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Stratham Zoning Board of Adjustment
Meeting Minutes
February 6, 2024
Stratham Municipal Center
Time: 7:00 pm

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Members Present: Drew Pierce, Chair
Bruno Federico, Member
Frank MacMillan, Member
Brent Eastwood, Vice Chair
Jameson Paine, Member
Lucy Cushman, Alternate

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Members Absent: Nicholas Garcia, Alternate

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Staff Present: Mark Connors, Director of Planning and Community Development
William Dinsmore, Building Inspector and Code Enforcement Officer

1. Call to Order/Roll Call

Mr. Pierce called the meeting to order at 7:01 pm and took roll call.

2. Approval of Minutes & Finding of Fact:

a. December 12, 2023, and January 9, 2024

Mr. Pierce made a motion to approve the December 12, 2023, and January 9, 2024 meeting minutes. Mr. MacMillan seconded the motion. All voted in favor and the motion passed.

b. Case #673 (3 Apple Way) Findings of Fact

c. Case #674 (13-15 Stoneybrook Lane) Findings of Fact

Mr. Pierce made a motion to approve Case #673 and Case #674 Findings of Fact. Mr. MacMillan seconded the motion. All voted in favor and the motion passed.

3. Old Business:

a. **Case #675: Gregory Gavutis (Applicant & Owner), 62 College Road, Tax Map 21, Lot 154, Zoned Residential/Agricultural.** Request for a variance from Section 12.6.1, Shoreland Protection District, to permit the installation of a ground-mounted solar array 123-feet from the edge of a tidal marsh where a minimum setback of 150-feet is required. *This application was postponed from the January 9, 2024, meeting at the request of the applicant.*

Mr. Gavutis introduced himself to the Board and noted that he was joined by Jay Arslanian from

45 Harmony Energy Works who would be installing the proposed ground-mounted solar project. He
46 stated that his property is constrained due to having a narrow piece of land and having wetlands
47 that occupy the entire rear edge of his property. His roof is not adequate for solar or wind and
48 wants to establish solar on his property. Mr. Gavutis stated that he will not have to remove any
49 trees and that where he wants to mount the solar is 123 feet from the wetlands. Mr. Gavutis
50 indicated that a wetland scientist from the Rockingham County Conservation District visited the
51 property and measured the distance from the proposed solar location to the end of wetland.
52

53 Mr. Gavutis stated that he would like to build the solar array to be carbon neutral and to be self-
54 sufficient. Mr. Gavutis presented a video and maps that he took to show the markers from the
55 wetlands to the area where he wants to mount the solar and to show the vegetation around his yard.
56 Jay Arslanian from Harmony Energy, who is the installer, mentioned that he will be installing a 3
57 foot by 6 foot tube that isn't anything massive that will be going in on the lower left-hand side of
58 the of the area of the solar panels.
59

60 Mr. Pierce asked if the unit was going to be located left of the driveway before you reached the
61 end of the house and Mr. Gavutis confirmed. Mr. Gavutis mentioned that it will run parallel with
62 Route 108 and there is enough tree cover that the unit will not be visible from the road. He stated
63 that the reason he wants to install the unit in that location is that he does not want to cut down any
64 trees on his property and run a long electrical trench which would call for larger project cost to be
65 beyond the 150 feet requirement.
66

67 Mr. Eastwood asked if there was a minimum setback from the road. Mr. Connors stated that the
68 minimum front setback is 30 feet. Mr. Paine asked if the structure will not take away from the
69 natural use of the land and Mr. Gavutis confirmed that it will not. Mr. Paine asked if the town has
70 a vegetation buffer and Mr. Connors stated that for tidal wetlands, it is 75 feet from the shoreline.
71 Mr. Gavutis stated that no significant vegetation would need to be taken down in order to construct
72 the solar array, including no disturbance to the wetland buffer or the vegetation along the road. Mr.
73 Paine asked if you would be able to see the array from the road. Mr. Gavutis confirmed that it
74 would not be visible from the road. Mr. Gavutis mentioned that some of the trees were undercut
75 and would be filled with some type of spruce tree. Mr. MacMillan asked if there was a
76 grandfathered encroachment into the setback area already that preceded the setback requirement.
77 Mr. Gavutis responded that the house was built around 1974 and the house is about 100 feet from
78 the wetlands. Mr. Paine stated that the back yard has been cleared for an extended period of time
79 and that buffers are usually intended to help protect the water quality and to shade the water body.
80 Mr. Paine went on to ask that since it was already cleared, he wanted to get clarification that there
81 would be no further clearing beyond what was proposed. Mr. Gavutis stated that there would be
82 no further clearing. Mr. Arslanian stated that they will not disturb any land from the wetlands to
83 the 123-foot mark of where the structure will be installed. The electrical trench will be beyond the
84 123-foot mark. Mr. Paine asked if the trenching would have a temporary impact on the ground and
85 will be put back to its original state and Mr. Arslanian answered yes, it will be dug up for a day
86 then put back to original state.
87

88 Mr. Federico asked if the solar unit will be stationary or movable. Mr. Gavutis responded it will
89 be stationary with Mr. Arslanian stating that the panels can tilt and would be able to move from 45
90 degrees in the summer to 35 degrees in the winter to assist in the production of power. The structure
91 would stand 16 feet tall. Mr. Federico asked if it would be mounted on one pole or two and Mr.
92 Arslanian replied that it would be mounted on two poles that would be 18 feet apart. Mr. Pierce
93 asked if there were any other locations on the property that would be usable but outside of the

94 wetland setback. Mr. Arslanian stated that there are no other locations possible that would not
95 require cutting down trees. Mr. Pierce stated that there was a letter from the Conservation
96 Commission submitted that seemed to be in favor of the application assuming that the distance
97 from the shoreline was confirmed by a certified wetland scientist. Mr. Connors confirmed that the
98 applicant agreed to pay for a wetland scientist from the Rockingham County Conservation District
99 to validate the distance from the shoreline. Mr. Pierce asked if there was anything else that needed
100 to be shared on the application and Mr. Gavutis stated that all the information had been presented.
101

102 Mr. Paine made a motion to open the public hearing and Mr. Pierce seconded the motion. No
103 questions or comments were received from the public and Mr. Paine motioned to close the public
104 meeting. Mr. Pierce seconded that motion.
105

106 Mr. Pierce announced the Board would move into deliberations and determine if the application
107 meets the variance criteria.
108

109 *Criteria 1: The variance will not be contrary to the public interest:*
110

111 Mr. Paine replied that the array's location will be well screened by evergreen trees and is not likely
112 to be perceptible to members of the public who would most likely be traveling by vehicles on
113 Route 108. He also states that solar panels and renewable resources are encouraged under town
114 planning documents. Mr. Eastwood agrees that the location is well screened, and it minimizes
115 disturbances to the natural environment.
116

117 *Criteria 2: The spirit of the ordinance is observed:*
118

119 Mr. Pierce said that the solar panels don't eliminate any protected resources and it will not result
120 in increased runoff to those protected resources. He states [the proposal] is less destructive than
121 some of the other alternatives. Mr. Paine states that there will not be any removal of trees or other
122 plants that will possibly slow down stormwater runoff or anything like that within a wetland buffer.
123 He also added that the same amount of water would theoretically be processed through this area
124 and wouldn't be changing the flow in this area.
125

126 *Criteria 3: Substantial justice is done:*
127

128 Mr. MacMillan stated he agrees that with this is a unique piece of land, there are no other options
129 and believes that this property has some hardships that the variance would address.
130

131 *Criteria 4: The values of surrounding properties are not diminished:*
132

133 Mr. Pierce said he doesn't see how this would affect the surrounding property values especially
134 with no abutters present for the meeting to object. Mr. Pierce agrees that Criteria 4 is satisfied
135 especially when all mature trees are maintained, values are maintained. Mr. Paine agrees and states
136 that the visual impact is not present.
137

138 *Criteria 5: Literal enforcement of the provisions of the ordinance would result in an unnecessary
139 hardship:*
140

141 Mr. Pierce said that without relief, there would be more disturbance to the property and more cost.
142 It wouldn't really make the application any better; it would just make it more disruptive to develop

143 the property. Mr. Paine stated that moving forward without relief would require removal of the
144 existing trees. The loss of mature trees will reduce the visual protection currently offered. Mr.
145 Pierce mentions that the proposal is reasonable since adding solar to one's home is a common
146 practice in Stratham. Mr. Paine stated that Mr. Gavutis has sought out other alternatives and solar
147 in the proposed location is the option that will most minimize the impact on the property. Mr.
148 MacMillan added that Mr. Gavutis worked with the Conservation Commission on the proposal,
149 and they agreed with the application as presented. I think that that strongly supports Section B, he
150 said.

151
152 **MOTION by Mr. Paine that the Zoning Board of Adjustment grant the variance application**
153 **from Section 12.6.1, Shoreland Protection District, consistent with the materials submitted**
154 **by Gregory Gavutis to allow the siting of a single ground-mounted solar energy array 123-**
155 **feet from the shoreline of a tidal tributary where a setback of 150-feet is required at 62**
156 **College Road, Zoned Residential-Agricultural, as the Zoning Board of Adjustment has**
157 **determined that the variance application meets all of the variance criteria subject to the**
158 **Board's deliberations, subject to the following binding conditions:**

- 159
160 **1.) There shall be no disturbance to the site apart from what is required to install the solar**
161 **energy system. No large equipment may be staged at the site for more than three days in**
162 **order to install the panels.**
- 163 **2.) No trees shall be removed from along the College Road frontage or from within 75-feet**
164 **of the shoreline with Jewel Hill Brook.**
- 165 **3.) The Applicant shall apply for and be granted a Conditional Use Permit by the Planning**
166 **Board to construct the solar energy system.**
- 167 **4.) This decision shall be supported by a written Findings of Fact with a written Findings of**
168 **Fact to be drafted by the Chair in consultation with the Town Planner to be considered**
169 **by the Board at its March 5, 2024 meeting.**

170
171 **Mr. Pierce seconded the motion. All vote in favor. Motion passed.**

172
173 Mr. Pierce advised Mr. Gavutis, please be aware that there is a 30 day appeal period where that
174 decision can be appealed by a number of different parties. He suggested that work not begin within
175 that time and noted the application would need Planning Board approval as well.

176
177 **2. New Business:**

- 178
179 **a. Case #676: Jonathan Nichols (Applicant) Jonathan Nichols & Kim Tessier (Owners), Tax**
180 **Map 22 Lot 126, 'Rear Lovell Road,' Zoned Manufactured Housing.** Request for an appeal
181 from an administrative decision to grant an exception from NH RSA 674:41, which prohibits
182 building on lots without road frontage, in order to construct a single-family home and associated
183 improvements on a parcel without road frontage.

184
185 Doug MacDonald introduced himself as an attorney from Keane & MacDonald, PC and stated
186 that he represents Johnathan Nichols. Mr. MacDonald states that he knows that Mr. Pierce
187 mentioned in reading the notice that the property was owned by Jonathan and Kim Godfrey, Kim
188 has since conveyed her interest to Jonathan, and Mr. MacDonald put that deed in the packet. So
189 just as a point of clarification, Mr. Nichols is the sole owner. Jonathan is here with us tonight,
190 he said, as is Eric Weinrieb from Altus Engineering, just in case you have any technical questions
191 about the application. This application is a request for relief from the requirements of NH RSA

192 674:41 and that statute allows this board to grant reasonable exceptions from the prohibitions
193 contained in the RSA.
194

195 Mr. MacDonald said that the history of this property is a little bit convoluted. He said he tried to
196 explain some of those issues in the memorandum that accompanies the application, but he thinks
197 it's probably worth reviewing because you (the Board) may have some questions. He became
198 involved with this property when Bob Godfrey Sr. hired him in 2012 or 2013 relative to the
199 subdivision being developed by Cabernet Builders. Cabernet Builders had proposed well had
200 purchased most likely a four-lot subdivision that have been approved by the Town. The town - I
201 don't think based on my research and the litigation - had knowledge that that subdivision and
202 Mr. Godfrey's property lines were kind of an issue. Mr. Godfrey entered upon the property for
203 the first time in 1973. He rented the property from a gentleman by the name of Richard Crosby.
204 Mr. Crosby had a rent-to-own style agreement with Mr. Godfrey. When Mr. Godfrey rented the
205 property, they walked the property lines, they walked point-by-point from Lovell Road. Mr.
206 MacDonald discussed the dimensions of the property as understood at that time. Mr. MacDonald
207 said that Mr. Godfrey raised his family there; they use that area as the property consistently
208 throughout the years.
209

210 Mr. MacDonald explained in 1988 there was a lawsuit because Mr. Crosby and Mr. Godfrey did
211 not agree on the terms of the rent-to-own contract. The only aspect of that litigation relevant to
212 this application was that Mr. Crosby was directed to convey the property to Mr. Godfrey. Mr.
213 MacDonald stated that the court's order suggested that the property to be conveyed to Mr.
214 Godfrey is a six-acre lot, which was discovered during a later litigation to not be the case. Mr.
215 MacDonald stated he does not believe that testimony was provided, or title research was done
216 during the 1988 lawsuit or when the property was conveyed in 1996. Mr. MacDonald described
217 a plan submitted as part of the application that shows what the Crosby deed actually conveyed
218 to Mr. Godfrey. The conveyance starts on Lovell Road, goes along the swamp back to Stratham
219 Hill Park, up to the next stonewall, and then comes across and goes down to the swamp, cuts
220 through its own property line, and turns around and cuts back through it up to Lovell Road. Mr.
221 MacDonald stated that this effectively created two Godfrey lots, a front and a rear lot, and the
222 triangle that's in the swamp is a property believed to be owned by Michael Nichols who owns
223 the abutting lot. Mr. MacDonald described the location of Michael Nichols' property and
224 referenced an area of land that was provided to the Godfreys pursuant to an easement that was
225 taken care of at the same time the lawsuit was resolved. He stated the lawsuit was a quiet title
226 case by the developer and an adverse possession claim by Mr. Godfrey that was resolved. Part
227 of the resolution was the creation of an easement to connect the two properties. Mr. MacDonald
228 stated that the easement is detailed and its intent is to allow for the development of a single-
229 family residence on the backlot subject to approvals. The easement also provides for access by
230 a paved driveway and has other items and requirements that provide sufficient notice as to what
231 the intent of the developer was in granting that easement. He continued that the easement crosses
232 the southernmost lot, which was Lot 4 of the subdivision at the back of the property. Mr.
233 MacDonald asked if the Board has any questions before he reviews the criteria.
234

235 Mr. Eastwood asked for clarification on who owns the triangular piece of land. Mr. MacDonald
236 replied that it belongs to Michael W. Nichols and Catherine Nichols.
237

238 Mr. MacMillan asked if the easement is on the existing gravel driveway. Mr. MacDonald stated
239 there is a corner of Lot 82 that dips into the marsh area that is Lot 4 (on the plan). Mr. Eastwood
240 stated that part is owned by Andrew DiBlasi.

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Ms. Cushman asked if the honeycomb area was the right of way. Mr. MacDonald directed Ms. Cushman to the plan submitted as Exhibit D. He explained that shows the 25-foot easement except for a small portion which is slightly outside that honeycomb. Ms. Cushman asked if the property owners have an easement across Lot 4 and across the front lot. Mr. MacDonald replied yes. Ms. Cushman asked if the honeycombed area that connects to Lovell Rd is Mr. Nichols' property. Mr. MacDonald replied that it is Michael Nichols' property and that the Godfreys have the right to use it by easement. Ms. Cushman reiterated to help clarify, that the easement or the right of way where it connects to Lovell Rd is on Michael Nichols' property. Mr. MacDonald confirmed. She stated that it crosses Lot 4 and asked if it crosses again on Michael Nichols' property. Mr. MacDonald replied that a portion is in the honeycomb area and a portion is outside of it. Ms. Cushman asked if the rest of the easement is on Jonathan Nichols property. Mr. MacDonald replied that it is a 25-foot easement that connects the front lot to Jonathan's property in the back. Ms. Cushman asked for confirmation that the easements are on Michael Nichols property and Lot 4 and if they are recorded easements. Mr. MacDonald replied yes. Mr. Pierce asked if the gravel drive exists now. Mr. MacDonald replied yes and described the location of the existing gravel drive.

Mr. Paine asked Mr. Connors for clarification on regulations for porkchop lots. Mr. Connors replied that the Town eliminated porkchop lots a couple of years ago.

Ms. Cushman asked if the subdivision was created by a court order. Mr. MacDonald replied no, the Godfrey property was a result of Marlborough Carter's deed to Richard Crosby. Mr. Crosby apparently did not understand the conveyance when he walked the property with Mr. Godfrey and then he conveyed the same lot which the court identified as a six-acre lot. He clarified that the court order did not create the subdivision. It was created by the prior owner who owned the large area of land when it was subdivided. Mr. Pierce asked what year that happened. Mr. MacDonald replied, the subdivision for the four lots was done in 1974. He directed the Board's attention to a plan showing Crosby owning the property, but the plan does not show the bounds of that property. Mr. MacDonald explained there would be no way for the Board to know that there was a title issue, or there was a conflict between what was believed to be the Godfrey property and the Crosby property at the time, and the subdivision. Mr. MacDonald clarified that the prior landowner created this situation and the court order was just an order accepting the stipulation for the parties to enter an easement agreement. Ms. Cushman stated that the diagram appears to show that the 1974 subdivision also subdivided the Godfrey property. Mr. MacDonald replied no, that they confirmed the metes and bounds with a survey and directed her attention to a plan. Ms. Cushman stated that's two lots and asked if they are two lots of record. Mr. MacDonald replied yes. Ms. Cushman asked for confirmation that these have been two separate lots since 1974, unbeknownst to the owners. Mr. MacDonald replied that is what the adverse possession claim was based on, because it has been used as a larger parcel since 1973 and possibly before 1973 because Mr. Crosby obtained the property prior to that.

Mr. Pierce described his understanding of the location of the three lots – that one lot is at the corner of Lovell Rd with a utility easement and pointed to and described the location of the other two lots. Mr. MacDonald confirmed. Mr. Pierce asked if a single-family house with a garage currently exists on Lot 80. Mr. MacDonald replied yes. Mr. Piece asked if Lot 82 currently contains a wood framed metal shed and a home. Mr. MacDonald replied yes, and Lot 82 has access to Lovell Rd. Mr. Pierce asked if Lot 123 on Lovell Road is impacted by the easement. Mr. MacDonald replied no.

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Mr. Federico stated there are houses on the first three houses and asked if there is a house on the fourth lot. Mr. MacDonald replied no, that it is vacant and owned by a company called Whogas. He stated that Whogas was initially involved in negotiations with Bob Godfrey and acquired the property and then engaged Cabernet Builders to build out the subdivision. Mr. Federico asked for confirmation that they built on three lots but not on the fourth. Andrew DiBlasi stated from the audience that he is the owner of the fourth property, 12 Lovell Road and he also owns 14 Lovell Road.

Mr. Pierce asked if the markers are clearly visible. Mr. MacDonald replied that he has not walked the entire property but when Hislop last surveyed the land he identified that the pins were there. Mr. Paine asked for clarification that the backlot does not currently have access even though there is an easement to the property. Mr. MacDonald replied that the easement allows access, but the statute they are asking for relief from doesn't allow development of a residence on a lot without road frontage.

Ms. Cushman asked if they have a deeded easement. Mr. MacDonald replied yes.

Mr. Federico asked if the site plan would be reviewed by the Planning Board. Mr. Connors replied yes, that the Applicant will need a Conditional Use Permit because the proposed driveway will encroach into the wetland buffer. Mr. Federico asked if it would be reviewed by the fire department for life safety issues. Mr. Connors replied the Planning Board review would be specific to the wetland buffer encroachment. Mr. Federico stated concerns with fire truck access and asked what type of road would be built. Mr. MacDonald replied that a full depth 12 foot-wide gravel driveway is proposed and whatever is designed has to be approved through life safety and the Conditional Use Permit. He continued that that he tried to contact the fire department early this process and stated that they may require sprinklers as that has been a rear lot requirement in the past. Mr. MacDonald stated that the Applicant will cooperate with the fire department as to whatever they need. Mr. Federico stated that sufficient space to get a vehicle down the road and to turn around to get out is important.

Mr. MacDonald asked if there are any other questions before he moved forward with the criteria.

Mr. Connors asked when the driveway meets Lovell Road is the intent for it to be on Lot 81 or the other lot. Mr. MacDonald replied on Lot 81 as shown on the current plan. Mr. MacDonald replied that it is currently within the honeycomb and would partially extend onto Lot 80.

Mr. Pierce stated that there are no more questions and asked Mr. MacDonald to move on to the criteria review.

Ms. Cushman asked for clarification that the right of way easement for the back lot is not the access for the front lot. Mr. MacDonald replied there is a gravel driveway for the front lot that exists partially on the front lot, and partially in the honeycomb easement. Ms. Cushman asked if they are proposing a shared driveway. Mr. MacDonald replied yes.

Mr. Federico asked if the tree in the middle of the driveway was going to be removed. Mr. MacDonald answered yes.

Mr. Paine asked if the same owners owned the property within the red property lines as well as

339 the property to the south and southwest. Mr. MacDonald replied that the front lot is owned by
340 Kim Godfrey and Jonathan Nichols and the rear lot Kim conveyed to Jonathan, so he is the sole
341 owner of the rear lot. They own the front lot as joint tenants with rights of survivorship. Mr.
342 Paine asked if the lot to the south that's not part of the request, is owned by the same family or
343 the same group. Mr. MacDonald replied it is owned by Jonathan's father, Michael.

344
345 Mr. MacDonald stated the relief being requested is governed by the statute and the Zoning Board
346 is the appropriate body to consider relief under the statute. The analysis and the considerations
347 are not the same as what's required to an actual variance from the zoning ordinance. Its criteria
348 that is set forth in the statute.

349
350 *Criteria 1: Enforcement of the minimum frontage requirements in the statute would entail*
351 *practical difficulty or unnecessary hardship:*

352
353 Mr. MacDonald stated the first criteria is the enforcement of the minimum frontage requirements
354 in the statute would entail practical difficulty or unnecessary hardship and that is the case. This
355 is a recognized 1.75 acre back lot for residential use in this neighborhood and is surrounded by
356 residential uses, so it is a reasonable use. The easements allow legal deeded access. A new code
357 compliant single-family home will be fitting to the neighborhood and without relief, the property
358 cannot be put to productive use. It will remain as a 1.75-acre lot that is on interesting topography
359 and next to wetlands so agricultural or timber harvesting use would not be consistent with the
360 neighborhood. Without relief, there is a practical difficulty that the lot cannot be developed for
361 a reasonable and productive use and that would be a hardship for the owner.

362
363 *Criteria 2: Circumstances of the case do not require the building structure or part thereof to be*
364 *related to existing or proposed streets.*

365
366 Mr. MacDonald addressed the second criteria of whether the circumstances of the case do not
367 require the building structure or part thereof to be related to existing or proposed streets. He
368 stated that like other rear lots, there is no need to be located exactly on the street. There are ways
369 to address concerns with the Fire Department, for example, provided that it's code compliant and
370 receives the approval from boards and inspectors, there is no real need to have it on the street.
371 There are examples of this in Stratham and all over New Hampshire. Mr. MacDonald stated the
372 property has legal access across easements and the Applicant will comply with any fire
373 department and Planning Board requirements of having a Conditional Use Permit for the
374 driveway given the wetlands issue. He added there is no circumstance that would require the
375 property to be related to an existing or proposed street.

376
377 *Criteria 3: Erection of the building will not tend to distort the official map or increase the*
378 *difficulty of trying to carry out the Master Plan.*

379
380 Mr. MacDonald addressed the third criteria that the erection of the building will not tend to
381 distort the official map or increase the difficulty of trying to carry out the Master Plan. He stated
382 it is a lot of record. He does not believe any town maps would have to change. The project has
383 no significant impact on the Master Plan as it is just the development of a single-family residence.
384 The increase in value of the lot will increase the taxes payable to the Town and it would not add
385 any additional services or burdens on infrastructure beyond anything that the town wouldn't be
386 able to absorb with any other new single-family residence.

387 *Criteria 4: Erection of the building will not cause hardship for future purchasers or undue*

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financial impact on the municipality.

Mr. MacDonald addressed the fourth criteria that the erection of the building will not cause hardship for future purchasers or undue financial impact on the municipality. He stated that the easements run with the land, so future purchasers will have access to the same as exists today. The property will be developed in accordance with the approvals, so that should not be a problem for a future landowner. There will be a private well and septic system, so there won't be any burden on that count for either of those two items. The house and the septic systems will be located outside the wetland buffer. The driveway will be approved through a Conditional Use Permit and the home would not require any special or unique services from the Town. There will be no real hardship on any future purchasers of the property.

Mr. MacDonald summarized that they believe they satisfy the criteria of the Statute that would allow the Board to consider the request for relief and they respectfully request it be granted. He asked if the Board has any questions on the criteria.

Mr. MacMillan asked if electrical access would go through the easement. Mr. MacDonald replied yes.

Mr. Pierce asked if there were any other questions for the Applicant from the Board. There were none. Mr. Pierce opened the meeting to the public.

Andrew DiBlasi of 12 Lovell Road spoke. He stated that he also owns Lot 4 and that the intent of the developer when he created the four lots was to build four homes. Mr. DiBlasi's understanding from Cabernet builders was that nobody could ever build in the back lot because it doesn't have road frontage. Mr. DiBlasi asked the builder specifically about that in the past back because he knew there was a road running through there. Mr. DiBlasi stated that the builder told him that there was no road and there were wetlands, and the builder's response influenced Mr. DiBlasi's decision to build his home. He then asked the builder about purchasing Lot 4 and Mr. DiBlasi stated that the builder said he can do that, but it was in litigation at the time because there was a dispute over the easement and that Kim, the owner of Lot 80, had a shed and a couple of old junk cars on Lot 4 that shouldn't be there because it wasn't her property. Mr. DiBlasi waited a few months for the litigation to be completed. He stated the decision was made to build an easement and a stipulation in that easement was to clearly mark the property lines with pins and that they had to take down the shed, clear it out, and that nothing could be placed there or stored there, that it is just an easement for utility and for them to access their back property. Mr. DiBlasi added that the plan doesn't show the topography of the land. He stated that all of the driveways are approximately a 35-degree angle that goes up to the houses that are all built at the peak and then the rear goes downhill. His concern is with the safety of his family and home. He stated that Mr. Nichols occasionally lights camp fires and approximately six years ago there was a fire lit that was not put out properly. The fire spread from the lot, up the hill to the rear of both 12 Lovell Road and the neighboring home. He stated that the fire got dangerously close to the house and the whole land was on fire. Mr. DiBlasi continued that when they called the fire department there was confusion and a degree of difficulty that they were discussing with regards to whose driveway to access to attack the fire. Mr. DiBlasi's concern is that the proposed driveway is about 750 feet long and 12 feet wide. He stated if Mr. Nichols isn't diligent in clearing snow from the driveway, how will emergency vehicles access the property? What happens if a fire truck has to get back there, he asked. He noted that if there is ice, he doesn't know if he trusts a fire truck to get back there. Mr. DiBlasi expresses his other concern if that

437 driveway now becomes an active driveway and it's crossing over his lot for my easement if
438 somebody gets injured there or something to that effect will he be liable? He added that the
439 attorney stated that the land was not even good for logging. Mr. Nichols has been cutting down
440 a good portion of that land due to the fact that he no longer has the view he had and now he has
441 sunlight blaring through his kitchen he never had before. And every now and again a truck comes
442 through with firewood and he doesn't know if it's business or what's going on with just selling
443 the wood using the trees as inventory. He states that that's clearly defined for driving and wants
444 to know of the one and three quarters of land is wetlands. He added if given the topography for
445 this land to be cleared for a driveway, can a fire truck can get back there.
446

447 Mr. Federico said that it's up to the Planning Board to review that. Mr. Connors said he believes
448 those concerns should really be considered as part of the Zoning Board review. The Zoning
449 Board is deciding whether to grant an exception to make the lot buildable. It is already a lot of
450 record so the Planning Board does not have the authority to review these items, he said. He added
451 that the Planning Board's review is limited to the wetland buffer encroachment issue.
452

453 Mr. Eastwood said that a condition could be that they obtain approval from the Stratham Fire
454 Chief to ensure an adequate emergency response. Ms. Cushman added that condition that is
455 recommended in the staff memo that the applicant obtain approval from the fire chief and a fire
456 suppression system may be required. Mr. MacDonald adds that the applicant is comfortable with
457 that condition and that they have already reached out to the fire chief and are waiting to hear
458 back from him. Mr. Federico states a concern that this should go to a planning board to be
459 discussed in depth and that this board is only here to discuss the variance to build not where to
460 build. Mr. Pierce said that the structure that is built on this property meets all applicable codes
461 and zoning ordinances and maybe conditions for setbacks. Mr. Macdonald stated that the 911
462 address could potentially help with any confusion if there ever was any a need to help identify
463 the property.
464

465 Mr. Paine asked if there currently is a well on the property or if there is a plan proposed yet. Mr.
466 Weinrieb replied that he has done a full-on grading plan site plan on knowing that everything
467 can be compliant. What he didn't want to do was to confuse everyone with all the grading and
468 stuff. So, the septic, and outside that buffer, and the well fits entirely on the site and outside the
469 buffer as well. The well radius does extend into the buffer and just for clarity. It's already been
470 said, we're not impacting anyone. We're just working within the wetland buffer, which does
471 require the conditional use permit. Mr. Paine asked approximately where the well would be
472 located. Mr. Weinrieb points to an area on the map and states that it's close to the house and
473 close to the driveway and far enough away from the septic. Mr. DiBlasi noted that RSA 674:41
474 requires both practical difficulty and unnecessary hardship.
475

476 Mr. Pierce asked if there was anyone else that would like to speak. Daniel Mello stated that he
477 was the owner of 10 Lovell Road and noted that his property backs up to Mr. Nichol's property.
478 He said we decided to purchase our property partly based on the understanding that the back lot
479 couldn't be developed, and that it was just undevelopable. That was one of the key consideration
480 in purchasing the property. He stated that he developed his backyard and had a substantial
481 amount of landscaping put in. We have invested a lot in our backyard, he said. He said it's a little
482 troubling that now behind his property can be developed. From his perspective, if the board
483 decides to grant this, the things he would ask for are some sort of buffer. The other thing that
484 would be appreciated is if a number of the 'No Trespassing' signs that are bright yellow that are
485 clearly visible from his porch, back windows and firepit were removed. Mr. Mello said that all

486 of the abutting property owners know where the property lines are, and the trespassing signs are
487 overkill. Mr. Mello said his final request is that with the road already cleared would there be a
488 way to stop the tractors and four wheelers from driving close to his property due to safety
489 concerns.

490
491 Mr. Pierce asked Mr. Mello and Mr. DiBlasi when they bought the properties was it mentioned
492 to them by the Town or the builders that the back lot was undevelopable. Mr. DiBlasi stated that
493 Cabernet Builders mentioned that to Mr. Godfrey.

494
495 Jennifer Hobin, of 10 Lovell Road, stated that due to the topography the homes [in the four lot
496 subdivision] are backed right up to the edge of the property. There was no option to build the
497 homes further down because of the slope, she said. She said that at the time, the tax map
498 described the lot as unbuildable. Mr. Mello said that when they purchased the house their realtor
499 mentioned the same thing that Mrs. Hobin stated and asked for the Board to maintain the integrity
500 of the property. Ms. Hobin added that retaining their property value is a concern if this was to
501 be approved. She requested that a condition for screening be added between the properties to
502 help mitigate their hardships.

503
504 Mr. DiBlasi said that the 'No Trespassing' signs that Mr. Nichols posted were set on four by
505 fours every so often along the property and not what everyone else does and tacks them to a tree
506 and because of that, questions what really is happening on that lot. Mr. Mello stated that there
507 are four signs on his property line. Mr. MacDonald stated that the yellow trespassing signs could
508 either be removed after construction or changed to something more tasteful and also asked about
509 keeping the stakes for the property lines and all agreed that they could stay. Mr. Weinrieb
510 mentioned that he already intends to put up some type of buffer and doubts that he would be
511 clearing up to the property line as he's developed. He pushed the house down as far as the slope
512 to stay out of the buffer is possible but because it has a steep slope he has to work with the grades
513 and so forth and so he has no intention to build a house right up against the backdrop a climb
514 even up against the back or side setback. Mr. Federico asked if the topography of Mr. Mellos
515 and Mr. DiBlasi's lots are higher or lower than the back lot and Mr. DiBlasi said that his was
516 higher. Mr. Federico asked if their properties were at what height higher than the back lot and Mr.
517 DiBlasi didn't really know for sure. Mr. Dinsmore stated the information was just for questions
518 about the building code. The State of New Hampshire has adopted NFPA one, which is going to
519 dictate that all structures have fire lane access, so the fire department will have jurisdiction to
520 say whether or not a driveway to what they're proposing will be enough to access a building. Mr.
521 Dinsmore noted that access needed to be provided within 150 feet of all exterior walls. There is
522 an exception if the building is sprinklered to bump that up fifty feet. Building code that dictates
523 what they can do for this lot and you can't approve it if it doesn't meet NFPA one code.

524
525 Ms. Cushman asked if the driveway that they are proposing will be the same sort of construction
526 for that code and Mr. Dinsmore stated that he didn't know because he hadn't seen the driveway
527 for himself. Mr. Weinrieb that a 5% maximum grade on the driveway is going up the slope and
528 that it's going to need a long gradual slope because of how long the driveway is. He also
529 mentioned that the back lot is at a much lower point than 8 or 10 Lovell Rd and it's almost 30
530 feet of grade change from the back line to the driveway elevation. Mr. Connors asked for
531 clarification of the maximum grade of the proposed driveway. Mr. Weinrieb responded 5% but
532 depending on the Planning Board's review of the Conditional Use Permit, that might change.

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534 Mr. Pierce moved to close the public hearing. Mr. Paine seconded. All voted in favor.

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Mr. Pierce stated that they will move on to board deliberations. Mr. Pierce asked for clarification regarding the criteria for approving an appeal from the administrator. Mr. Connors replied that the applicant is requesting an exception from the requirements of RSA 674:41 and the RSA states that the mechanism for requesting that relief is to file an appeal from an administrative decision. Mr. Federico asked Mr. Connors if his administrative decision was applying the state rule. Mr. Connors replied yes, it was stating that the applicant could not file for a building permit for this property because this state law prohibits that. Mr. Eastman questioned if they should be deciding on this. Mr. Pierce replied what they are deciding is if they have the ability to make exceptions under the statute. Mr. Connors directed the Board to the language in the statute and in the staff memo that discusses potential exceptions and the ZBA's authority to grant such exceptions. Mr. Connors said it is similar to a variance in that the Board cannot grant an exception unless it finds the application meets all four of the criteria, although the criteria are different from the variance criteria. Mr. Federico states that they have the authority to grant that exception. Mr. Pierce adds, in passing on such appeal or application, the board of adjustment local legislative body or Board of Appeals may make any reasonable exception. So, any reasonable exception, they do have the authority to make that determination.

Mr. Pierce noted that the statute provides the ZBA the discretion to place conditions on granting the exception. Mr. Pierce asked that they discuss some conditions the abutters had of concerns and agreements. Mr. Federico said that there needs to be a condition that this application be reviewed by the Planning Board as a site plan. Second, the safety issue with the driveway and the Fire Department being able to get down the driveway needs to be addressed. Finally, vegetative screening in the form of evergreen trees should be required. Ms. Cushman said that everyone wants their privacy and agrees the vegetative buffer is a reasonable condition. Mr. Paine mentioned this lot has access, it just doesn't have the frontage, a standard porkchop lot wouldn't typically have the same frontage requirements. Is there anything that they as a group should understand about why that wasn't allowed? Or are there rules that say it's not allowed and so then are they not only providing a frontage relief, but then been promoting pork chop really for anything. Mr. Federico replied that in a standard porkchop lot, you own the land that you traverse to get to the back and that the issue is there is an easement for a gravel driveway and not a paved one. Ms. Cushman stated that a pork chop was a one-time subdivision to allow people with a deep lot to have a new lot in the back if they owned a lot of acreage and they had approximately 200 feet of frontage and say 10 acres of land. The property owner could do a one-time subdivision and have a second lot in the back and many people have taken advantage of that. Only a single-family homeowner could do it and not developers.

Ms. Cushman stated she did not believe it was anyone's intention to create a lot of record that is not usable, that you can't build anything on. You own almost two acres in Stratham, and you can't do anything about it, except maybe harvest firewood once in your lifetime, she said. She said that property owners should not always believe realtors and developers; they should request proof if these kinds of statements are made. Mr. DiBlasi said that he didn't think he was lied to and with the wetlands there was almost no room to build. Ms. Cushman stated the people who make these statements don't own the land, they don't have control of it, and you don't know what could happen in the future. They're always developing new ways of being able to use land creatively and things are always changing and over many years engineering will evolve. She said she understands that [the abutters] believed it, and it's an unfortunate thing. Mr. DiBlasi asked if he was going to be liable for his part of the easement if there was personal injury. Mr. Pierce replied that is for his legal counsel to answer that question and not for the Board to answer. Ms.

584 Cushman asked Mr. DiBlasi what his easement was on his lot, and he replied that to make it
585 accessible to the back lot and for utilities to run through. Mr. MacDonald added that all parties
586 should seek out legal counsel for that question. Mr. Pierce mentions that they should stay within
587 the bounds of the public hearing for everyone's interest and if anyone wants to open that back
588 up to the public or to continue deliberations. Mr. Pierce noted if you have an easement that is for
589 running utilities through it then then it's reasonable to conclude the land may be conveyed as a
590 buildable lot.

591
592 Mr. Dinsmore read aloud Section 4.1.2 of the Zoning Ordinance, which reads (in part): *A lot*
593 *having frontage or an area less than required by Table 4.2 may be considered to be in*
594 *compliance therewith provided that: a) The lot had received final subdivision approval prior to*
595 *the enactment of this Ordinance or was shown on a recorded plan or deed filed before the*
596 *Planning Board that was granted jurisdiction to control the subdivision of land ...*"

597
598 Mr. Pierce asked Mr. Dinsmore if he thinks the lot in question is in compliance with that
599 Ordinance and Mr. Dinsmore said so as long as it meets those three criteria, but he really doesn't
600 know the answer to that question because he doesn't know when that ordinance went into effect
601 and when the planning board approved the creation of the lot. Mr. Federico mentioned it was
602 created back in the 70's but not 100% sure at the exact date. Mr. Dinsmore stated he didn't know
603 when the ordinance was written for the frontage requirements and Mr. MacDonald added to
604 clarify that the 4-lot subdivision was created back in 1974 and had references to Mr. Crosby. Mr.
605 Dinsmore stated, barring any error, obviously, there was a regulation in place that suddenly broke
606 front of the crop acquire. There was a need to get a variance to subdivide a lot the way and simply
607 trying to give clarification that the ordinance regulates these types of things.

608
609 Mr. Connors said he wanted to revisit one of the comments from Mr. Federico about the site
610 plan; because this is for a single-family lot in New Hampshire, single-family properties are
611 typically exempt from site plan review and it would be difficult to enforce that requirement. Mrs.
612 Cushman asked what a site plan would accomplish that they are already trying to accomplish.
613 Mr. Connors replied that Mr. Federico was concerned about the driveway and the fire department
614 access to the driveway. Ms. Cushman stated that it was going to be a condition of the permit.
615 Mr. Dinsmore stated that the Fire Department will have say on certain aspects of the permit. Mr.
616 Connors read the suggested condition language: *"Prior to the issuance of a building permit, the*
617 *applicant shall obtain approval from the Stratham Fire Chief to ensure adequate emergency*
618 *response to the structure in the event of a fire. The Fire Chief may require additional measures*
619 *by the applicant including, but not limited to, construction of a turn-around area for fire*
620 *apparatus and/or a partial/complete sprinkler system to serve the building."* Ms. Cushman
621 asked, wouldn't that be a prerequisite though, for building anything there, that you would either
622 have to have an accessible driveway or a fully sprinklered building and there doesn't seem like
623 there would be any relief from that. Mr. Federico asked what the distance is from the road to the
624 house. Mr. MacDonald replied it is approximately 400 feet. Mr. Dinsmore stated that if you don't
625 put a condition of approval for the fire department to set a design year for fire access of fire
626 sprinklers, then you're allowing the building code to handle it. And the building code is only as
627 strict as the building code is and there won't be any exceptions as far as making things stricter
628 by the Fire Department.

629
630 Mr. Connors stated that another potential restriction which would be easy to address is the buffer
631 concerns raised by the abutters. The ZBA could include a condition to address that. The ZBA
632 could require a no cut buffer some distance from the property line. Mr. Pierce asked if the

633 applicant was open to that and Mr. MacDonald mentions that the easement from Whogas to Mr.
634 Godfrey indicates that as condition one deals with the access and the utility, two is about
635 interference and three is an agreement between the parties that certain things won't happen like
636 livestock, unregistered vehicles, similar storage on the parcel and led development of partially
637 restricted to a single family home with typical accessories i.e. shed, driveway, garage, etc. He
638 said there is a requirement that any building be at least 30 feet from the easterly boundary of the
639 parcel. It's somewhat a condition that's already on the property. Mr. Paine said that [restriction]
640 is a setback, it is different than a no-cut requirement. The Board discussed the potential for a.
641 Mr. Pierce suggested that a 30-foot non-disturbance area would be reasonable and that some
642 evergreen trees be installed for screening. The Board agreed.

643
644 The Board discussed whether adding a condition related to obtaining the approval of the Fire
645 Department was necessary. Mr. Pierce said he believed that the code addresses the fire concerns,
646 so the condition is not necessary. Mr. Dinsmore said if he was making an error interpreting the
647 codes, then the Town would lose its chance to regulate this. Mr. Connors said it would not hurt. It
648 would add an extra level of protection if the Fire Department has concerns. Ms. Cushman said it
649 wouldn't hurt anything. Mr. Pierce said it could hurt in that it would place an undue financial
650 burden on the applicant to put in a sprinkler system. Ms. Cushman said that the condition does not
651 require a sprinkler system, it leaves it to the Fire Department to make a determination regarding
652 improving the driveway or installing a sprinkler system in the building. Mr. MacMillan noted that
653 the condition reads the Fire Chief may require a sprinkler, not that it will be required. Ms. Cushman
654 said the Fire Chief would make that determination. Mr. Pierce said that is correct, but my concern
655 with that, placing myself in the applicant's position, is that if we are asking the Fire Chief to make
656 a decision above and beyond what the actual Fire Code requires, there's a lot of subjectivity that
657 comes into play. Ms. Cushman interjected to inquire if the condition was above and beyond the
658 code. Mr. Connors said for example typically in New Hampshire it is very difficult to require a
659 sprinkler system in a single-family home - there is an RSA that restricts municipalities from
660 requiring that - however this is a unique situation because the home will not have frontage along a
661 road, so access is more difficult, so I think it could be required here. Mr. Paine said this is more of
662 a site specific situation. Ms. Cushman said that it is actually protecting the applicant as well
663 because if it's not feasible for the fire truck to get up there, he doesn't want his house to burn down.
664 Mr. Pierce said he feels that is the applicant's decision if they want to make that additional
665 investment. Sprinklers can increase the insurance costs of a home in the event the sprinklers
666 accidentally go off and cause damage. Mr. Pierce said the code is in place and the code takes into
667 consideration the length of the driveway and access to the building, then that should be sufficient
668 instead of leaving it up to the Fire Chief. Mr. Pierce added that sprinkler systems require additional
669 water capacity and that could require drilling another well. Mr. Pierce reiterated that he personally
670 opposed including the condition in the decision.

671
672 Mr. DiBlasi asked if the Fire Department might require additional width of the driveway. Mr.
673 Dinsmore said that the Code requires that the Fire Department needs to be able to access the
674 structure. And if the driveway is more than 150-feet, it would have to meet the requirements of a
675 fire lane. Mr. Pierce said those requirements are in the Fire Code. Mr. DiBlasi stated the reason he
676 asks is because the other side of his easement is marsh, swampy water. You can't even walk
677 through it, he said. He said it appeared to him that the proposed driveway is already right on the
678 property line, and might be encroaching on to his lot, so he doesn't think it could be made wider
679 without going into the wetland. Mr. Pierce said he thought that issue was outside the jurisdiction
680 of the Zoning Board. Ms. Cushman inquired if the issue was with access and trucks getting up to
681 the lot or if it was an issue of not having enough space for staging large equipment and fighting a

682 fire. Mr. Pierce said it sounded like trucks were already accessing the lot. Mr. DiBlasi said the
683 trucks were not as large as fire trucks.

684
685 Mr. Paine said they have laid out a potential plan. If it has to change, then they will have to pivot
686 and pursue a land swap or something to address that. Ms. Cushman said they will have to stay
687 within the easement area, isn't that right? Mr. MacDonald said yes, but the easement is 25-feet.
688 He said that 12-foot or 16-foot wide driveways had been discussed and both could be
689 accommodated within the easement area.

690
691 Ms. Cushman inquired what we have for conditions. Mr. Pierce said that the Fire Department
692 condition has not been resolved. Ms. Cushman asked for Mr. Connors' recommendation. Mr.
693 Connors said that he included the condition in the staff memo because he did not think it was a
694 bad thing to provide the Fire Chief some additional discretion in this case because it is an unusual
695 circumstance, but it is obviously up to the Board. Mr. Federico said that he thought it was
696 appropriate to leave it up to the Fire Department to determine what is needed. He noted that fire
697 trucks are getting bigger and not smaller. Mr. Pierce said if we are concerned about access, maybe
698 we should limit the condition to access. He said he has concerns because sprinkler systems are
699 ridiculously expensive. Mr. Federico said if a fire truck cannot get up there, then that is an issue.
700 Mr. Pierce said that is an access issue, not one specific to sprinklers.

701
702 Mr. Paine suggested that the Board strike the last line of the recommended condition language, so
703 the condition simply read *"Prior to the issuance of a building permit, the applicant shall obtain*
704 *approval from the Stratham Fire Chief to ensure adequate emergency response to the structure in*
705 *the event of a fire."* Mr. Pierce said he was agreeable to that.

706
707 Mr. Pierce described the proposed conditions of approval. Mr. Connors said he drafted a condition
708 related to the screening that was discussed earlier: *"The plan shall be revised to show a 30-foot*
709 *no-cut buffer along the property boundary with Lots 124, 125, 123, and 82 where no existing*
710 *vegetation shall be disturbed. The easement area for the construction of the driveway shall be*
711 *excluded from the no-cut buffer. A minimum of ten evergreen trees shall be planted within this*
712 *area."*

713
714 Mr. MacDonald noted that screening for Lot 82 could not be implemented because it's within the
715 access easement area. The Board agreed to remove the reference to Lot 82 from the condition. Mr.
716 Paine noted that the additional evergreen trees could be planted outside the no-cut area for
717 screening.

718
719 Mr. DiBlasi asked if language could be added to address the 'No Trespassing' signs. He said he
720 feels as though if he tries to sell his property, [the signs] raise a question. Potential buyers may
721 suspect a conflict between the neighbors. He asked if the signs could be removed or made less
722 obnoxious. He said they were very noticeable and are placed right on the property line. Ms. DiBlasi
723 said that people already bring up the signs when they come to visit. Mr. DiBlasi said it is awkward
724 to host just a backyard barbecue. Mr. Connors said it would be hard to enforce because the property
725 owner has the right to post his property. Mr. Connors said the Town may be able to limit the size
726 of the signs if they are very large signs. Mr. Paine noted that the applicant has already offered to
727 remove the signs after construction of the home. Mr. Paine said he didn't think the Zoning Board
728 could enforce anything on our side, but it is a neighborly thing to do. Mr. MacDonald said that the
729 signs can be removed or modified. Mr. Mello asked so they can or will? Mr. MacDonald said they
730 will be changed. Mr. Mello said perfect.

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MOTION by Mr. Paine that the Zoning Board of Adjustment grant the exception from NH RSA 674:41, II, consistent with the materials submitted by Jonathan Nichols to allow the construction of a single-family home and associated improvements on Map 22, Lot 122, as the Zoning Board of Adjustment has determined that the application meets all of the exception criteria subject to the Board’s deliberations, subject to the following binding conditions:

- 1.) Prior to the start of construction, the Applicant shall apply for and be granted a Conditional Use Permit by the Planning Board, as provided under Section 11.4 of the Zoning Ordinance, in order to allow the construction of a driveway within 100-feet of very poorly drained soils.**
- 2.) Prior to the issuance of a building permit, the applicant shall obtain approval from the Stratham Fire Chief to ensure adequate emergency response to the structure in the event of a fire.**
- 3.) Prior to the issuance of a building permit, the applicant shall obtain an address number for the property from the Stratham Assessing Department.**
- 4.) This approval shall be exercised within two years or expire on February 6, 2026.**
- 5.) This decision shall be supported by a written Findings of Fact to be drafted by the Chair in consultation with the Town Planner to be considered by the Board at its March 5, 2024 meeting.**
- 6.) The plan shall be revised to show a 30-foot no-cut buffer along the property boundary with Lots 124, 125, 123 where no existing vegetation shall be disturbed. The easement area for the construction of the driveway shall be excluded from the no-cut buffer. A minimum of ten evergreen trees shall be planted to supplement screening.**

Mr. MacMillan seconded the motion. All voted in favor. Motion passes.

Mr. MacDonald, Mr. and Ms. DiBlasi, and Mr. Mr. Mello thanked the Board for their patience. Mr. Pierce noted that there is a 30-day appeals period.

Mr. Connors introduced Mike Lamb, the Planning and Building Coordinator for the Town. Mr. Connors said he recently started and he is a veteran of the Coast Guard. Mr. Connors said that Mr. Lamb will be working with the Board, compiling minutes and processing applications. Mr. Lamb said it was nice to meet everyone. Mr. Pierce thanked Mr. Lamb for his service.

Mr. Pierce thanked Ms. Cushman for joining the Zoning Board. The Board entered into applause. Mr. Eastwood said Ms. Cushman was very impressive. Mr. Pierce said his understanding is that you have a lot of experience on these boards and it’s going to be a pleasure to work with you. Ms. Cushman noted that she had 30 years of experience as a title abstractor doing land research, so that may come in handy. Mr. Pierce said it already has.

Mr. Pierce said he did want to inform the Board that he did have a conversation today with Michael Houghton, Select Board Chair, about our decision on the Stoneybrook application and about the decision we made as a Board. He said that he did not think the Select Board was in agreement with how [the ZBA] ruled. Mr. Pierce said he discussed the basis of how they came to their decision which is all in the minutes and recordings. Mr. Pierce said that [Mr. Houghton] feels as though they rezoned a district. Mr. Pierce said he disagreed with that. Mr. Pierce said Mr. Houghton’s basis for that opinion is that this one parcel constituted the only undeveloped parcel in the District

780 in 2009 when that zoning district was created and it is the largest parcel in the district. Mr.
781 Houghton feels the zoning was drafted with this particular parcel being developed in the future in
782 mind. Mr. Pierce said he did not believe that was accurate because the other parcels in the district
783 could be redeveloped. Mr. Pierce said he does not believe the Board typically compares the mass
784 of the property to the size of the district when they make decisions on applications.

785
786 Ms. Cushman asked if the Select Board would appeal the decision. Mr. Pierce said that [Mr.
787 Houghton] did not say. He did not know. Mr. Federico said that he spoke to a Selectman and he
788 agreed with me, he was very appreciative of what we did. Mr. MacMillan noted that the Board
789 spent a significant amount of time reviewing the application. Mr. Pierce said Mr. Houghton's
790 comments were similar to those made by Mr. Goddard at the hearings.

791
792 Ms. Cushman inquired about the length of time the Select Board had to file an appeal. Mr. Connors
793 said that they would need to file a Motion for Rehearing with the Zoning Board first and they have
794 30 days to do that and then the Board has 30 days to respond. Nothing has been filed as of yet, but
795 I will keep you informed, he said.

796
797 Mr. Pierce noted that he mentioned that [the ZBA] had quite a long deliberation about the
798 application. And we all had a lot of comments that were entered into the record. So, I think if you
799 really review those materials, you will have a better understanding of how [the Board] reached the
800 decision.

801
802 Mr. Eastwood said he read the minutes since he missed the meeting and he felt the Board was very
803 thorough.

804
805 **4. Adjournment**

806
807 **Mr. Pierce stated that the meeting adjourned at 9:31 p.m.**