



Stratham Planning Board
Meeting Minutes
October 18, 2017
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM

Members Present: Bob Baskerville, Chairman
Tom House, Secretary
Mike Houghton, Selectmen's Representative
David Canada, Member
Nancy Ober, Alternate
Robert Roseen, Alternate

Members Absent: Jameson Paine, Vice Chairman

Staff Present: Tavis Austin, Town Planner

1. Call to Order/Roll Call

The Chairman took roll call and asked Ms. Ober to stand in as a voting member with Mr. Paine absence.

2. Review/Approval of Meeting Minutes

a. October 4, 2017

Mr. Houghton made a motion to accept the meeting minutes as submitted. Motion seconded by Mr. Canada. Mr. Houghton made a motion to amend "Mr. House" to "Mr. Houghton" on Page 7. Mr. Canada seconded the motion. Motion carried unanimously.

3. Public Hearing

- a. Site Plan Amendment** to revise the existing site plan to show overflow parking on the gravel on the western part of the site and to show a revised aisle width north of the existing building located at 45 Portsmouth Avenue, Stratham, NH 03885, Map 9 Lot 5 submitted by Andy Crews, **AutoFair Realty II, LLC**, 1477 South Willow Street, Manchester, NH 03103.

Mr. Austin stated staff recommends the planning board accept future suggestions for amendments to a site plan review process which allows for amendments. The plan before the board would technically be required to be stamped by a surveyor and a waiver request, but the plan shows exactly what the planning board suggested of the applicant at the last meeting. Specifically, pointing out the memorandum of understanding note next to the gravel road and the reference to the recorded site plan D-38604, as well as the change in the parking dimension on the north side of the building. Staff's only comment at this time is to add any other nomenclatures required by the Registry of Deeds to record the site plan and, with that, recommend approval by the planning board.

Bruce Scamman, Emanuel Engineering, representing AutoFair Realty II, LLC and AutoFair Nissan of Stratham. Mr. Scamman introduced Nick Lazos, Stebbins & Lazos, and Scott Popkin, AutoFair. Mr. Scamman explained the their attendance is to discuss the site, and explained to the public that AutoFair Nissan is directly across the street from Frying Pan Lane and just north of River Road. The site plan was originally approved in 2007 and revised in 2013-14. The site was then constructed and the reason for their presence before the board is to take the aisle width and narrow that down to allow for overflow parking, on the gravel driveway at the rear of the lot, during peak times. Mr. Scamman confirmed the "memorandum of understanding" note was added to the plan, to go along with the deeded easement which is also referenced. The aisle width is referenced on the plan and AutoFair had Stratham's largest fire truck out to the site to drive the narrow aisle way and confirm it is sufficient. Mr. House asked if the fire truck was there with the display cars out. Mr. Scamman explained they were not planning to delineate the display areas, and there is significant extra room for the fire truck to make it through. Mr. Houghton stated he has not seen the memorandum of understanding and asked if a definition exists as to what the gravel road is now, what it will be in the future, and does it define the number of cars on the gravel road. Mr. Scamman explained the gravel road in the back is for a future connector road, which will become a town road and parking will not be allowed, unless it is designed as a gateway road with parking along it. Mr. Houghton would like a definition of the gravel road, the make-up of the gravel road, width, etc. Mr. Austin stated the easement is a 60 ft. right of way. Mr. Houghton stated this is similar to Subaru in that they can park on the gravel road until the town takes it, but Subaru is limited to 80 vehicles. Mr. Houghton would like confirmation on the number of vehicles allowed on the gravel road. Mr. Scamman explained it differs with the size of the vehicles, and will depend on the vehicles the plant sends. Mr. Canada stated concern that it was stated the gravel road is 30 ft. x 365 ft. and it could be twice that. Nick Lazos, attorney for AutoFair, questioned why the board is concerned with the number of vehicles that are parked out back. Attorney Lazos stated there is no intention to over fill the area and AutoFair is just requesting the right to use the easement area for overflow parking. Mr. Canada stated, as a former selectman, the most common complaint from concerned Stratham residents is the number of cars parked in Stratham. Mr. Baskerville stated there is a maximum number of vehicles allowed on the whole site and that maximum will not be exceeded. Mr. Scamman confirmed the note on the approved site plan states 300 +/- vehicles. Attorney Lazos stated the goal is to allow enough flexibility on the site so no violations occur and this proposal puts the cars at the back of the site, away from public

view, and is an easy way to solve the issue. Scott Popkin, general manager for AutoFair Nissan, stated it is their intention to never have to use the road because it is more than time consuming to have to move 20 to 30 cars just to retrieve 1 car a customer may want, and it is just overflow and not designed to hold 80-100 cars. Mr. Houghton stated he has no concern with that and the reason AutoFair is before the board is the that the prior plan lacked complete clarity and inconsistencies, and he would like to bring definition to the plan to understand what has been agreed. Mr. Scamman stated it will have to stay as it is on the plan due to the limits of the sides and the pond area. Mr. Baskerville asked that it be defined, with staff, and a note added to the plan.

Mr. Baskerville asked for questions from the public. Bob Hillary, 5 Whittaker Drive, asked if there are regulations, or if there should be, to demark a fire lane. Mr. Baskerville stated there is a fire lane which is dedicated for fire trucks to park and an access on the site so fire trucks, car carriers, all trucks have a turning radius that allows them access the property.

Mr. Baskerville stated the applicant will work with staff to add a note for demarcation of the existing note to the gravel that it not be expanded from what is there today. Mr. Houghton made a motion to approve the amended site plan amendment for AutoFair Nissan of Stratham, 45 Portsmouth Avenue, Stratham, NH, as presented by the applicant dated 10/5/2016 with the condition that the applicant work with staff to devise language for the scale of the gravel road before final signature of the documents. Mr. House seconded the motion. Motion carried unanimously.

Mr. Austin asked the board to make a request for decision, Attorney Lazos handed out at the October 4, 2017 meeting with regard to the vesting status of 41 Portsmouth Avenue, AutoFair II. Town staff coordinated with town council and the conclusion of that dialogue is presented in a recommended motion.

“Staff recommends the Planning Board adopt, on record, both as it responds directly to the request for decision presented at the last meeting, and supported by town council.”

Mr. Baskerville gave a summary to the board members who were not present at the last meeting. Mr. Baskerville stated Mr. Lavery spoke with town council at length and his recommendation is that the site plan is vested and the planning board should confirm that to put the matter to rest. Mr. Canada made a motion to confirm the site plan approval as fully vested for AutoFair II, and grandfathered based on NH Law, the town’s site plan regulations, and the facts and agreement of the parties in accordance with the applicant’s request. Mr. Houghton seconded the motion. Mr. Baskerville asked for any discussion on the motion. Motion carried unanimously.

- b. **4-Lot Subdivision Preliminary Consultation Application** to create four (4) new building lots at 13 Stratham Lane, Stratham, NH 03885, Map 26 Lot 1 submitted by Scott Cole, Beals Associates, PLLC, 70 Portsmouth Avenue, Stratham, NH 03885.

Mr. Baskerville stated this application is only a preliminary consultation which the applicant is asking for the board's opinion on what they are proposing and is not an actual application.

Scott Cole, Beals Associates, introduced himself and Joe Falzone, project developer. Mr. Cole stated the project is an 8.4 acre piece of land on Stratham Lane and the proposal is a design review plan consisting of 4 lots, 1 for the existing home and shed, and 3 proposed lots. The road configuration is an offset hammerhead design, roughly 400 ft. long. The intent of this plan is to create these conventional lots, trying to keep in kind with the surrounding neighborhood and is anticipated to be a private road and, as such, the applicant will be looking for a reduced pavement width than what is required. The lots will have septic and wells. The existing home's driveway access will remain and there will be 3 driveways proposed off of the roadway, which would not come off of the snow storage areas required by the public works department. The plan is a working plan and shows conceptual house and driveway locations, which are subject to change. Mr. Falzone has spoken to some abutters about their concerns and they are willing to work on those concerns.

Mr. Baskerville asked what the reduced width is being proposed. Mr. Cole stated they would like to have 18 ft. and would have to be acceptable to the fire department and DPW. Since the road is approximately 400 ft. long to the very end, the turnaround on the right is roughly 325 ft. Mr. Cole stated this is a very minor travel way for 3 homesteads and believes 18 ft. is sufficient. Mr. House questioned the size of the existing lot as it stands right now. Mr. Cole stated 8.4 acres. Mr. Cole stated the lots all meet the town's 2 acre minimum. Mr. House asked if the private way will be built to town standards for the fire truck. Mr. Cole stated yes with a reduced width. Mr. Baskerville asked if there will be an association created for the owners for maintenance. Mr. Cole stated yes. Mr. Baskerville stated the planning board would like to see those documents. Mr. Cole stated there is not a final survey, at this time, and it was confirmed by Mr. Falzone that the property is roughly 8.8 acres. Mr. Canada asked if the reason for the 18 ft. width is to achieve the 2 acres for 4 lots. Mr. Cole stated no, it is based on the right of way which is 60 ft. Mr. Austin stated these lots passed the square test which has been discussed by the planning board. Mr. House questioned if the property is heavily wooded or a pasture farm and what the vegetation is at present. Mr. Cole stated the property is mainly pasture and small scrub. Mr. House asked Mr. Cole to be aware of driveway placement and coverage for headlights shining directly on other properties if there is no coverage. Mr. Canada asked what the road frontage on Lot #2 is. Mr. Cole stated +200 ft. Mr. Baskerville stated the board has a right to look at the regulations, or to change regulations for future projects, due to prior projects which raised concerns.

Mr. Baskerville stated, for the record, that an email was received from Mr. Lavery that states he does not have any comments at this time regarding this application; and, read comments received from Jessica Trammel, an abutter on Drake Road, which states she has concerns regarding developing this 8 acres which abuts conservation land and would like to ban together as neighbors to represent their older neighborhood to keep it

183 to its charm. One of the reasons Ms. Trammel bought her home in this neighborhood
184 was the uniqueness of the homes.

185
186 Mr. Baskerville opened the meeting up for public comment.

- 187
- 188 • Lawrence Kingsbury, 9 Stratham Lane, stated his concerns with this
189 development will be answered in the upcoming tests and not factual at this
190 meeting; which are 3 additional homes using water and affecting the water table,
191 as well as perk tests. Mr. Kingsbury stated back in 1977 Peter Duranti did a
192 perk test directly behind his property, within 100 ft., which was not witnessed by
193 town or state representatives so it is not on record. Mr. Duranti told Mr.
194 Kingsbury, who was interested in purchasing 2 acres directly behind him that the
195 perk test did not pass. Mr. Kingsbury stated drainage is another concern, and
196 has spoken with several neighbors because of the topographical structure of that
197 area. Several perk tests were very fast which is why, he believes, the one Mr.
198 Duranti took did not pass. Mr. Kingsbury would like a report of the findings of
199 all perk tests performed on each property. Mr. Kingsbury stated the water table
200 is very low and in the last two years Stratham Lane has been affected and some
201 neighbors have noticed brown water. Mr. Kingsbury stated his well is very
202 shallow, 75 ft., and the neighbors are in excess of 200 ft. Mr. Baskerville stated
203 the applicant is required to perform test pits and perk tests, witnessed by the
204 town agent at Rockingham County, which will be supplied to the board and put
205 on the plans and the plans will be available to the public at the town hall. The
206 applicant will also need to get a separate state subdivision approval, by the state
207 septic bureau.
208
 - 209 • Al Pace, 16 Stratham Lane, stated he has been a resident on Stratham Lane for
210 40 years. Mr. Pace stated he has never had a lack of water, but the quality has
211 been greatly diminished over the past few years. Mr. Pace questioned the
212 quality of water after adding 4 more active septic systems and what will happen
213 to the aquifer, will the water be usable. Mr. Baskerville stated over the past 30
214 years state and town regulations have changed tremendously for subdivision
215 applications and septic designs. Mr. Baskerville stated the state sets the
216 standards for septic. Mr. House stated Note #9 on the plans states “the parcel is
217 not within the Stratham stratified drift aquifer zone” and asked the applicant to
218 confirm this for the board. Mr. Baskerville stated the town has had some limited
219 work done by someone who studies the aquifer, and there is a stratified aquifer
220 drift map to know where the water is and there are different regulations if you
221 are in it or not. Mr. Pace asked if the EPA has done on site evaluation of
222 wetlands that exist and how that will be handled. Mr. Baskerville stated the
223 EPA does not get involved in the process, but the applicant will need to hire a
224 certified wetlands scientist who flags the wetlands, the planning board will then
225 do a field walk, and the certified wetlands scientist will need to stamp the plan.
226
 - 227 • Bob Goodrich, 321 Portsmouth Avenue, stated the back side appears to abut his
228 conversation easement and he is concerned with this proposal. The septic
229 system on Lot #3 appears to be right on the edge of that lot and asked what the

distance is between that lot and the proposed boundary line. Mr. Goodrich stated there are 4 faint lines which appear to drift towards his property. Mr. Cole reiterated there are 3 new proposed lots and the existing structure will sit as it is today. Mr. Cole explained the locations of the septic systems are schematic at this point since testing hasn't been done. Mr. Goodrich stated he would like the septic's placed closer to the roadway. Mr. Cole stated the intention is to put the septic systems in the front and the wells in the back of a property. Mr. Goodrich stated two of the wells appear to be encroaching on his property. Mr. Goodrich stated his well is 15 ft. deep and he has a larger pond which he needs to pump to a smaller pond near his well in order to keep it from going dry.

- Jessica Trammel, 7 Drake Drive in Greenland, stated she owns a small plot of land in Stratham and bought her home because of the established neighborhood and the landscape of trees and woods. Ms. Trammel stated she knew when she purchased her property that it could be developed but her hope was to keep it as many woods as possible to surround her and raise her children in that environment. Ms. Trammel stated her property in Stratham abuts the conservation land and she's has been offered to sell it and has turned the offer down.
- Jason Berounsky, 12 Stratham Lane, stated he would like to see the tenement house fixed up since he takes pride in his property. Mr. Berounsky is concerned with the water and sewer, as well as the road coming so close to his and his neighbor's property that headlights may become an issue. Mr. Berounsky also stated more cars on that road is an issue. Mr. Berounsky would like Stratham Lane closed at the Greenland end and if there is more agreement he would like to start a petition for that. Mr. Berounsky stated he lived in Greenland for a long time and is tired of Greenland residents cutting through Stratham Lane and driving in excess of 45mph. Mr. Berounsky asked how far the proposed road will be from the existing house. Mr. Cole stated roughly 70 ft. to the right of way and 15 ft. to pavement. Mr. Cole stated the firemen will not drive down the road and back into the turn around to get out of that road, it's a huge safety concern. Mr. Baskerville stated that since he's been on the board, the current regulations have given two options; 1) a cul de sac, or 2) a hammerhead. This is currently being reviewed by the board and may change in the near future.
- Paul Deschaine, Town Administrator, stated the Stratham/Greenland line is juxtaposed to this proposal and when submitted as a formal application should include a finding of the regional impact. Mr. Baskerville explained to those in attendance that the Town of Stratham has a standard process for proposals which are in the center of town and those on the town line which will note the regional impact.

- 273 • Jessica Trammel asked if the Town of Greenland would be able to weigh in on
274 the water impact. Mr. Baskerville stated once Greenland is notified they will
275 give their input on any matters they wish.
276

- 277 • Mr. Canada asked for clarification that the Town of Greenland would come
278 before the Stratham Planning Board with their concerns and wouldn't hold a
279 separate meeting in Greenland. Mr. Baskerville confirmed. Mr. Deschaine
280 stated there is a committee at the Rockingham Planning Commission who would
281 also review and make any comments they feel necessary.
282

283 Mr. Cole asked the board to comment if a private road is appropriate and if Mr. Lavery
284 and Chief Larrabee come to an agreement of required width of the road would the board
285 feel that is adequate. Mr. Austin stated the fire department may not be content with
286 anything less than 20 ft. because a fire lane is 20 ft. Mr. Baskerville stated the board
287 would like a note on the plan, and a clear understanding from the developer, that future
288 owners will understand there is no intent of the town to take over the road. Mr. Canada
289 stated support the private road and does not have an issue with 18 ft. Mr. Austin asked
290 Mr. Cole to provide all information necessary for 4.4.3 of the regulations which states
291 “in order for the planning board to consider a dead-end road the applicant will need to
292 prove that a through road is impractical”.
293

- 294 • Mr. Pace asked if two cars can pass each other on 20 ft. Mr. Baskerville stated,
295 yes, on a properly built town road they can.
296
- 297 • Ryan Carter, 7 Stratham Lane, stated he is not a fan of a private road and would
298 prefer to see it connect since there isn't much of a neighborhood. Mr. Carter
299 explained he has three small children and it is dangerous to let them ride bikes.
300 Mr. Carter and his kids go to Drake Dr. to go around the circle. Mr. Carter
301 stated his preference would be for the road to go through and connects to Drake
302 and shut the road off at Greenland to create a neighborhood. Mr. Carter stated it
303 is not uncommon to have cars drive 45 mph.
304

305 Mr. Baskerville closed the public hearing at 8:17 pm.
306

- 307 c. **6-Lot Subdivision Application** to create five (5) new building lots at 8 Whittaker Drive,
308 Stratham NH 03885, Map 19 Lot 68 submitted by Jonathan S. Ring, PE, Jones & Beach
309 Engineers, Inc., PO Box 219, Stratham, NH 03885.
310

311 Mr. Austin stated the application was continued so the applicant could make a decision on
312 how to proceed. The plans before the board tonight are a revision to the original plan
313 proposing the Whittaker cul de sac. The planning board needs to determine if it is a
314 revision proposed by the applicant or if it is a new application. Staff's opinion is that it is
315 functionally the same built environment. Mr. Austin stated comments were received by
316 Civilworks at 5:00 pm on 10/17/2017, and an email was received regarding Mr. Lavery
317 comments at 5:30 pm on 10/18/2017. Mr. Austin stated additional staff review is not
318 complete due to the comments coming in at the last minute. Mr. Austin stated the original

staff review is valid. Staff's opinion is there has been no information provided, to date, to determine the through road capability. The applicant provided plan CPP1, the connector plan to Hillcrest, which was discussed at the last meeting and briefly discussed during the site walk. The applicant's response, page 2, #3, states the applicant does not propose a through road, as the limited 50 ft. right of way at Hillcrest precludes construction in that steep terrain; a waiver request is submitted. Staff's opinion is that stating a preference to not do a through road and not showing that it's cannot be done does not satisfy the decision the board needs to make. It is also mentioned in Mr. Laverty's letter that it was discussed at the September 20, 2017 meeting the request for the applicant to communicate, in person, with the road agent to decide how connection to Whittaker and/or Hillcrest would be made and, to Mr. Austin's knowledge, and evidence of Mr. Laverty's letter that has not happened since September 20, 2017. Based on those two items the staff recommendation is that the 4.4.3 issue has not been addressed to move forward.

Jonathan Ring, Jones and Beach Engineers, introduced Bryan Sullivan, the applicant, and Kevin Baum, attorney for the applicant. Mr. Ring explained the subdivision has been revised in accordance with the comments received at the September 20, 2017 meeting. Mr. Ring stated he made mention, a couple of times, the plan was to extend Whittaker coming in with a cul de sac. Whittaker has been extended through the 50 ft. right of way provided back in 1986 and provides a 60 ft. right of way through with a cul de sac bubble which shows the grading for the road, a 22 ft. wide extension from Whittaker and a 20 ft. wide road, one-way, around the cul de sac. Also shown is the detention pond in the center of the cul de sac to accommodate drainage. The detention pond was shown in the center of the cul de sac at the September 20, 2017 hearing, when the road was coming off High Street and there would have been three cul de sacs. There are now two cul de sacs with each one being a little bit longer, and the applicant is not proposing the connection through to Hillcrest. There was a discussion with the board last month regarding that connection. A conceptual plan for the Hillcrest connection was prepared and is provided. There are significant issues with respect to the slope and the plan shows there will be significant grades that would adversely affect the abutter's, Mr. Graves, property. 300 ft. of new road is shown coming to the new cul de sac and there is an outlet pipe from that detention pipe going down the lot lines. The lots are renumbered. Down the lot lines between #3 and #4 there is a pipe coming out of that detention pond to carry the drainage down towards the swamp area down on the left side of the plan. All of the Civilworks comments have been addressed from review letter #1. Civilworks letter #2 stated a catch basin needs to be added in front of Lot #1, on the right hand side of the road, to carry some swale drainage underneath the road to get into the detention pond in the center. Three waiver requests have been submitted.

Waiver #1 - The plan scale to show the entire project on a 60 scale plans instead of the 50 scale requirement in the regulations.

Waiver #2 - To construct a cul de sac off of Whittaker because the connection to Hillcrest is not feasible due to the steep terrain and limited 50 ft. right of way provided back in 1987 from the Hillcrest side. Back in 1987 there was no feasibility study done and a 50 ft. right of way was shown because it was part of the deal to get the approval and there was never an

intention to build it and there was never a study to see that it's going to a swamp. This 50 ft. right of way is not going to a swamp, but it is going to a wetland.

Waiver #3 – To request the road width at 22 ft. for the 300 ft. section of road coming off of Whittaker. Based on Mr. Lavery's recommendation, to trim "the ears" of Whittaker Drive, so the road would be 22-24 ft. road coming to the new road. Mr. Ring demonstrated on the Sheet C2 for the board. The last submission a 16 ft. wide, one way, road was proposed around the cul de sac, Mr. Lavery stated he preferred 20 ft. which is the reason for the increase.

Mr. Ring stated it is preferred to have the drainage/detention pond in the center of the cul de sac. The old cul de sac's had a bigger radius, with a bubble, and entirely asphalt. Currently, it's being requested for a one-way road around with grass or trees in the center and it is being proposed to excavate and put the detention pond where it could be easily accessed 30-40 years from now when maintenance is required. Mr. Austin asked if this would be considered a fourth waiver request, since the typical detail states landscape in the center of the cul de sac and doesn't refer to a pond. Mr. Ring stated they are agreeable to remove the ears of the pavement on Whittaker. Mr. Ring will contact Mr. Lavery on Monday to discuss what is needed. Mr. Ring stated the existing Whittaker Drive to the beginning of the bubble is 550 ft. and there's an additional 400+/- ft. so it will total approximately 900 ft. to the beginning of the bubble from High Street; by itself this cul de sac meets the regulations, but if you start at High Street and move in it is approximately 900 ft. Mr. Canada stated town regulations is 800 ft. Mr. Baskerville explained that a waiver would need to be filed. Mr. Houghton questioned whether this is a new application or a revision to an existing application. Mr. Baskerville stated there is a lot of new information so he would like to take some time to look at the cul de sac, grading, etc. and ask the board questions before that decision is made. Mr. Austin asked Mr. Ring if it's functionally the same cul de sac, except for pavement width and how you get to the cul de sac. Mr. Ring stated yes. Mr. Baskerville stated this appears to an extremely similar cul de sac in the same spot, road coming in goes from 3 to 2, the applicant may decide it's safer for them to refile a new application, and the PB could waive the application fee. Mr. Canada stated he disagrees with making the applicant go through the whole process again. Mr. Baskerville discussed whether the application meets the requirement the applicant does not have to do a through road. Mr. Baskerville stated Mr. Ring needs to speak with Mr. Lavery regarding drainage issue and details of removing the "ears". Mr. Baskerville explained that most towns do not like drainage in the center of a cul de sac.

Mr. Canada stated he does not agree the applicant has met the criteria to prove they cannot have a through road. Mr. Austin explained he reached out to Paul Connolly, Civilworks, to ask his opinion from a technical standpoint and Mr. Connolly did not add that in his review. Scott Longwell, 1 Whittaker Drive, questioned the issue of the setback requirements for the Graves lot and the potential impact; whether there is encroachment on the right of way; or is what was approved at the time not well thought out. Mr. Austin stated the building permits issued to Mr. Graves treated the right of way as a front setback; meaning they were setback the same 30 ft. they would be today if there were a road there. Mr. Longwell asked if the Graves lot will be a non-conforming use. Mr. House stated if the issue is setbacks the Hillcrest loop could be drawn further to the north which could soften the slope. Mr. Canada

412 stated the applicant needs to come up with a plan which Mr. Connolly can look at and agree
413 that it's not feasible. Mr. Baskerville stated more work needs to be done; 1) could a road be
414 built in the 60 ft. right of way, and 2) with Mr. Graves' structures close to the right of way
415 and an existing driveways off of it, can the road be low enough to give him access without
416 needing an easement from Mr. Graves. Mr. Austin stated the DPW comment is to not grant
417 the waivers or not accept it as a town maintained road. Mr. Austin is unsure if a private
418 road can be approved from existing Whittaker to the new proposed new part of Whittaker.
419 Kevin Baum, attorney for the applicant, stated the regulations don't say "if feasible", they
420 state "impractical" which is a difference. Attorney Baum stated the applicant will need to
421 do more to show infeasible to a higher standard, the potential slopes, the overall
422 topography, the distance to existing structures, the width, etc. it is impractical. Mr. Roseen
423 stated a basis for impracticality would be cost and other considerations and having not seen
424 cost estimates or other information, it is hard to judge the question of the threshold of
425 practicality or the threshold of feasibility. Mr. Roseen asked what the slope is coming
426 down. Mr. Ring answered 6 percent.

427
428 Mr. Deschaine stated the board should make a determination if this application is a new
429 application or if this is a continuation. Mr. Canada made a motion to accept the revision to
430 the previously accepted plan for the purposes of opening a public hearing. Mr. House
431 seconded the motion. Motion carried unanimously.

432
433 Mr. Baskerville opened the meeting for public comments.

- 434
- 435 • Don Graves, 5 Hillcrest Drive, stated Mr. Austin, Mr. Canada, Mr. Houghton, and a
436 member of the conservation commission attended the site walk and saw the grade
437 situation. Mr. Graves explained during the site walk when they turned left towards
438 the barn in the field it was south of the right of way line and just north of that the
439 road would be raised approximately 5-5.5 ft. which creates a tremendous hardship
440 for Mr. Graves to exit on his property or access it. If Mr. Graves exits the horse
441 barn with a horse trailer, equipment trailer, etc. it takes a 10% grade to
442 approximately 24% grade. The two-stall gambrel barn, the grade would be raised 6
443 ft. before getting back to the concrete slab which would eliminate adequate access to
444 that structure. The road has to be built up in order to carry the drainage across the
445 property line to get to the subdivision. There would be underground structures
446 involved and go through fully drained soils which were missed on the first plan.
447 There would be a retention pond which would have to be constructed and would
448 contain contaminants. Mr. Graves is concerned with the salt in regard to his dug
449 wells. Salt is soluble and accumulative and would be extremely close to the
450 property lines. One plan takes the center drainage in the cul de sac and carries it
451 down towards the rear of the property. Mr. Graves stated he maintains over 1,200
452 ft. of driveway in the winter. Mr. Graves is concerned with maintaining the value of
453 property and access to his property. Mr. Graves stated the topography coming off
454 Hillcrest shows how the bisect of the contours, with a fairly steep grade coming off
455 Whittaker, would traverse and it makes sense to extend the cul de sac. By traversing
456 the contours, drainage issues are eliminated. Mr. Graves supports extending
457 Whittaker Road for the subdivision and does not support a through road because of
458 health, safety, and access to his property. Mr. Graves confirmed to Mr. Baskerville

that he approves the drainage plan that is at the back of the lot into a pre-existing drainage swale.

- Darren Brockelbank, 110 High Street, asked for confirmation that the board will not vote tonight. Mr. Baskerville stated this application is a final submission, but the information they received was very late, the letter from Stratham's DPW came at 5:30 pm with no time to review and the engineer has to meet with the DPW to resolve the remaining issues so the board will not vote until they are satisfied that all of the issues are resolved. Mr. Brockelbank asked the board if there will be a determination if the waiver regarding the through road is "impractical" and will that be decided tonight. Mr. Houghton stated that was already determined. Mr. Brockelbank stated Mr. Graves knew where the right of way was when he built his house, he wouldn't want to be in that position, but Mr. Graves built there knowing.
- Scott Longwell, 1 Whittaker Drive, stated there has been a lot of discussion regarding driveways and drainage, and the shape of the proposed lots has not been discussed and when will that discussion take place. Mr. Austin stated if the board had a discussion about the irregular nature of the lots based on the cul de sac that may, or may not, persist in the ultimate plan, it's a little premature but if it is deemed practical to achieve a through road then the lot shapes will be different and the board would have to address whether they are irregular or not. Mr. Baskerville stated the new lot shape is an improvement, but the board is not at the point to discuss that at this time. Mr. Ring showed Mr. Longwell the lots on the latest plan. Mr. Baskerville questioned whether the first 2 lots driveways will be off of the new cul de sac and not off High Street. Mr. Ring stated he does not have a note on the plan which states "no access off of High Street", but it is his expectation and if the planning board would like that note added as a condition of approval that would be done. Mr. House asked Mr. Ring what the grade percentage is of Lot #3 and #4 coming off of the cul de sac going to the driveways. Mr. Ring stated no more than 10%. Mr. Baskerville and Mr. Houghton stated they would like to see a note on the plan stating "no access off of High Street". Mr. Longwell stated he prefers the new extended cul de sac to the triple cul de sac. Mr. Longwell stated each proposal has had the same pork chops and asked if there is a rule against pork chop lots and if a waiver is required for a pork chop lot. Mr. Baskerville explained that the lot Mr. Ring called the "pistol lot" has a previous 50 ft. extension and if that was the only access to the lot, and the only frontage, then the issue would be proper frontage. This will not be an access, just a 50 ft. strip that cannot be used for access and is additional land and an existing condition that cannot be changed.

Mr. Roseen asked Mr. Baskerville if there are examples that can be provided to the board of locations or other town's standards where ponds are used successfully in a cul de sac. Mr. Roseen stated the pond is unusual and seems to be getting resistance. Mr. Ring stated regulations change over the years and when the three lots were cut out from the parcel years ago, 1995 or 1996, and the frontage was 100 ft. and 1 acre lot sizes. Some towns require 80-95 ft. paved bubble and recently planning boards and towns have gone to one-way loop roads. Mr. Austin asked how deep the pond would be. Mr. Ring stated 6 ft. deep on the low side and 10 ft. deep on the high side with 3:1 slopes which is gradual. Mr. Austin asked if that would need a dam permit. Mr. Ring stated no. Mr. House stated a car could be submerged

in that depth and that might be a hard sell to DPW. Mr. Baskerville stated a guardrail may be needed to protect the public since 8-10 ft. deep seems excessive.

- Bob Hillary, 5 Whittaker Drive, stated he directly abuts Lot #1 and he approves of the road through all the discussion, but is against the development because there are too many lots. Mr. Hillary stated that Stratham Subdivision Regulations, 4.4.1.b.3., “lots shall not contain irregular shapes or elongations solely to provide the necessary square footage”, which is what is happening with Lot #1. Lot #1 also has changed since the application started; on the east face has a triangle which was not there previously and that appears because of the rearrangement of the hammerhead to a circle with a retention pond in the middle. Lot #3 and #4 have also change, it is now more of a rectangle off the south end than the point that it was on the previous map. Between Lot #4 and #5 there is a shaded area along the border line that is an easement for the well because it doesn’t fit and another waiver. Mr. Hillary explained taking away one lot, the subdivision becomes a better plan. Mr. Hillary handed out a wildlife printout to the board and spoke with the board about the NH wildlife information. Mr. Hillary stated the 20 acres of conservation land to the south on Union Road is high value wildlife habitat.
- Roy Byrnes, 2 Hillcrest Drive, stated he is against the entire project, but understands the right to develop ones property. Mr. Byrnes explained he is against a road going through and keeps hearing the board ask for information that a road is not feasible. Mr. Byrnes would like to know the difference between the board not dictating the design but forcing the design. Mr. Austin explained the planning board has a duty to determine whether a through road is practical or impractical before considering a dead end road. The road off of Willowbrook, adjacent to conservation land and the Greenland town line at the other side, did not have the ability for a road. Mr. Austin explained that in 1986 and 1987, previous plans showed stubs whether they were to get it approved at that time or not, the fact is the town has a “pre-plan” of how the development may occur on this piece now owned by the Sullivans. The question now is whether there are two connection pieces, looking for that connection to occur, it makes it that much more difficult for the applicant to suggest that it is impractical when it was planned that way from the beginning. This is not a simple matter of a cul de sac is more expensive to plow, etc. Mr. Baskerville stated the applicant has not gone far enough to prove a through road doesn’t work, and the staff states the applicant hasn’t done all of their homework yet. Mr. Byrnes stated the only people in the room who want a road are those that are not affected or are abutters. Mr. Houghton explained that the applicant is asking for a waiver to have to prove the practicality of a through road so before the planning board will grant a waiver to the practicality of a through road, the applicant needs to demonstrate that it is not possible.
- Lori Zaniboni, 116 High Street, stated she prefers the cul de sac as opposed to a through road. Ms. Zaniboni explained the board has heard from 5 of the 6 homes that would be effected by a through road and 4 have made it very clear that the preference would be the option presented tonight.

Mr. Ring stated he has an August 2016 report from New Hampshire Natural Heritage Bureau which states it was determined that although there was a NHB record present in the vicinity it is not expected to be impacted by the proposed project and is based on the

NHB data check tool on August 25, 2016. Mr. Ring requested coming back before the board on November 1, 2017, after meeting with Mr. Lavery. Mr. Baskerville stated policies will need to be decided and then the applicant will need to apply for state subdivision. Mr. Ring stated he has not submitted for state subdivision approval due to the unsureness of the design, but expects once submitted it will come within two weeks. Mr. Austin stated if the application is continued to November 1, 2017 it would be helpful for the applicant, as well as staff, to know if the planning board believes a waiver is or is not required should some form of pond or depressed area in the center require a waiver from the landscape stipulation in Addendum A. Mr. Baskerville asked the applicant to submit a waiver if the applicant decides to leave the pond in the middle. Mr. Canada stated concern that Mr. Lavery is not the final arbitrator of the through road question and questioned if something be sent to Paul Connolly to be analyzed. Mr. Baskerville stated there are three major issues; 1) removing the existing cul de sac on Whittaker, 2) the drainage in the cul de sac or not, 3) and the final decision will be the planning board who has heard from Mr. Austin, Civilworks, and Mr. Lavery that they have been persuaded it is not possible. Mr. Roseen asked if the criteria by which the board is basing their decision is not whether it's feasible/practical, but the considerations of the will of the neighbors.

- Candy Graves, 5 Hillcrest Drive, stated the manual states what the goals are as a planning board, with a description, to account for how abutters feel about a project.

Mr. Baskerville asked when the 65 day clock runs out. Mr. Austin stated if the applicant is amenable to extending, the town is amenable to extending.

Mr. Houghton made a motion to continue the 8 Whittaker Drive, Sullivan Subdivision application, to November 1, 2017 and to waive the 65 day clock. Mr. House seconded the motion. Motion passed unanimously.

4. Public Meeting

Mr. Baskerville asked where the board stands on the Telecommunications Act. Mr. Austin explained the telecommunications facilities amendments, as well as the Subdivision Regulations, are in process and there is nothing new for the board tonight, but he will keep working on the amendments and will bring some language in draft form to the board at one of the November meetings.

Mr. Austin explained to the board there is a construction cost estimate in their packet, as well as a letter from Mr. Lavery accepting the cost proposal for the bond in regards to Breslin Farm Road. The planning board needs to accept the amount and then Mr. Austin will go before the selectmen on Monday, 10/23/2017, to have the Board of Selectmen accept the bond. Mr. Austin gave an overview of the construction costs before the board. Mr. Baskerville asked for any discussion from the board. Ms. Ober made a motion to accept the bond amount submitted by the applicant and endorsed by the Town of Stratham Department of Public Works. Mr. Canada seconded the motion. Motion carried unanimously.

Mr. Austin explained there is a proposed generator pad and enclosure with landscaping proposed for Kennebunk Savings Bank, 9 Portsmouth Avenue. Mr. Austin suggested the planning board be brought up to speed due to the site plan submitted, received, and endorsed by TRC and carried further by the planning board. Mark Stevens reached out to Mr. Austin to ask if a planning board meeting was needed. Mr. Austin did not anticipate a meeting was needed for a mylar to be recorded for a generator pad with a fence, unless the board required it. Mr. Houghton recused himself from this discussion. The board discussed the plan before them. Mr. Baskerville asked for staff's recommendation. Mr. Austin stated staff recommends the board to consider amendments to site plan regulations to include some amendment provision. Mr. Austin stated staff would like to see more detail on the landscaping and the type of fence used. Mr. Austin prefers no chain-link and would like it to reflect the building.

Ms. Ober made a motion that a site plan amendment is not required for the change of the generator at 9 Portsmouth Avenue, Map 4 Lot 11, Kennebunk Savings Bank, with the condition the applicant work with town staff on the material of the fence and the amount of landscaping to make the proposed location best in keeping with the approved site plan. Mr. House seconded the motion. Motion carried unanimously.

Mr. Mason stated he would like the board to look at the zoning and regulations as it stands today and look at how much land is left for development. The large parcels are gone for developing and Stratham now only has little pieces to be developed. Mr. Mason would like to look at cluster subdivisions with a 20 acre minimum, if a subdivision could be developed to preserve half the land, with no bonuses, but reduce the infrastructure. Mr. Mason stated reducing private roads should be looked at. Mr. Baskerville asked why a 3-4 lot subdivision requests a private road. Mr. Mason stated he is not in favor of private roads. Mr. Baskerville stated affordable housing is harder in other parts of the state. Mr. Baskerville stated the well radius cannot be counted with the state lot sizing.

5. Adjournment.

Mr. Canada made a motion to adjourn the meeting at 10:00 pm. Mr. Houghton seconded the motion. Motion carried unanimously.