

APPROVED

**TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
September 20, 2021**

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

Ms. Masse-Quinn called roll call:

ROLL CALL:

Tim Doherty – present
Samuel Thomas – present
Danielle Masse-Quinn – present
Bruce Bilapka – present
Cindy Kirkpatrick – present
Paddy Culbert – present
Kevin Cote – present
James Bergeron – present
Hal Lynde - present
Jennifer Beauregard – present
Jennifer Castles - present

ABSENT/NOT PARTICIPATING:

Paul Dadak
Richard Olson
Roger Montbleau

PLEDGE OF ALLEGIANCE

MEETING MINUTES

Review of minutes from the August 16, 2021, meeting. Ms. Kirkpatrick had the following changes:
Line 105, change from Cindy to Ms. Kirkpatrick.
She said to use last names in the minutes and not first names.
Correct Masse-Masse-Quinn throughout minutes.

MOTION: (Ms. Masse-Quinn/Ms. Kirkpatrick) To approve the August 16, 2021, meeting minutes as amended.

VOTE: (7-0-0) The motion carried.

Mr. Doherty appointed Mr. Thomas to vote in place of Mr. Montbleau for the quorum and Mr. Culbert will vote on the minutes.

NEW BUSINESS

Case #2021-00025

Maps 35 & 40 Lots 10-200, 10-312 & 10-351

**RJ McCarthy, LLC – Stonegate Estates/Currier Road, Peabody Lane & Bridge Street/Rt.38 –
Modification of Notice of Decision dated 8/17/21, specifically condition #2 in reference to state
permits required.**

Ms. Masse-Quinn read list of abutters. Mr. Gendron from Herbert Associates came forward to represent RJ McCarthy on this application. Mr. Paul Gagnon from the Conservation Commission was also present. Mr. Gendron began by stating back in August 2020 the Board approved a 42-lot conservation and residential subdivision. He's been working since approval on State permits and they still need to do some mitigation regarding prime wetland buffers, which are south of the property. The State is asking for mitigation. Mr. Gendron said he has two options at this point; one is to pay into an ARM fund in which Mr. McCarthy can write a check in the amount of \$270,000.00 to the State of NH, then the funds can go into a grant to either be used by Pelham or other towns in NH. The other option is to work with the town's conservation commission to conserve some land in Pelham. The consensus would be to keep the conserved land in town; however, the problem is Mr. McCarthy has been waiting over a year to start his project. There was a condition in the Planning Board's letter from August of 2020 that said all state permits must be met prior to the start of work. He is proposing tonight that the town let him begin work in a phased approach. He handed out a plan that shows the two phases. Mr. McCarthy would start on Phase One, which is nowhere near these retention ponds. During that time, they will work with the conservation committee to purchase the land and get that started. If this doesn't go over well tonight that Mr. McCarthy is going to end up writing the check to the State and begin his project. Mr. Gagnon talked about the amount of impact on this land is just over an acre, so it is significant. The State requires 10 to 1 mitigation, so that means it's 11 acres of mitigation. He researched properties and met with an owner of a property that meets the requirements. There wasn't enough time to get this through before Mr. McCarthy wanted to start his project. The Conservation Commission would like to have an approval for the phased approach and this will give them months to close on a deal to protect some land, possibly 15 acres. Mr. Doherty opened it up to members of the public. Mr. Diamantopoulos, 11 Peabody Lane asked that if the town doesn't approve the plan to allow Mr. McCarthy to start Phase 1, is he going to give a check to the state to start his work. Mr. Doherty said that is correct because he needs to secure the state permit in order to start. Mr. Diamantopoulos said he feels that he would like to be given more time for the abutters to enjoy their land instead of allowing the builder to begin Phase 1. Mr. Doherty restated the options the developer is pursuing. Mr. Diamantopoulos stated that if he can't get the permit the right way than how can he just buy the permit. He would rather see the money spent in the town. Kim Jewett, 4 Peabody Lane. She asked to look at the map closer and asked about the two retention ponds in this development. She asked why the state wouldn't approve it. Mr. Doherty said the plan is approved, but the state is requiring them to mitigate the wetlands impact. She asked if they could build less lots. Mr. Doherty said the plan is approved already and is not changing. Mr. Doherty said we are here tonight to agree or not to agree to work with Mr. Gagnon on keeping the money and land here in Pelham. Mr. Cote said that one of the retention ponds is being built in one of the wetland areas. He explained what mitigation means and that Mr. Gagnon is looking for a similar piece in town that he's looking into protecting. Bruce Jewett, 4 Peabody Lane. He mentioned that taking an acre away from this land and saving ten acres somewhere else isn't helping this area at all. He is confused as to why the state did not pass his permits and why is he now trying to buy this permit. Mr. Doherty asked Mr. Gendron to explain why this is happening. Mr. Gendron said they are down to this point in the permit to decide where the money should go and that is what he is asking tonight. Should the money go to the town or the money go to the State. If he sends the money to the State, then he can start work in one month. Mr. Gendron believes it a win-win for the town if the money goes to the town and our town land is conserved. Mr. Gendron said that this area is not wetland, it is actually buffer and dry land. However, they still need to mitigate it per the State. Mr. Cote restated why we are here. Mr. Bergeron asked for Ms. Beauregard to read a memo from Keach-Nordstrom Associates, Inc. which is a company we rely on for good recommendations to our town. Ms. Beauregard read the following:

Memo dated 9/20/2021 from Steven B. Keach, Keach-Nordstrom Associates, Inc.

To: Ms. Jennifer Beauregard; Interim Planning Director – Town of Pelham from: Steven B. Keach, P.E. Date: September 20, 2021, Subject: RJ McCarthy, LLC – Stonegate Estates Request for Amendment of Conditions of Approval Currier Road; Pelham, New Hampshire KNA Project No. 19-0618-1 Recall that on August 17, 2020, the Pelham Planning Board granted conditional final

approval to an application for the subject 42-lot Residential Conservation Subdivision. As acknowledged by a Notice of Decision issued on behalf of the Board, this approval was subject to a total of fourteen (14) conditions. Presently, the owner/applicant seeks Planning Board approval for modification of one or more approval conditions to enable Condition No. 2 to be satisfied; and construction of the subdivision itself to proceed, at varying times and in two separate and distinct phases. We understand the genesis of this request is derived from the owner/applicant's proposal for providing mitigation for proposed Prime Wetland Buffer Impacts. Specifically, we understand the NHDES Wetlands Bureau has advised the owner/applicant of its intent to require compensatory mitigation as a condition of that Agency's approval of an application for Prime Wetland Buffer impacts. To date, we understand the NHDES Wetlands Bureau has also advised the owner/applicant that its obligation for mitigation may be satisfied via in-lieu payment of a fee, of predetermined sum, to the Bureau's Aquatic Resource Compensatory Mitigation (ARM) Fund. Although this option continues to remain a viable remedy available to the owner/applicant to satisfy its obligations for mitigation, we understand both the Pelham Conservation Commission and owner/applicant, favor an alternative approach to mitigation, which if implemented, would assure land assets and funds provided as mitigation for Prime Wetland Buffer impacts remain local. Given our understanding that representatives of the Pelham Conservation Commission and owner/applicant are scheduled to present facts related to the preferred mitigation method to the Planning Board directly we have refrained from attempting to provide a summary of our understanding of those facts in this memorandum. That said we do believe it is important for the Planning Board to acknowledge implementation of the preferred mitigation method will require additional time to perfect as the land to be protected under this method is currently owned by others. While we understand both the owner/applicant and Conservation Commission remain committed to seeing this alternative through to full and final fruition, the owner/applicant wishes to commence work on an initial phase of the project (Phase I), which is not otherwise directly affected by, nor dependent upon, immediate receipt of NHDES Wetlands Bureau approval. In order to achieve the desired outcome, the owner/applicant's consultant has prepared a drawing entitled "Overview Plan & Phasing Plan", received by your office on September 17th. As shown on this drawing, the owner/applicant seeks approval to move forward with the construction of Phase I (21 lots) while actively working with and through the Conservation Commission on realization of the preferred method of mitigation. Under the requested phasing scenario, construction of Phase II will not be permissible unless and until proposed wetland mitigation is fully in place and NHDES approval necessary for the construction of the southerly segment of Thistlewood Drive has been issued. As noted above, it appears two separate conditions of the August 17, 2020, approval will need to be amended by the Planning Board in order to facilitate implementation of the preferred method of satisfying wetland mitigation obligations while allowing Phase I construction to proceed without delay. Specifically:

- Condition No. 2 presently reads: "All State Permits (other than individual septic permits) to be received and approval with numbers noted on recordable plan." If the Board ultimately elects to approve the owner/applicant's current request, we recommend the text of Condition No. 2 be amended to read as follows: "All required State Agency Permits, other than individual NHDES Construction Approval for septic system installation on individual subdivision lots and NHDES Wetlands Bureau Approval of Prime Wetland Buffer Impacts must be received and noted on the final recordable subdivision plan. Said NHDES Wetlands Bureau Approval must be issued and received by the Pelham Planning Department prior to commencement of Phase II roadway construction. Said NHDES Construction Approvals must be issued and received prior to issuance of building permits for residential construction on a lot-by-lot basis".
- Condition No. 7 presently reads: "Project Phasing to be clearly depicted on the recordable plan". Again, if the Planning Board elects to approve the owner/applicant's current request, we would recommend the text of Condition No. 7 be amended to read as follows: "A Project Phasing Plan which clearly defines the limits of Phase I & II construction in a manner fully consistent with

representations made to the Planning Board at public hearing shall be prepared, signed and recorded together with the final subdivision plat.”

Mr. Bergeron reiterated what the State is doing and why we are here. He commended the Conservation Committee for wanting to keep this in town and thinks it’s the right thing to do.

Jeff Kira, Bush Hill Road thinks that Mr. Gagnon working with the builder is a great idea to conserve the land and look out for the best interest of the town. He thinks it’s a great idea and they are doing a great job. Mr. Doherty closed to the public. Mr. Culbert is going to vote on this per Mr. Doherty.

Mr. Doherty said that Steve suggested two changes to the notes on the plans. Ms. Beauregard read that Condition No. 2 to be amended to read as follows: “All required State Agency Permits, other than individual NHDES Construction Approval for septic system installation on individual subdivision lots and NHDES Wetlands Bureau Approval of Prime Wetland Buffer Impacts must be received and noted on the final recordable subdivision plan. Said NHDES Wetlands Bureau Approval must be issued and received by the Pelham Planning Department prior to commencement of Phase II roadway construction. Said NHDES Construction Approvals must be issued and received prior to issuance of building permits for residential construction on a lot-by-lot basis”. Condition No. 7 be amended to read as follows: “A Project Phasing Plan which clearly defines the limits of Phase I & II construction in a manner fully consistent with representations made to the Planning Board at public hearing shall be prepared, signed and recorded together with the final subdivision plat.”

Mr. Gendron was good with those conditions stated and will work with Mr. Gagnon to keep the money within the Town of Pelham.

MOTION: (Mr. Culbert/Mr. Bergeron) for discussion to the public, asking if this doesn’t come to fruition than Phase two of the project cannot happen per Mr. Keach. Mr. Doherty said yes. Mr. Bergeron said this falls on the Conservation Committee to find wetlands to conserve. Mr. Gagnon said it’s a cooperative effort and all fees will be paid by the developer. They will work together in a cooperative effort. Mr. Bergeron said this is an elective decision to take this route, which is for the general good for the town and the project. Mr. Cote asked if there would be a contingency plan in case Pelham can’t find a suitable property. Mr. Gendron said if that happens than the developer will have to pay the ARM Fund.

VOTE: (7-0-0) The motion carried.

CASE #PL2021-00024, Map 22 Lot 2-81, Charles and Janice Zolkos – Tower Hill, Bush Hill & Mammoth Roads

Ms. Masse-Quinn read abutters. Mr. Gagnon representing the Conservation Commission and Mr. Zarnowski as the head surveyor with Edward Herbert & Associates, Windham NH. Mr. Gagnon said this project is being driven by the Conservation Commission. Project is to protect 87 acres of land Map 27 Lot 2-81. This is on Gumpas Pond, Bush Hill Road and Mammoth Road. There are two contingencies to this purchase, one is taking off a 2-acre lot at the intersection of Mammoth and Bush Hill Road. The second is taking off the area where the cell tower is and surrounding area for a total of 5 acres. Once the cell tower goes away, this will become town land, so it’s essentially buying 85 acres. They get 80 when the sale goes through and the additional 5 when the tower goes away. The price for this is \$655,000.00. Mr. Gagnon showed the area on a map to the group. Mr. Gagnon asked for the Boards approval to subdivide off the 2 acres and subdivide off the cell tower, this is one approval. The second approval is to recommend to the Board of Selectmen that the Conservation Commission acquire this property.

MOTION: (Mr. Bergeron/Mr. Cote) to accept this plan for consideration.

VOTE: (7-0-0) The motion carried.

Mr. Doherty opened it up to the public. Ms. Masse-Quinn read the four waivers: Waiver #1: Section 203-1 A, lots configured to ordinary geometric shapes. The proposed lot 2-81-3 is configured around the existing cellular tower area and access.

MOTION: (Mr. Bergeron/Mr. Cote) To accept the waiver for consideration.

VOTE: (7-0-0) The motion carried.

Waiver #2: Section 203-1B.4.(b) 90 foot well set back to adjacent property lines. The proposed well is less than the required 90 feet to adjacent property lines a 75' + well radius is being maintained.

MOTION: (Mr. Cote/Ms. Masse-Quinn) To accept the waiver for consideration.

VOTE: (7-0-0) The motion carried.

Waiver #3: Section 202-3 C (b) 1 thru 10, Topographical subdivision plan for the proposed Lot 2.81-3 around the existing cellular tower and the remaining parcel 2-81. The existing tower area and access is shown on the plans, the Lot 2-81-3 and the remainder of Lot 2-81 are not for residential or sewage disposal purposes.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To accept the waiver for consideration.

VOTE: (7-0-0) The motion carried.

Waiver #4: Section 202-3 C. (b) 4. Site specific soil mapping for proposed Lot 2-81-2. Soils shown are from web soil survey map of Hillsborough County, NH Eastern Part.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To accept the waiver for consideration.

VOTE: (7-0-0) The motion carried.

Mr. Doherty asked Mr. Zarnowski to go through the waivers and explain them. Mr. Zarnowski talked about Waiver #1, the fact that the town likes rectangular shaped lots. Waiver #2 regarding the well set back and they only have about 78 feet from stone wall to stone wall and there isn't enough room to Mammoth Road. They had to keep it within the proposed lot and will meet state requirements. Waiver #3 he said there was no topography done as they are not using it for any sewage disposal, and he showed the road going up with the gates and fall zone. Waiver #4, he said they used web soil survey and he physically flagged the wetlands out there. The soils from the test pits verify that Hillsborough County soils map is correct and is sandy soil.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve Waiver #1, Section 203-1 A.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve Waiver #2, Section 203-1B.4(b).

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve Waiver #3.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve Waiver #4.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Mr. Bergeron) To approve the sub-division for discussion of this land subject to the four waivers. Mr. Bergeron said the circumstances to approve this plan is the right thing to do and that we don't normally accept and approve in one night. Mr. Cote said that approving this plan is going to get the public access to Gumpas Pond and he asked what the frontage is. Mr. Gagnon said it's about 800 feet.

VOTE: (7-0-0) The plan has been approved for the sub-division.

MOTION: (Ms. Masse-Quinn/Ms. Kirkpatrick) To make a recommendation to the Board of Selectmen.

VOTE: (7-0-0) The motion carried.

PRESENTATION Map (s) 6, 12 & 13 Lots 4-161, 4-154, 4-150, 4-156 also 208-18 & 202-1

Conservation Commission by Al Steward. Requested the Board to draft a letter of recommendation to the Board of Selectmen for the purchase of the conservation easement on the Steck Farm. Mr. Steward has been involved in the Forestry and Conservation for the past four years and his focus has become open space. He has a checklist that helps to identify properties. The first is to verify the property has the proper characteristics, meaning protecting the rural character of the town, meeting the goals identified in Pelham's open space and master plan and the property owner is interested in conservation. The Steck Farm checks all of these boxes. This property does not meet any boxes for disqualification. This has been agreed to with their lawyers as well. The Stecks are also not interested in selling their land for development. There will be no public access to this land at any time. This land has connectivity and educational potential. Mr. Steward showed photos of the property to the group and described how this land is connected to other land in town. He noted that this land also has 33 acres in Hudson NH. This land has been surveyed and two exclusion areas have been determined, one being Mr. Steck's house and the second is the barn. The property was appraised last January for the 243 acres and was at \$2,695,000.00. The agricultural rights were valued at \$400,000.00. This makes the development rights of the conservation easement worth \$2,275,000.00. He met with the Stecks in November, and they were in agreement to have this done. They were not able to pay for the property in Hudson, so it was reduced by \$550,000.00 and came to the number of \$1,720,000.00. They then began working on the easement. The average price came to \$8,500.00 per acre for the 202 acres in Pelham. The acres for Mr. Steck's house will be 5.3 acres where the barn is. The house will be set with a 2-acre lot, as it's a two family. 241 acres will go to conservation at a price of \$1,715,400.00, making the average cost per acre \$7,100.00. This funding could come from the conservation fund and the current use tax, which is a 10% charge by the town taking properties out of current use. 75% of this tax goes to the Conservation fund and presently there is more than a million dollars in that fund. He said this would save a very large amount of land in Pelham. He discussed that there could be approximately 200 houses built there and that would impact the town with a burden on the schools and fire and police departments. Ms. Masse-Quinn is agreement with preserving land and keeping the town rural. She noted that the land in Hudson will also not be developed and has been put in a rural band. Mr. Lynde asked if there will be any restrictions on the house, barn or hangers in the future. Mr. Steward said those pieces are excluded from the conservation easement. The barn cannot have any residential structures and the 5 acres shall not be subdivided or separated from the conservation easement itself. The house on the 2 acres cannot be subdivided. The house land can only have one building, however, that lot can be separated from the easement. Mr. Doherty opened up to the public. Jeff Kira of Bush Hill Road mentioned that this land is a piece of history and is very glad that they are taking care of it and preserving it. He is for the letter going to the Selectmen and think it's a good start.

MOTION: (Ms. Masse-Quinn/Ms. Kirkpatrick) To purchase the Conservation Easement and recommend to Selectmen.

VOTE: (7-0-0) The motion carried.

Mr. Doherty asked Ms. Beauregard to write a letter to the Board of Selectman for him to sign and send to the Selectmen. Ms. Beauregard will write that letter with two signature lines, one for the Secretary as well.

Case #PL2021-00020 Map 22 Lot 8-123-20 Windham Road SULLIVAN, Richard & Iris – Discuss conceptual plan for proposed re-development of an existing 1.7-acre property with a single-family home and detached garage. The plans would include an ice cream stand with some office space for the business and parking for approximately 36 vehicles.

Ms. Kirkpatrick recused herself, as she is an abutter. Mr. Maynard introduced himself with Benchmark, LLC representing the Sullivans. This lot is 1.7 acres and has an older home on it with a detached garage. It is in a MUZD zone with Pennichuck water on site. His clients want to redevelop the lot with a 4800 s/f ice cream stand with office space in the structure, which is about 1500 s/f. It will have a paved parking lot, outdoor seating and a small outdoor area with gravel. Drainage will be managed with a detention

pond. This is just a conceptual plan at this point, and he is looking for input from the Board. Ms. Masse-Quinn asked what kind of business will be there and Mr. Maynard said it is their own business. There will be a screened dumpster area in the back of the lot. He has moved this as far away from the abutters as possible. Mr. Cote asked if they have an existing business already. Mr. Maynard said they have a few locations already throughout New England and this family is from Pelham. Mr. Doherty opened up to the public. Eric Belanger, 4 Mossey Lane. His concern is that it shows it will be very close to his home and asked if they can rearrange the building and loading dock a little to try and maintain his privacy. He is also concerned about trash coming into his yard. Mr. Maynard will come up with some type of screening, privacy fencing and or vegetation. Currently there is some vegetation there now, but it is very slight. Mr. Belanger is also concerned about the snow, plowing and drainage. He doesn't want it to drain onto Mosey Lane. Mr. Maynard will look at the grades and will make sure it doesn't impede on Mosey Lane. Cynthia Kirkpatrick, 7 Mosey Lane. She was sad to see they will tear down the house that is currently there. Her biggest concerns are to make sure they keep the stone wall in the front and wants a sidewalk to continue from the church to this property. She is concerned with turning in and out of Mosey Lane and the speed from cars coming off the rotary. She also does not want any street parking and is concerned about what kind of septic they will use there. She asked if they would have public restrooms and does not want portable toilets. She asked about the hours of operation and does not want lights on during night hours. Mike Teixeira, 5 Mosey Lane. He is asking if his well water will be disrupted and will his water get rust in it. Mr. Maynard did test pits and that this property will tie into Pennichuck water and not a well. Mr. Teixeira also wants some screening and wants to make sure there is proper drainage during the winter. He is on the right side of Mosey Lane, and he says people go very fast on Windham Road and he is afraid there will be accidents. He also mentioned the stone wall is very nice and should stay along with the tree line. He thinks their septic system needs to be upgraded. Mary Hayes, 12 Windham Road. She is sad to see the house getting knocked down and she won't see any wildlife anymore. She is concerned about the traffic on Windham Road with adding another business there. She is concerned about trash going into her yard. She would like natural screening put in. Jesse Hayes, 12 Windham Road. He agrees with the other abutters, as far as keeping the stone wall and preserving conservation. He asked how they came up with 36 parking spaces. Mr. Maynard said his client's business model made this number. Mr. Doherty asked if there can be a sidewalk and Mr. Maynard said he'd have to move the wall back. Mr. Doherty closed to the public. Mr. Cote emphasized the need for a sidewalk from the church especially for the walkers and kids. Mr. Doherty asked if the stone wall is in the right of way and Mr. Maynard said it's in the state right of way. Mr. Maynard would need a DOT permit to construct a sidewalk in their right of way as Windham Road is a state road. Mr. Cote asked how close the wall to the road is. Mr. Maynard said three to four feet and that DOT typically has gravel near their roads. Mr. Cote just wants a space for people to walk there. Mr. Maynard said this will be the first NH store for this family and the others are based in MA. He said it will be built to look like a New England type of building, such as a colonial type of structure. Mr. Culbert would like to see a sidewalk and screening for this new building and the American Legion. Mr. Thomas asked where the snow removal will be during the winter. Mr. Maynard said it could be in the back gravel lot in the corner of the property. Mr. Bergeron commented this will be an active business and asked if the owner plans on living in this building. Mr. Maynard said no, and Mr. Bergeron said that they are only allowing an owner-occupied building in this area per our zoning regulations. Mr. Doherty said we allow mixed usage, and we don't mandate it. Mr. Bergeron said MUZD RSA 674:21 that allows a mix of businesses and residential uses within the same building or on the same parcel of land. The district is attended to accommodate a physical pattern of pedestrian friendly mixed-use development that is traditionally found in neighborhoods within town centers throughout New England. 1. To allow the traditional mix of residential business, governmental and industrial mixes within the district and 2. Accommodate retail space and other business uses on the ground floor and residential uses above or adjacent to the non-residential space. It goes on to promote Pelham center as a vibrant community gathering place, implement sidewalks to promote safety. It does not say we will establish stand alone businesses that do not have residential uses within this district. He is saying that without having the owner occupying this

building, it is not a go in his personal opinion. Mr. Maynard interpreted it as it allows a mix, not it mandates a mix. Mr. Bergeron said this board has total control over this and they can take it to court to interpret. Mr. Cote asked about the Medical Center and the board said this was done before the MUZD. There is also a house attached to Moon River Wellness building. Mr. Maynard will speak to his client about having an apartment in this building. Mr. Maynard specializes in complying with appropriate septic loads and housing. Mr. Maynard has the input he needs to put this together and will come back once he gets the design finalized. Mr. Bergeron said this is innovative land use and he said they are in total control of this. Mr. Maynard asked what the issue is with putting aeration system underneath of a parking lot regarding septic.

CASE #PL2021-00021 Map 34 Lot 1-10-1 – 166 Marsh Road MARSH ROAD LLC – Proposed subdivision of a 5-acre lot with an existing 6-unit apartment building. Owner proposed to keep 3.1 acres with the apartment building and create a 2.1-acre lot for a single-family home that will be accessed off Wilshire Lane.

Mr. Bilapka will vote instead of Mr. Culbert. Ms. Masse-Quinn read the abutters. Mr. Maynard from Benchmark, LLC is representing Marsh Road, LLC. This is a current 5-acre property with a multi-family structure, 6 units with a total of 8 bedrooms. It has road frontage on Marsh Road and Willshire Road. There is a small wetland along Willshire behind the building and one on the northerly lot line and this one has WCD protection. His client is looking to subdivide the multi family off of the lot and let that be on the 3 acres. Then they are looking to create a 2-acre lot that would have frontage on Willshire. The new lot will have 69,000 s/f outside of the wetlands. Both lots will be serviced by wells and septic systems. They are asking for one waiver dealing with soil requirements.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To accept this plan for consideration.

VOTE: (7-0-0) The motion carried.

Ms. Kirkpatrick asked if it will be a single-family home. Mr. Maynard said the lot meets the duplex standard, but he's not sure. Mr. Doherty asked Ms. Beauregard if it contained more square footage than he needs for a duplex lot. Ms. Kirkpatrick said that 8 Willshire Lane does not have the correct abutter name on it. She's not sure the correct people were notified. Their names were Michael and Jaime Perkins, and they sold the house in June. Mr. Maynard will look into to make sure the abutters were correct, but confirmed he gets this list (within five days) from Susan Snide in the Assessing department. Mr. Bergeron asked if this is a six unit that's currently there. Mr. Maynard said that's correct and it currently has eight bedrooms and the septic has been updated to reflect this. M. Bergeron wanted to know how they want to take two acres off for a two family and leave the six unit only on five acres. Mr. Maynard said because it was five acres, and this was avoided because they didn't need a subdivision approval number and this lot came off of a larger tract of land that became the Willshire subdivision. Mr. Maynard said that Herbert and Associates did the work back then. Mr. Bergeron will not support the waiver request for the soil. Ms. Masse-Quinn has from September 9, 2021, returned postcards back to them from abutters. Ms. Kirkpatrick mentioned that the signatures on the certified mail postcards are not familiar and may not actually are being received by the correct people. Ms. Beauregard is going to look into this with the post office as this could be a violation. Mr. Bergeron asked the Chairman to take a consensus vote to authorize someone at the Town to go to the post office and do a formal inquiry. Ms. Beauregard said she will do that.

MOTION: (Mr. Bergeron/Mr. Cote) To accept the waiver for consideration.

VOTE: (7-0-0) The motion carried.

Mr. Doherty asked how the remaining land is enough to support the septic load. Mr. Maynard said DES does a soil-based lot size calculation for that. The property that is left, the three acres will be allowed about 2500 gallons per day and it's only 1500 gallons a day being utilized for that building. He said asked what the board wants, a soil-based lot sizing, or which standard, as there are two: HISS (high intensity soils survey or a site-specific soil mapping, which is more what DES requires). Mr. Doherty asked if it's on well or public. Mr. Maynard said it's on well and private septic. The current well is pre-1989 and it encroaches on land that cannot be developed anyways. Mr. Maynard said the radius is at 125

for the well. Mr. Lynde asked about the easement line on the lots. Mr. Maynard said that's a slope easement as part of the Willshire development. Mr. Bergeron said, Section 202 (b) 4 Soils, and asked if this was a correct reference. Mr. Bergeron would like to see the test pit done and if that comes back satisfactory, he would take that in lieu of a peer review to save the applicant some time and money. He said Mr. Maynard didn't refer to the correct site plan review regulation. Mr. Doherty opened up to the public. No one spoke. Mr. Doherty said the test pits were done and witnessed by Mr. Keach's office. He will get a copy to the board. Mr. Maynard can come back on October 4, 2021. Ms. Kirkpatrick asked if the owners of 8 Willshire will be notified and Mr. Maynard will check on this.

CASE #PL2021-00022 – Blueberry Circle Realty Trust – Map 31 Lot 11-86-1-28 Blueberry Circle – Proposed subdivision of an 11 +/- acre property with existing single-family home. Existing home would retain 8.5 acres, creating 2.5-acre lot for single family home. Seeking waivers for wetlands, site specific soils, topography, and lot shape. A frontage variance was previously granted, ZO2020-00014.

Ms. Masse-Quinn read abutters. Mr. Maynard with Benchmark, LLC on behalf of the Lemieux family. The current lot is 11 acres with a single-family structure. This lot has roughly 50 feet of frontage. The new lot will be about 2.5 acres in size. He is asked for four waivers on this. Waiver #1 is West Environmental did map the wetlands in the area of the new lot. Waiver #2 is for soil mapping. Waiver #3 is asking to not have to do topography on the entire 11 acres. Waiver #4 is for the lot shape due to a skimobile trail towards the back of the lot.

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

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Mr. Bergeron) Waiver #1, Section 202-3(C) (a) 17 & 18 for wetlands, to accept for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Bergeron/Ms. Kirkpatrick) Waiver #2, Section 202-3 (C) (b) 4, Site specific soils (Mr. Bergeron said that section does not exist). Mr. Doherty said to scratch the 4 at the end. Mr. Doherty said the 4 doesn't belong after the (b).

VOTE: (7-0-0) The motion carried.

MOTION: (Ms. Masse-Quinn/Mr. Cote) Waiver #3, Section 202-3 (C) (b) Topography to accept for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Mr. Thomas) Waiver #4, Section 203-1 Lot Shape to accept for consideration.

VOTE: (7-0-0) The motion carried.

Mr. Doherty said all the waivers are up for consideration now. Ms. Beauregard does not think that was the right section and Mr. Bergeron agreed and he said these were old site plan references. These were all requirements but they're not numerically correct. Ms. Beauregard said on page 18 on Site Plan review and it's still 202 for minor subdivisions and it is C, lowercase b, 3. So for Waiver #2, Section 203 should be C (b) 4. Minor subdivisions would be 202-3 minor subdivisions, lowercase (b) 4 is soil mapping. He's just missing the capital C in the second one per Ms. Beauregard. Mr. Doherty said it's 202-3 (C) (b). Mr. Maynard said he downloads them every time from the website because they always change, and he will check for the newest ones. On Waiver #3, there should be a small (b) next to the C for topography. Mr. Doherty asked if anyone wants to discuss these waivers. Mr. Doherty opened to the public. No one spoke.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve Waiver #1, Section 202-3 (C) 3 (a) 17 & 18 on the wetlands.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve Waiver Section 202-3 C (b) 4, Site specific soils.
VOTE: (7-0-0) The motion carried.

MOTION: (Ms. Masse-Quinn/Mr. Cote) To approve Waiver #3, Section 202-3 C (b) Topography.
VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Masse-Quinn) To approve Waiver #4, Section 203-1, Lot shape.
VOTE: (7-0-0) The motion carried.

Mr. Bergeron said again that typically they don't approve in one night, however it's a simple subdivision. Ms. Beauregard recommend that if it gets approved tonight to add in a condition for the shared driveway with easement language to be developed and found satisfactory by town counsel for shared portion of driveway for shared access, etc. Mr. Maynard will put that on the plan to get done.

MOTION: (Mr. Cote/Ms. Masse-Quinn) To approve the plan subject to the condition for the driveway easement.

VOTE: (7-0-0) The motion carried.

CASE #PL2021-00023 Donahue-Croteau Family Irrevocable Trust, Sharon Croteau – Map 17 Lot 12-184 – 10 Ledge Road – Proposed subdivision of an 18 +/- acre property with existing single-family home. Existing home would retain 11.5-acres, creating 2.8-acre lots for single-family homes. Each lot will have 25' of frontage where 200' is required. A variance was previously granted, ZO2020-00034.

Mr. Maynard, from Benchmark, LLC. The current lot is about 18 acres with a structure. This property received a variance last December for three lots. The two new lots will share a driveway. These two lots are for two brothers. There are five waivers on this, and they are Waiver #1, Section 202-3 (C)3. (a)17 & 18, Wetlands. Waiver #2, Section 202-3 (b) 4 Site soil mapping, test pits have been conducted. Waiver #3, Section 203-7(A) underground utilities and they wish to keep these. Waiver #4, Section 203-1, Lot shape, these lots are mostly square. Waiver #5, Topography, asking to not do the entire 18 acres, the survey was completed for the 6 or 7 acres they are doing work on. Ms. Masse-Quinn read abutters.

MOTION: (Ms. Masse-Quinn/Mr. Cote) To accept the plan for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 202-3(C)3.(a) 17 & 18, Wetlands – to accept for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 202-3 (C) (b) 4, Site Specific Soils – to accept for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 203-7(A), Underground utilities – to accept for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 203-1 Lot shape – to accept for consideration.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 202-3 C (b) Topography – to accept for consideration.

VOTE: (7-0-0) The motion carried.

Ms. Kirkpatrick mentioned that this will also need the language for the shared driveway easement. Mr. Doherty asked Mr. Maynard about the overhead utilities. Mr. Maynard said they are exploring other alternatives, but at a minimum has to go one pole in. Mr. Doherty opened up to the public. No one spoke. Mr. Doherty asked for motions to approve the waivers.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 202-3(C)3.(a) 17 & 18, Wetlands – to approve waiver.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 202-3 (C) (b) 4, Site Specific Soils – to approve waiver.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 203-7(A), Underground utilities – to approve waiver.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 203-1 Lot shape – to approve waiver.

VOTE: (7-0-0) The motion carried.

MOTION: (Mr. Cote/Ms. Kirkpatrick) Section 202-3 C (b) Topography – to approve waiver.

VOTE: (7-0-0) The motion carried.

Mr. Doherty said that they will need driveway easement language to be developed by town counsel and approved for the shared driveway including access, maintenance, etc. Ms. Beauregard said she has one other suggestion that the fire chief should review the driveway to make sure they are okay with it. Mr. Maynard said the driveway will be about 800 feet to the back lot and they would be okay with a turnaround if needed.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve the plan with the two conditions.

VOTE: (7-0-0) The motion carried.

ADMINISTRATIVE

ITEM #9 – Request for bond reduction on Foreman Lane.

Mr. Doherty read a Letter from Mr. Keach to Ms. Beauregard: Our records indicate the remaining surety for the above project is \$164,525.90. At this time, we are recommending a reduction in the amount of \$118,807.65. This amount reflects the value of the work that has been completed to date leaving a balance of \$45,718.25 to support the completion of the project.

If you have any questions regarding this matter, please contact me at your earliest convenience. Jeff Quirk, Keach-Nordstrom Associates, Inc.

Mr. Cote asked about water issues up there. Ms. Beauregard said there's been some flooding issues with one of the abutting driveways. Jeff Quirk has been working with the developer to fix the problem. This developer has agreed to put \$12,000.00 in a capital reserve fund (\$6,000.00 per each lot) for the highway department to make some repairs, so this should help. Mr. Lynde mentioned a 12% on the sloping. No one was sure of what he was referring to.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To approve the bond reduction.

VOTE: (7-0-0) The motion carried.

ITEM #10 Maps 16 & 23 Lot 12-105 Lemieux Farms subdivision – Stagecoach Circle & Lady slipper Avenue - Request for bond release and recommendation to the Board of Selectmen for road acceptance. Mr. Doherty read a letter from Jeff Quirk, Keach-Nordstrom Associates, Inc. To Ms.

Beauregard: I performed a final inspection of the above project on August 24, 2021. At this time, I am able to confirm all of the roadway improvements have been completed. Therefore, we are able to recommend the two roads in the project (Stagecoach Circle and Lady slipper Avenue) be accepted as public highways. Also, since the improvements have been completed for many years and all defects have been corrected, we recommend the remaining surety currently being held (\$30,819.00) be released as a condition of acceptance. If you have any questions, please contact me. **Jeff Quirk.** Mr. Cote asked Ms. Beauregard if this was a road that came into the Selectman prior and she said, no that was Piper Lane.

MOTION: (Mr. Cote/Ms. Kirkpatrick) To release the remaining bond.

VOTE: (7-0-0) The motion carried.

MOTION: (Ms. Kirkpatrick/Ms. Masse-Quinn) Recommend to the Selectmen that they accept the roads.

VOTE: (7-0-0) The motion carried.

REQUEST FOR NON-PUBLIC SESSION

MOTION: (Mr. Bergeron/Mr. Cote) A request was made to enter a non-public session per RSA 91-A:3, II, Section L, which is the consideration of legal advice provided by legal counsel.

ROLL CALL VOTE:

Bruce Bilapka - YES

Kevin Cote – YES

Danielle Masse-Quinn - YES

Cindy Kirkpatrick - YES

Jim Bergeron - YES

Samuel Thomas - YES

Tim Doherty - YES

The meeting was adjourned at approximately 11:00 PM.

Respectfully submitted,
Jennifer Castles
Recording Secretary