

APPROVED

**TOWN OF PELHAM
PLANNING BOARD WORK SESSION MINUTES
October 1, 2018**

Vice Chairman Roger Montbleau called the meeting to order at approximately 7:00pm.

Acting Secretary Tim Doherty called the roll:

PRESENT: Roger Montbleau, Tim Doherty, Jim Bergeron, Blake Clark, Selectmen Representative Hal Lynde, Alternate Paddy Culbert, Alternate Richard Olsen, alternate Samuel Thomas, Alternate Bruce Bilapka, Planning Director Jeff Gowan

ABSENT: Peter McNamara, Paul Dadak, Alternate Derek Steele

Mr. Montbleau appointed Mr. Thomas and Mr. Bilapka to vote in the absence of Mr. McNamara and Mr. Dadak.

MEETING MINUTES

September 17, 2018

MOTION: (Clark/Lynde) To approve the September 17, 2018 meeting minutes as amended.

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

OLD BUSINESS

PB Case #PL2018-00029

Map 14 Lot 3-88

Philip Currier Revocable Trust, Philip Currier, Trustee -Mammoth Road, Nashua Road & Hancock Lane – Proposed 2 Lot Subdivision. (Continued from the Sept. 17th Meeting)

Representing the applicant was Shayne Gendron of Herbert Associates. He described the amendments made to the plan in accordance with comments/concerns discussed at the previous meeting: 1) move the driveway on Lot 3-88 as close to easterly lot line as possible (*this was done*), 2) work with abutter of Lot 3-88-14 to show a no-cut buffer (*plan shows a 30ft. no-cut buffer – Pennichuck Water holds a 10ft. easement within the area*), 3) inclusion of a waiver to Section 11.04,B(5) of Subdivision Regulations to allow a portion of Lot 3-88 to include an appendage with less than 50ft. of width (*waiver submitted for consideration*).

Mr. Clark understood that the Pennichuck Water easement wasn't discovered at the previous meeting and wanted to know how it was discovered, why it was missed and questioned if it continued onto the second lot. Mr. Gendron replied the easement stopped on the one lot; he had a copy of the documentation. It was a deed given to M&P Trust (original owner) when Hancock Lane was subdivided (in 2001-2002). He believed the water line was solely on the abutter's property although Pennichuck holds an easement. Mr. Clark asked where the water line went to. Mr. Gendron replied he didn't research the placement of the water line, beyond where the easement was located. He had a copy of the deed available for review.

MOTION: (Clark/Lynde) To accept for consideration the waiver to Section 11.04,B(5) of the Subdivision Regulations to allow a portion of the lot to include an appendage with less than 50ft. of width.

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

Mr. Montbleau opened the discussion for public input. No one came forward.

Mr. Gowan read aloud the proposed conditions of approval: 1) 30ft. no-cut buffer on Lot 3-88-27 to be depicted as such on recordable plan and in the chain of title (description of new lot), and 2) Wetland Conservation District ('WCD') signs to be placed around the WCD at 50ft. intervals.

MOTION: (Doherty/Clark) To approve the waiver to Section 11.04,B(5) of the Subdivision Regulations to allow a portion of Lot 3-88 to include an appendage of less than 50ft. width.

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

Mr. Bergeron commented that the following day after Board's last meeting (September 17th) there was an extreme rain event. He visited the site and did not observe any water puddling or standing, nor did he observe any water on Hancock Lane. There was a slight amount of puddling further along Hancock Lane within a swale. He stated there was no evidence of any flooding or danger for runoff in the existing topographical slopes. Mr. Bergeron examined the existing culvert (after the rain event) and did not observe visible water at the beginning or at the end; the soil was absorbing the water as fast as it came down. He discussed his concern about the 30ft. wide no-cut zone after viewing invasive plants within the area. He described the plant that was throughout the area, which curls around other vegetation and kills growth. He didn't want to restrict someone from cleaning the area out and getting rid of the invasive species. He wanted to know if it was possible for the owner to maintain the vegetation growth, but at the same time no run into trouble with code enforcement for doing so. He believed the vegetation needed to be cleared out otherwise the invasive species would do harm.

Mr. Bergeron believed the Road Agent should be notified that both ends of the culvert were in desperate need of cleaning; the outlet side shows evidence of grass clippings being thrown down into the culvert and the start of growth plugging the area. He said the other end was overgrown. He wanted to know how sacred the no-cut zones were going to be so people could clear out certain vegetation.

Mr. Gowan felt Mr. Bergeron had good points. He's already made the Road Agent aware of the culvert issue. He suggested the following wording: *"Thirty-foot no-cut buffer on Lot 3-88-27 to be depicted as such on the recordable plan and in the chain of title. 'No-cut' applies to trees. Weeding and yard maintenance allowed."* He said the best way to protect the buffer was to remove the invasive species. The challenge was that the area wasn't really a WCD and he was unsure how to make the 'no-cut' clear in the field.

Mr. Doherty stated he had also been to the site after the rain. He asked Mr. Gowan if the illicit discharge ordinance had passed and was part of the Town's Ordinances. Mr. Gowan replied it had been part of Zoning for quite a long time. Mr. Doherty commented that storm drains weren't allowed to be blocked. When on site, he could see grass clippings hanging in the brush at the culvert. He noted it had nothing to do with the proposed development in front of the Board. He wanted residents to know they weren't allowed to block storm drains; it would cause flooding. Mr. Gowan will inform Code Enforcement to review the area and knock on doors to warn people doing so is a 'finable' offense. He said it wouldn't fall under the illicit discharge ordinance; however, the area of concern was part of the Town's drainage easement and structure. He noted they have acted in the past with similar situations.

MOTION: (Bergeron/Doherty) To approve the plan, subject to the conditions (stated earlier and further clarified).

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

NEW BUSINESS

Case #PL2018-00023**Map 7 Lot 4-182****Yellow Wood Land Holding, LLC Attn: Blake Clark, Manager – Yellow Wood Drive – Pre-Design Review for Proposed Conservation Subdivision**

Mr. Clark recused himself. Mr. Montbleau appointed Mr. Olsen to vote.

The applicant Mr. Blake Clark came forward with his representative Mr. Kevin Anderson of Meridian Land Services. Mr. Anderson stated that the purpose of their submission was to bring the Board 'up to speed' with the status of the project. The project dated back to 2013. On November 14, 2013 the applicant obtained a Zoning Board approval to permit a residential conservation subdivision on a track of land less than 10-acres. The current property has 8.21 acres. On July 20, 2015 a joint Zoning Board/Planning Board hearing was held with the purpose of presenting the unique nature of the project. First was the Zoning Board request for additional density followed by a Planning Board yield plan acceptance; the request for additional density was denied and the Planning Board application was tabled. September 22, 2015 a revised yield plan with waiver requests was presented to the Planning Board and ultimately approved to show six conventional lots. Mr. Anderson explained since that time the applicant has been preparing construction cost estimates and preparing a team of investors all geared toward the same vision of an energy efficient net-zero conservation subdivision.

Mr. Anderson explained that Zoning variances that are not acted upon were only valid for two years per RSA 674-33. He stated they were actively working with obtaining clarification on this from Town Counsel and it had been determined that the process of receiving yield plan approval for a Special Exception conservation subdivision constitutes executing the Variance; thus, the permitting process is still active. Mr. Anderson also believed that because the Planning Board voted on the yield plan being part of the Special Exception conservation subdivision that it also is therefore active. He understood it was complicated and felt it best to enter a conversation with the Board.

Mr. Gowan told the Board that he asked the Zoning Administrator (Jennifer Beauregard) to confer with Town Counsel on the Variance and whether it had expired. He noted there had been some recent case law (changes in Statute). Town Counsel's opinion was that the applicant's Variance was ensconced because they received yield plan approval. He understood there may be additional questions and stated he would seek legal opinion on the Board's behalf.

Mr. Bergeron questioned if the last date the plan was acted upon was 2015. Mr. Anderson stated that is correct. Mr. Bergeron called attention to RSA 674:39 that deals with the matter in front of the Board. He stated subsequent to the plan coming in front of the Board the Town passed a new Zoning Regulation pertaining to conservation subdivisions that increased the minimum acreage requirement to 15 acres. He said if an approved plan is not filed at the Registry (prior to the Zoning change), the Board had to hold an applicant to the (current) Zoning. It was his opinion that the plan could only proceed as a conventional subdivision and not as a conservation subdivision because it didn't have the required acreage. Mr. Bergeron stated all 10-acre parcels were over-turned in 2016 when the 15-acre minimum was adopted. He understood Mr. Clark received relief from the Zoning Board to proceed with an 8.2-acre parcel; however, because the plan didn't go anywhere it wasn't an approved site plan. At this point he didn't see that the plan could move forward as backed up by RSA 674:39.

Mr. Gowan stated he hadn't looked at the plan in the aspect of the 5-year exemption. He noted they pursued the 'expiration of Variance' aspect but hadn't considered Mr. Bergeron's point because he always considered it to be an active project. He said he wouldn't argue with the interpretation raised by the Board member. He stated he would send a written request for clarification on that aspect to Town Counsel and will share the response with the Board. He believed the Board could decide to hear what the applicant wanted to say about a conservation subdivision and noted nothing that happened during the meeting would be binding.

Mr. Anderson told the Board that the purpose of the meeting was to receive clarification because they were currently in a 'gray' area. He believed it all came down to whether the plan was still an active application. He viewed it as still being an active application given they had an approved Zoning Variance that was acted upon by obtaining yield plan approval which put them actively in the design process, which didn't give them a timeline as to how long they had to address the application. He pointed out that the application was very complicated not only because of the site, but because they were going for high-efficient, net-zero energy homes. He described some of the aspects of the homes and lots, which will take time to bring a detailed plan back to the Board. Mr. Clark provided additional detail regarding the efficiency of the houses and development.

Mr. Montbleau felt it would be wise for the Board to request Town Counsel's opinion, so they don't spend time reviewing things that may not be relevant. Mr. Clark explained when he originally approached Mr. Gowan about the subdivision it didn't occur to him to do a conservation subdivision and it was a process to convince him to do so. The reason for doing a conservation subdivision was so they could properly orient the houses to receive the proper solar setbacks and maintain/selectively cut vegetation to maintain solar access. He explained the geothermal process of including a half-acre pond. The whole site was developed cohesively so all elements interact with one another. He described the uniqueness and challenges of the lot. Mr. Clark told the Board it would be impossible to accomplish the goals of the project with a conventional subdivision. He stated that the Town's Regulations were ancient and not conducive to new energies and new ways of organizing neighborhoods and resources. He looked at his plan as an opportunity for the Board to produce and allow for a neighborhood that will further a Town or State dialog for what a twenty-first century neighborhood could look like and accomplish. He also saw it as an opportunity to take one of the largest lots in the area create a look forward neighborhood that would enhance the Town. He had no opposition to seeking legal advice before continuing.

Mr. Clark noted that the abutter list wasn't read. He said one of the purposes was to read it into the record. Mr. Montbleau said they would read the abutter list and have members of the public speak.

Mr. Doherty pointed out that the item was listed on the agenda and noticed to the public as a 'pre-design' review. He didn't see an abutter's list. He wanted to see if the Board wanted to go into non-public session under RSA 91-A:3, L – consideration for legal advice. He made a motion for such. Mr. Bilapka seconded. Mr. Lynde asked what section was being referred to. Mr. Doherty replied 'L' for consideration for legal advice (page 101 NH Planning Regulation book).

REQUEST FOR NON-PUBLIC SESSION

MOTION: (Doherty/Bilapka) Request for a non-public session per RSA 91-A:3, II, L – Consideration for legal advice.

ROLL CALL: Roger Montbleau-Yes, Tim Doherty-Yes, Jim Bergeron-Yes, Selectmen Representative Hal Lynde-Yes, Alternate Richard Olsen-Yes, alternate Samuel Thomas-Yes, Alternate Bruce Bilapka-Yes.

Although Mr. Culbert's name was not read aloud, he joined the Board in non-public session.

The Board entered non-public session at approximately 7:44pm (recording time stamp 43:18)

The Board returned to public session at approximately 8:03pm (recording time stamp 1:02:09)

Mr. Montbleau stated that the Board would reconvene the meeting (hearing) at a future date. It was the Board's consensus to request opinion from Town Counsel before proceeding further.

Mr. Clark inquired which Statute/Regulation the Board was seeking an opinion. Mr. Montbleau replied several members of the Board are going to draft questions; it's not yet solid. Mr. Anderson asked if they could obtain a copy of the comments, so they could research with their own attorney. Mr. Montbleau replied it was yet to be determined. Mr. Gowan wanted to know who would receive the Board's questions to send to counsel. Mr. Montbleau replied the questions would be sent through the Chair to counsel. He noted the verbiage of the questions were not yet determined by the members seeking opinion.

Mr. Clark wanted to know the timeline for the process. Mr. Montbleau replied it would be in the next day or two. Mr. Clark asked if the attorney's opinion would be made public or only shared among Board members who were active for the vote. Mr. Montbleau replied they would see how counsel instructed the Board. Mr. Clark understood that correspondence with the attorney was confidential; however, he noted at some point they would need an indication how to proceed. He wanted to know if they could receive direction prior to the next public meeting. Mr. Lynde replied they would see how the attorney responds to their questions and what direction they should take. If possible, Mr. Clark indicated that he would prefer to have a communication forwarded directly to them, prior to another public hearing. Mr. Montbleau stated the Board would take it into consideration.

Mr. Gowan wanted to know the process the Board would take to distribute information to members because it had to be done in a way that 'passed muster'. Mr. Montbleau replied they would conduct business as usual. Mr. Gowan said if the Board needed him to do something, just let him know. Mr. Lynde suggested that they ask the attorney to draft a separate letter to the applicant.

Mr. Clark was concerned that the abutter's list wasn't read into the record because it would require him to re-notify abutters. Mr. Doherty didn't believe abutters needed to be notified for the current meeting as it was a 'pre-design' review. He said the applicant would need to notify abutters at the time the plan came to the Board with a full application. It was Mr. Clark's understanding if abutters were notified for the pre-design review and it was continued to the next meeting for full design submittal that the abutters did not need to be re-notified provided that it was date specified.

Mr. Doherty asked Mr. Steve Keach (Keach Nordstrom – Board's engineering review firm) to weigh in on the matter of abutter notification. Mr. Keach referred to RSA 676:4 – Boards procedures on plats that outlines two processes. He wasn't sure what was meant by the term 'pre-design' review; which to him suggests a conceptual consultation that does not require abutter notification. He described the design review process, which was a preliminary application, and intended to be a structured ('notice') process much like a conceptual event and non-binding. By conducting a design review process, it insulates that application from any subsequent changes in Zoning or land use regulation for a period of one year, upon closure of design review. Since the Board had opted to seek the advice of counsel before contemplating the application, Mr. Keach didn't think it was necessary to do anything but continue the case to a date certain to hold the notice period. He said if/when the applicant came forward with an application for filing, it would have to be noticed. He said design review and the final application were two separate and distinct applications. Mr. Doherty understood once a full application was received the applicant would have to notify abutters at that point. In looking at the agenda, Mr. Keach said the item was advertised as 'pre-design review'. He said there were three categories: 1) conceptual consultation, 2) design review, and 3) final application. He didn't know what a 'pre-design' review was; it sounded like a conceptual consultation that wouldn't be noticed.

Mr. Bergeron noted that the Statute was clear that the Planning Board could make their own rules according to 'pre-design'/'preliminary' design, and could call it whatever they may, as long as they set up a format. Mr. Keach said it would have to be done through the Subdivision Regulations, not ad hoc.

Based on the manner it was listed on the agenda, Mr. Montbleau understood that it wasn't a notice-type of item. Mr. Keach replied design review is a formal statutory term. Mr. Clark said he understood he had an option but chose to notify abutters to hear from the public. He didn't want to go through the expense of re-notifying when

he didn't get to do what he set out to do during the meeting. He wanted to know if they could date specify the case for their original purpose (should the attorney indicate it was worthwhile to proceed).

The case was date specified to October 15, 2018. Mr. Anderson understood they could 'table' the case to a later date depending on counsel's response. Mr. Montbleau stated that was correct.

Mr. Clark returned to the Board.

Case #PL2018-00030

Map 38 Lot 1-155

Mopar Construction, Inc. c/o Bobby Savoie – Sherburne Road – Proposed 8 Lot Subdivision

Mr. Doherty read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Montbleau understood that the plan was previously approved by the Board but there was a notification mistake.

Representing the applicant was Shayne Gendron of Herbert Associates, he stated there was a problem with one of the abutter addresses, so one abutter did not get notified. He said they were asked to bring the application back to the Board with complete notification; this had been done. Mr. Gendron stated they were still in receipt of Steve Keach's (of Keach Nordstrom) letter and were working to meet all the requirements of such. There were still some outstanding State permits for which they were working with the appropriate agencies. Mr. Gendron explained the plan was a previously approved subdivision from 2005. The only change being made was the addition of a water system because of the sensitivity to water in the area. They've drilled five wells on the property; one well was good producing and designed by Lewis Engineering to handle all eight lots.

Mr. Doherty understood that previously the plan had waivers that were accepted for consideration and approved. He suggested the Board go back over those waivers and read them aloud.

Mr. Gowan suggested the Board accept the plan for consideration.

MOTION: (Clark/Thomas) To accept the plan for consideration.

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

The Board then addressed the waiver requests.

MOTION: (Lynde/Doherty) To accept for consideration the waiver to Section 11.04(C) of the Subdivision Regulations, to allow the building envelopes on lots 1-55, 1-55-2 thru 1-55-4 to not be in the required 100ft.x150ft rectangular shape.

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

MOTION: (Doherty/Lynde) To accept for consideration the waiver to Section 11.11(B)2 of the Subdivision Regulations, to allow the community well radius on lot 1-155-3 to be within the side and/or rear building setbacks on lots 1-155-2, 1-155-3 & 1-155-4.

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

MOTION: (Lynde/Doherty) To accept for consideration the waiver to Appendix I,BB 17 of the Subdivision Regulations, to allow a centerline radius of 150ft. where 200ft. is required.

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

Mr. Montbleau opened the discussion to public input.

Ms. Brenda Burton stated she was a direct abutter. She wanted to know whom to go to if there were issues during construction that negatively impact her property. Mr. Gowan spoke about some of the items that the Planning Department could act on and explained there were some things they might not be able to act on. However, he wanted people to call the department with any issue and they would inform how to proceed.

Mr. Webster Dennison, 280 Sherburne Road spoke about his concerns of one well servicing the eight lots in the development given the proximity of the well to his property. He said he was also concerned about blasting. Mr. Montbleau asked for the yield of the well. Mr. Gendron replied it is approximately 30 gallons per minute and met the State's pump-down requirements. He noted that Bruce Lewis of Lewis Environmental was responsible for the water system and plans. Mr. Dennison thought only seven houses would utilize the well. Mr. Gendron replied there would be eight residential homes. Mr. Dennison asked if the number of gallons would accommodate the homes. Mr. Gendron replied there would be compensatory storage for the homes. Mr. Dennison asked if the water capacity was based on the square footage of the structure. Mr. Montbleau replied the State had specific requirements that had to be met. Mr. Dennison remained concerned about the water situation. Mr. Gowan pointed out that Mr. Keach had already done an in-depth analysis and review of the plan. He suggested Mr. Dennison document the production and quality of his well. Mr. Dennison commented that he wasn't notified about the plan until now and understood it was already approved without the ability to give any input. Mr. Montbleau replied the water had passed the State's tests; any issues would have been addressed through the process. Mr. Dennison was unclear about the proposal and asked for more information. Mr. Gendron replied two of the waivers were granted in 2005; the radius and design of the road and the 4K areas on the lots. He reiterated they weren't changing anything with the lots as they had already been platted and recorded at the Registry. The only thing that's changed is they are proposing a community water system. The design was done by Bruce Lewis. Mr. Montbleau told Mr. Dennison that they were standard waivers (for minor changes) that had been approved many times in the past. Mr. Dennison spoke about the traffic on Sherburne Road the dangerous speeding that occurs. Mr. Gendron pointed out that Sherburne Road was a State road; their (newly requested) waiver was for the design layout of the development's road. They weren't seeking a waiver for sight distance. Mr. Dennison reiterated his concerns regarding traffic and felt there needed to be better enforcement. Mr. Montbleau suggested he contact the Police Department.

Ms. Burton saw that the Secretary of State website showed that Mopar Construction Inc. was dissolved September 1, 2011. She questioned if the project would be under another name. Mr. Gendron replied the current owner was Mopar Construction Inc. and believed the project would be transferred and done by a new owner. Mr. Gowan stated they didn't get into that aspect of a project. He noted that the applicant was seated in the public, so the Town knew who they were.

Mr. Bergeron wanted to know the date of the original subdivision. Mr. Gowan replied it was recorded November 14, 2005. Mr. Bergeron commented that the plat in front of the Board had run by the five-year exemption. Mr. Gowan noted that's why the applicant came back. Mr. Doherty saw that the Board received a draft Notice of Decision with eleven conditions; the first being that the applicant would voluntarily revoke the recorded 2005 subdivision plan (plan #34356 recorded at the Hillsborough Registry of Deeds on 11/4/05) as is authorized by RSA 676:4-a, I(a). He believed all the stipulations would be read back into the record and be part of any approval.

Mr. Bergeron understood there was a 4.3 gallon per unit yield and was unsure about a surety of the water system versus single wells. He questioned if any portion of the well radii extended onto abutter's properties. Mr. Gendron answered no. Mr. Bergeron asked if any portion extended into the 4K areas. Mr. Gendron answered no.

Mr. Montbleau inquired if the approval stipulations contained on the draft Notice of Decision were on the original plan. Mr. Gowan said the only new stipulation was #1 (noted by Mr. Doherty) as recommended by Town Counsel. He explained when the plan originally came through the process the Town didn't allow water systems; however, that had changed since the approval.

Mr. Keach came forward to discuss the plan and noted he submitted a letter August 8, 2018 with his comments and recommendations. He said if the plan is conditionally approved, Mr. Gendron should send a set of final plans to him and Mr. Gowan for review and to ensure all items in the August 8th letter were addressed and to ensure nothing else changed. Mr. Doherty wanted to make sure if the Board granted a conditional approval that they were reapproving what they had already approved.

Mr. Lynde questioned if note #17 contained the correct amount for the per lot exaction fee. Mr. Gowan replied it would be updated (based on the proposed condition #11). Mr. Gendron stated they hadn't made any changes to the original submittal.

Mr. Bergeron asked when the draft conditions were written. Mr. Gowan replied it was the same list submitted to the Board for consideration (at a previous meeting) except for #1 – applicant voluntarily revoking the recorded 2005 plan, and #11, the off-site exaction amount to be paid by the developer for each lot. Mr. Bergeron confirmed that the Board would have an opportunity to amend the proposed conditions. Mr. Gowan answered yes; they were draft conditions. Mr. Bergeron wanted to know if the development would have cisterns or sprinkler systems. He wanted to know if the proposed system could sustain either use. Mr. Montbleau replied the systems would be reviewed to the satisfaction of the Fire Chief. Mr. Frank Gorman of Southern End Development came forward and told the Board they met with the Fire Chief prior to having final plans designed. Similar to the last ten homes they built in Pelham (Clement Road), they chose to install sprinkler systems in the proposed development and made a note on the plan indicating such. Mr. Gowan explained that cisterns locations were shown on the plan, but if the applicant wanted to go on record that the units would be sprinkled, and have it included on record, they would be bound to do so. Mr. Keach said after the Fire Chief accepts the plan to have the units sprinkled, the cistern easements would be removed from the plan. Mr. Gowan noted that the Fire Chief's preference is to have sprinklers. The Board understood that the applicant made a statement that they would use sprinkler systems.

Approval condition #3 was amended to read: *Final plat to acknowledge applicant's choice to provide fire protection via NFPA Code compliant residential sprinkler systems to the satisfaction of the Pelham Fire Department.* A note indicating such shall be added to the recordable plan.

Mr. Montbleau asked Mr. Gowan to read aloud the draft conditions. Mr. Gowan asked if there were any amendments to be made. No one offered amendments. Mr. Gowan read aloud the Draft Notice of Decision for Mopar/Vineyards

- 1) *Applicant to voluntarily revoke the recorded 2005 subdivision (plan #34356 recorded at the Hillsborough Registry of Deeds on 11/14/05) as is authorized by RSA 676:4-A,I (A);*
- 2) *All State permits other than individual septic to be received and noted on recordable plan;*
- 3) *Final plat to acknowledge applicant's choice to provide fire protection via NFPA Code compliant residential sprinkler systems to the satisfaction of the Pelham Fire Department;*
- 4) *Applicant shall provide HOA documents for legal review by Town Counsel at applicant's expense that include provisions for shared ownership, management, maintenance and operation of the shared water system and its infrastructure in perpetuity;*

- 5) *A NH Licensed water system operator shall be engaged to manage the shared water system and that requirement is be memorialized in HOA documents to be reviewed by Town Counsel at the applicant’s expense;*
- 6) *Preparation of a recordable easement plan which depicts and defines the location and extent of easement rights over platted lots 1-155-2 thru 1-155-4 required for proper installation and maintenance of private water infrastructure;*
- 7) *Submission of full and complete design and construction plans and specifications of the construction of all private water system equipment and infrastructure;*
- 8) *Sleeving of water system service lines, as applicable, so the system can be repaired without damage to the roadway;*
- 9) *Written memo from Mr. Keach indicating his satisfaction with all final plan details;*
- 10) *Surety and plan compliance escrow to be provided as estimated by Steve Keach;*
- 11) *The developer shall pay \$2,250 per lot as an off-site exaction, collected at the time of individual building permit issuance, for the project’s fair share/proportional contribution to mitigate its impact to the Sherburne/Mammoth intersection. This contribution will be used along with like exactions collected from area developers to study, engineer and construct intersection controls at the intersections of Sherburne Road at Mammoth Road and Mammoth at Marsh Road.*

The Board reviewed the waivers for approval. Mr. Bergeron confirmed that the waivers had been brought forward from the previous plan. Mr. Gendron replied the plotting and the lots hadn’t changed. Mr. Bergeron didn’t object to the waiver for Section 11.04 (C).

MOTION: (Doherty/Clark) To approve the waiver to Section 11.04(C) of the Subdivision Regulations, to allow the building envelopes on lots 1-55, 1-55-2 thru 1-55-4 to not be in the required 100ft.x150ft rectangular shape.

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

MOTION: (Doherty/Lynde) To approve the waiver to Section 11.11(B)2 of the Subdivision Regulations, to allow the community well radius on lot 1-155-3 to be within the side and/or rear building setbacks on lots 1-155-2, 1-155-3 & 1-155-4.

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

MOTION: (Doherty/Lynde) To approve the waiver to Appendix I, BB 17 of the Subdivision Regulations, to allow a centerline radius of 150ft. where 200ft. is required.

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

MOTION: (Doherty/Lynde) To approve the subdivision subject to the eleven conditions contained in the Draft Notice of Decision for Mopar/Vineyards (read aloud into record).

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

Case #PL2018-00031

Map 39 Lot 1-103

4 Jones Road Realty Trust, Michael Farris, Trustee – 4 Jones Road – Proposed 2 Lot Subdivision

Mr. Doherty read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Representing the applicant was Ms. Jessica McNeill of The Dubay Group. She told the Board they were presenting a two-lot subdivision; the parent lot was approximately 2.4 acres in size. There are three wetland locations on site; however, there are no proposed wetland impacts. They are seeking a Special Permit to have a driveway within the Wetland Conservation District (50ft. wetland setback).

Mr. Doherty inquired if they would be requesting any waivers. Ms. McNeill stated they are asking for waivers for the well radii (existing and proposed), buildable areas as well a request for Special Permit. The waiver request was previously submitted to the Board.

Mr. Gowan confirmed that the plan was ready for acceptance.

MOTION: (Doherty/Clark) To accept the plan for consideration.

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

Mr. Clark asked if the upland area was listed on the plan sheets. Ms. McNeill referred to the topographic subdivision plan, which included the lot loading and size. Mr. Clark questioned if the site had been surveyed. Ms. McNeill replied the site had been surveyed. Mr. Clark commented that plans typically called out both the upland and wetland areas. He wanted to ensure each of the lots met the minimum upland areas. Mr. Gowan explained the requirement for 'usable' area and said the lot area should be noted under each lot size note. Mr. Karl Dubay of The Dubay Group came forward and referred to the existing conditions plan which showed the lot's square footages. He calculated the lot areas as requested and said they will list the information on the specific sheets to comply with the requirements. Mr. Clark asked that the information be listed for both lots.

Ms. McNeill spoke to the waiver request for building envelope of Lot 103 and 103-1; a minor area of the 15,000SF building envelope rectangle was in the front setback of Lot 103 and front WCD roadway drainage ditch on Lot 103-1. Mr. Clark questioned if the Board typically asked that the 15,000SF box be drawn for an existing dwelling. Mr. Gowan explained because the overall land was being reduced, the applicant would have to comply with the new lot as well as the old lot. Mr. Clark asked if the applicant had made an attempt to fit a 75ft. radius circle in the existing lot should the well ever have to be replaced. Ms. McNeill replied they chose to show the existing well and dwelling on the plan and show a proposed area for the new subdivided lot. Mr. Clark said it looked as if they could fit a 75ft. radius; however, it may make it difficult for the septic.

Mr. Doherty saw that the well radii of the existing lot went into the neighboring lot and there was a proposed driveway running through it. He asked if the proposed new driveway was within the WCD and the well radii of the existing lot. Ms. McNeill replied the submitted waiver was for the proposed driveway to be in the WCD without any wetland impact. She said it was more advantageous to come off Jones Road rather than off Sherburne Road.

Mr. Bergeron questioned if the applicant had received subsurface approval for the septic system. Ms. McNeill answered no; they would be seeking approval. She stated the septic and the septic reserve areas were both outside the 75ft. well radius. Mr. Bergeron asked if the tank and the line supplying it would be a pump-up system. Ms. McNeill replied they would be gravity fed. Per the Department of Environmental Services criteria, Mr. Dubay added that the tank was allowed to be within the well radius as long as it was outside the 50ft. radius. Mr. Bergeron was concerned about the flow of the subsurface waste water. He said there were well radii rules and believed well drillers were being held to them. Mr. Dubay stated the leach field itself had to be at least 75ft. away from a well. He told the Board they weren't requesting any waivers to such. He noted the proposed would be a four-bedroom dwelling. The proposal met the State's criteria.

Mr. Montbleau opened the discussion to public input. No one came forward.

Mr. Doherty wanted to know what the ‘egg shaped’ area was on plan sheet 6 of 6. Ms. McNeill explained as part of the erosion control plan, they showed the loam stock pile area with silt fence to help stabilize the area. Mr. Doherty questioned if the silt fencing would be around the driveway out to Sherburne Road to protect the wetlands. Ms. McNeill answered yes and described the silt fence area and measures to help avoid erosion going out into the roadway.

The applicant submitted the following requests:

- 1) Waiver of Section 11.04(C.1) of the Subdivision Regulations to allow for very minor areas of the 15,000 SF building envelope rectangles in the front setback (Lot 103) and front WCD roadway drainage ditch (Lot 103-1).
- 2) Waiver of Section 11.11(B.2) to allow the two we radii to extend beyond the property lines.
- 3) Wetland Conservation District Special Permit for the relocation of the new lot driveway.

MOTION: (Doherty/Clark) To accept for consideration the waiver to Section 11.04(C.1) of the Subdivision Regulations.

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

MOTION: (Clark/Lynde) To accept for consideration the waiver to Section 11.11(B.2) of the Subdivision Regulations.

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

Mr. Doherty asked for an elaboration regarding the culvert. He wanted to know if the old culvert under the driveway at Sherburne Road would be removed so the two wetlands could be connected. Ms. McNeill replied they would be removed within their area to allow the flow of the two natural wetlands to occur. She said they will use the proposed driveway (within the WCD). Mr. Doherty wanted to know if the old culvert would mechanically be pulled out so there could be a ditch line instead. Ms. McNeill stated the culvert would be removed.

Mr. Clark understood that the Special Permit was requested because the driveway encroached on the setback, and not the wetlands. Ms. McNeill answered yes. Mr. Gowan questioned if the application had gone to the Conservation Commission for comment. He said the Board couldn’t take action on the Special Permit until it had gone to the commission. Mr. Dubay replied they weren’t aware if the Conservation Commission took the matter up as part of the Special Permit. Mr. Gowan informed that the Board couldn’t take action on the Special Permit until it had gone in front of the commission. He read aloud a portion of Aquifer Conservation District – Article VI, Section 307-40, Special Permit. Mr. Dubay told the Board they would be happy to take the plan to the Conservation Commission for comment; they assumed the referral was through the process. Mr. Gowan explained that nothing automatically went to the commission, the applicant needs to ask for it. Mr. Doherty felt the reconnection of the two wetlands without having the culvert was beneficial. Mr. Dubay told the Board they would coordinate the submission to the commission.

Mr. Dubay questioned if the Board could grant a conditional approval subject to them going to the commission. Mr. Doherty didn’t believe that the Board could vote on the Special Permit without the opinion of the Conservation Commission; however, they could still act on the waiver requests.

Mr. Clark saw that the culvert was located within the State’s right-of-way and questioned if the Board could act on the permit. Mr. Dubay replied it didn’t require a State access permit. Mr. Clark didn’t know if they had

jurisdiction to authorize removal of a culvert and improve a drainage system. Mr. Dubay said it would be conditioned on the Department of Transportation ('DOT') authorization to remove the driveway culvert. Mr. Clark suggested adding a condition of approval to receive the information from the DOT. Mr. Dubay replied they could obtain the information for the Board.

Mr. Bergeron asked if the applicant's meeting with the Conservation Commission required the whole notification process. Mr. Gowan answered no. Mr. Bergeron understood that the commission's opinion was 'advisory' and not binding. He asked if the Board would consider approving the waivers and granting a conditional approval. Mr. Gowan discussed the process. Mr. Bergeron wanted to address everything except for the final approval, so the applicant only had to come back one time. The Board briefly discussed how they would proceed.

MOTION: (Doherty/Clark) To approve the waiver to Section 11.11(B.2) of the Subdivision Regulations.

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

MOTION: (Doherty/Clark) To approve the waiver to Section 11.04(C.1) of the Subdivision Regulations.

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

Mr. Gowan suggested the following conditions for approval:

- 1) Usable contiguous non-hydric soils to be noted on each lot;
- 2) WCD signs to be placed at 50ft. intervals by surveyor on both lots;
- 3) Approval of Special Permit for WCD
- 4) Recommend to Board of Selectmen to issue a driveway permit on Class VI road.

The plan was date specified to October 15, 2018.

DATE SPECIFIED PLAN – October 15, 2018

- 1) Case #PL2018-00023 - Map 7 Lot 4-182 - Yellow Wood Land Holding, LLC Attn: Blake Clark, Manager – Yellow Wood Drive
- 2) Case #PL2018-00031 - Map 39 Lot 1-103 - 4 Jones Road Realty Trust, Michael Farris, Trustee – 4 Jones Road

ADJOURNMENT

MOTION: (Clark/Lynde) To adjourn the meeting.

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

The meeting was adjourned at approximately 10:10pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary