that needed to be resolved. He commented the proposal was new and needed to have a record (one document) with all the correct information including the Zoning Board Notice of Decision. He understood the applicant had waited some time, but he wanted to make sure the Board handled the application correctly. He recalled telling the Board during the first hearing that there should be a vehicle count; however, the Board did not include it in their vote, and it had been an issue ever since. He wanted to make sure that type of issue did not come up after-the-fact.

After looking at the zone, Mr. Bergeron said the applicant's Lot 8-31 and the abutter's (Mr. Demers) Lot 8-32 appeared to be the same size lots. He questioned if there was anything along the property line that separated the two properties. Mr. Gendron replied there was an existing fence that followed close to the property line. Mr. Bergeron noted both lots were in the same zone so there should not be a conflict with sounds and sights.

Mr. C. Beauregard though Mr. Keach had walked the site and was okay with it. He was unsure if it made sense to have him walk it again. Mr. Bergeron stated he was present for that site walk and recalled Mr. Montbleau and Mr. Gowan indicate they wanted a certified plan so the building and setbacks would be held to. Subsequent to that, the applicant had gone to the Zoning Board, therefore he felt all the conditions of the site walk were satisfied by submitting the information current before the Board.

Mr. Doherty said he had also walked the site and was satisfied with the plan. He said if they were not going to send the plan to Keach Nordstrom he wanted to know if there were any further restrictions the Board wanted to put on the plan. If not, they could entertain a motion to approve.

Ms. Kirkpatrick felt restricting the hours of operation was important. Mr. Doherty believed the hours were staying the same.

Mr. Montbleau stated he had attended the previous site walk and had looked the plan over carefully and had no problems with it.

To move the case forward, Mr. Bergeron suggested accepting the hours of operation as included with the application. Mr. Gendron stated the hours of operation were: Monday-Friday 7am-8pm, Saturday 8am-6pm, Sunday 9am-5pm. Mr. Cote asked if there had been a change in hours. Mr. Gendron answered no. From what he understood the weekend hours were 'by appointment'. Mr. Bergeron mentioned the proposed hours were within the same hours as other businesses in the same district. He found them more than fair; if anything, he felt the Board should at least match what everyone else on Route 38 enjoyed.

**MOTION:** (Masse-Quinn/Cote) To approve the plan.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – Yes  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(7-0-0) The motion carried.

Mr. Dadak left the meeting (via Zoom)

**Case #PL2020-00010**

**Map 15 Lots 8-62 & 8-86**

**BROOKWOOD REALTY GROUP –44 Balcom Road–Proposed Lot Line Adjustment**

Mr. Doherty stated a letter had been received from Stephen Ploof requested the application submitted by Brookwood Realty Group be date specified to June 15, 2020. Mr. Gowan stated the Planning Department will re-notice the hearing so abutters will be aware they are allowed to participate.

The case was date specified to June 15, 2020

**DATE SPECIFIED PLAN(S) –**

**June 15, 2020**

Case #PL2020-00010- Map 15 Lots 8-62 & 8-86- BROOKWOOD REALTY GROUP –44 Balcom Road

**July 20, 2020**

Case #PL2019-00016- Map 39 Lot 1-49- WILLIAMS, Bruce & Rhonda–157 Mammoth Road

**ADJOURNMENT**

**MOTION:** (Cote/Kirkpatrick) To adjourn the meeting.

**ROLL CALL VOTE:** Mr. Doherty – Yes  
Mr. Bergeron – Yes  
Ms. Kirkpatrick – Yes  
Mr. Montbleau - Yes  
Mr. Dadak – had already left the meeting  
Ms. Masse-Quinn – Yes  
Mr. Cote - Yes

(6-0-0) The motion carried.

The meeting was adjourned at 10:30pm.

Respectfully submitted,  
Charity A. Landry  
Recording Secretary