



Stratham Planning Board Meeting Minutes
May 15, 2024
Stratham Municipal Center
Time: 7:00 pm

Members Present: Thomas House, Chair
David Canada, Vice Chair
Mike Houghton, Select Board's Representative
Chris Zaremba, Regular Member
John Kunowski, Regular Member
Nate Allison, Alternate Member

Members Absent: None

Staff Present: Mark Connors, Director of Planning and Community Development

1. Call to Order/Roll Call

Mr. House called the meeting to order at 7:00 pm and took roll call.

2. Approval of Minutes

a. April 17, 2024

Mr. Zaremba made a motion to approve the April 17, 2024 meeting minutes. Mr. Canada seconded the motion. All voted in favor and the motion passed.

3. Preliminary Consultation:

a. Anthony Fusco (Applicant), Charles B. Rocha Revocable Trust and Lori J. Rocha Revocable Trust (Owners) – Request for Preliminary Consultation to discuss potential development of a single-family home at 23 Winding Brook Lane (Tax Map 16, Lot 1), which would require encroachments into the Wetland Conservation and Shoreland Protection Districts, Zoned Residential Agricultural. Applicant is represented by NH Land Consultants, PLLC, 683C First NH Turnpike, Northwood, NH 03261.

Mr. Connors described the parcel as a lot of record in the Winding Brook Subdivision developed in the mid-1980s. He stated that all of the lots in the subdivision have been developed except for this one. It is a tough lot to develop as it is only 1.1 acres and has a wetland that runs along the frontage. A wetlands crossing is required in order to construct a driveway and the wetlands buffer area extends across a substantial portion of the lot as well. Construction of a home would also encroach into the wetlands buffer and Shoreland Zone areas. He stated the Applicant is here to explore purchasing a property and building a single family home on it is looking for some preliminary feedback from the Board. Mr. Connors reminded the Board that the Town notifies

abutters of preliminary consultations, so although this is not a public hearing, he recommends the Board open the meeting to accept public comments.

Tim Phoenix, attorney from Hoefle, Phoenix, Gormley & Roberts, spoke on behalf of the Applicant. Mr. Phoenix stated that Scott Franklin of New Hampshire Land Consultants submitted plans and a letter regarding the project but had a conflict tonight and could not attend. He explained that the lots were created around 1984 or 1985. He described the plans submitted by Mr. Franklin showing the wetlands boundary and setbacks related to wetlands, building, Shoreland Zone, and septic. The house is proposed in the southwest quadrant of the lot as far away from the wetland and stream as possible. The proposed development meets the septic setback, but a portion of the house will be within the Shoreland setback as there is not place on lot to avoid encroachment into the Shoreland setback. A wetlands crossing impact of about 300 square feet and 26 linear feet of stream impact are proposed. There is no alternative possible location for the driveway and the Applicant understands that review is required by the Conservation Commission and NHDES. He stated that he believes the project will also need a Special Exception from the ZBA for construction in the Shoreland Zone and Aquifer Protection District and two Conditional Use Permits from the Planning Board for the wetlands and Shoreland Zone impacts. Mr. Phoenix stated that it is a challenged lot and the rules probably were not as strict when the lot was created. He believes the Applicant has done everything he can to minimize wetlands and Shoreland Zone impacts. Mr. Phoenix requested comments and guidance from the Board.

Mr. House commented that the parcel does not appear to have sufficient area for wetlands mitigation. Mr. Phoenix replied that he doesn't know if there is any way to mitigate on this lot. Mr. House asked for the next presentation to provide pictures of the lot showing if it is open or wooded. He suggested a site walk might be appropriate. Mr. Phoenix replied that the Applicant can do both and added that they provided the Board with preliminary information in this application and will seek approval from the ZBA first. He agreed to submit photos and that a site walk with the Planning Board and the Conservation Commission is appropriate.

Mr. Kunowski asked how adjoining lots addressed existing drainage easements and driveways and if wetlands were impacted in a similar way. Mr. Phoenix replied that those driveways did impact wetlands but 40 years ago they did not require the same relief required today.

Mr. Kunowski asked how the location of the septic relates to septic systems or wells on the adjoining properties. Mr. Phoenix replied he does not know. Mr. House added that he believes they also need to locate a 5,000 square foot reserve area for the septic.

Mr. Canada asked what triggers the Shoreland Protection requirements. Mr. Phoenix replied that he was told by Mr. Franklin that the stream is the trigger because it is a moving body of water and not a wetland. He added that he will ask Mr. Franklin if there is a way to adjust the driveway so that the crossing is less, but Mr. Phoenix believes Mr. Franklin has already done that. Anthony Fusco stated that the chosen location is where the stream is the narrowest. He stated that the crossing is proposed to be a culvert which matches the other houses on the street. He added that they considered a box culvert that would be less impactful to the stream.

Mr. Zaremba asked what size of home is being considered. Mr. Fusco replied around 2,800 square feet but the footprint would be about 1,400 square feet. Mr. Zaremba asked for confirmation that the Shoreland setback requires ZBA approval. Mr. Phoenix replied yes and state approval.

Mr. Kunowski asked if there is existing vegetation on the lot that would have to be removed. Mr. Fusco and Mr. Phoenix replied yes it is a wooded lot.

Mr. Allison asked if the septic system has been schematically sized for the plans or is it just conceptual. Mr. Phoenix replied he believes it has been, but he will confirm that. Mr. Allison stated that the location of the system appears to be in a swale and he suggested that they get the relative size and make sure that the septic system can be designed in a way that is high enough and not impacted by runoff on the property. Mr. Phoenix replied that is a good point.

Mr. House requested a motion to open the meeting to the public. **Mr. Zaremba made a motion to open the meeting to accept public comments. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**

Carolyn Golding from 24 Winding Brook Road spoke. She lives across the street from the lot and she recommends that the Board look at the lot in person to see the nature of it. She stated it is a totally undeveloped lot with mature trees and it is like a jungle. She stated it is a green spot within the neighborhood full of birds, squirrels, deer, etc. and poison ivy is rampant. Ms. Golding commented that with the shape of the lot, the position of the house and septic are right over the fence to the neighbor's swimming pool and she believes it is being jammed in. She encourages the abutter on Evergreen to review the proposal as they will be impacted by the house and the septic right over the boundary of the back of their property. She believes the reason that this lot was never sold and developed would be obvious to anybody who comes there and looks at it in person and that development will take a major amount of clearing of trees. She does not know how wet the lot is but stated that the lower part of Winding Brook is very wet. She stated that even though the brook itself may look like a small little stream, there is constantly water running downhill and below the neighborhood, is the river that flows towards Exeter. She stated that road drainage pipes are on her side of the road and she can hear water running through them all the time, especially if it's been raining or snowing. She added that even in the summer, there always seems to be water coming downhill from the top of the neighborhood, which is basically on a continual slant going down to the Peninsula Condo area. She encourages the Board to look at it in person and is skeptical about any plan that somebody would come up with. Mr. House replied that the Board is planning to conduct a site walk at some point.

Mr. Zaremba made a motion to close the meeting to public comment. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.

Mr. House asked Mr. Connors if he is aware of any endangered species habitat in the wetland. Mr. Connors replied that if an application is submitted, the Board could request a third party professional to review that.

Mr. Houghton stated that the path forward seems clear.

Mr. Canada stated his inclination is that being an existing lot, he is supportive of the proposal but he agrees the project needs review due to all of the challenges. He added that if it was a new site he wouldn't be as supportive.

Mr. House stated as a reminder that the discussion tonight is not binding and the Applicant still needs to follow all regulations.

143 **4. Public Hearing (Old Business):**

- 144
- 145 a. Chinburg Properties, Inc. (Applicant), Lanzillo Irrevocable Trust (Owner) - Request for approval
- 146 of a proposed conventional subdivision of 189 Bunker Hill Avenue, Tax Map 6, Lot 167, into six
- 147 buildable lots served by a new road. The parcel is Zoned Residential/Agricultural. Application
- 148 submitted by Beals Associates, 70 Portsmouth Avenue, Stratham, NH 03885. This application was
- 149 tabled from the April 17, 2024 meeting.
- 150

151 Mr. Connors introduced the project by stating this is the third meeting on the project since March.

152 The project has been reviewed twice by the town's consulting engineer, CMA. A third plan is in

153 front of the Board tonight that has been sent to the engineer, but final comments have not been

154 received. Mr. Connors believes that outstanding comments are reasonably minor. He prepared a

155 draft motion and draft conditions of approval if the Board decides to approve the project tonight.

156 Alternatively the Board can wait for the engineer's final comments before making a decision. Mr.

157 Connors stated the major areas that are outstanding are the maintenance of the stormwater basins,

158 the possibility of submittal of an AOT permit application to NHDES, and the development sign.

159 Currently the Applicant proposes that individual property owners be responsible for stormwater

160 basin maintenance. Stratham is an MS4 community and for any new development, the person

161 responsible for the facilities is required to have an engineer and submit annual reports to the town

162 stating that the facilities are functioning properly. Mr. Connors believes that is a lot of

163 responsibility for a single homeowner and he recommends that an HOA be established to handle

164 those responsibilities. Mr. Connors stated there is some disagreement about whether an AOT

165 permit is required. He drafted a condition with respect to that requirement. Finally, he recommends

166 that the signage for the development be removed from the plans and if the Applicant wants a sign,

167 they can submit a Conditional Use Permit application for approval. Mr. Connors turned the floor

168 over to Christian Smith.

169

170 Christian Smith, engineer with Beals Associates, spoke on behalf of the Applicant and he

171 introduced Shawna Sammis with Chinburg Properties. He reviewed previous comments from the

172 Board. The existing conditions plan was updated to include the entire building on the neighboring

173 property and he believes a note was added regarding maintaining vegetation in the 20 foot setback.

174 They provided a cut and fill evaluation table for the roadway and prepared a disturbance plan. Mr.

175 Smith stated that he has a meeting scheduled with the NHDES senior reviewer for AOT on Monday

176 and he will discuss the project with him and he will provide a response to the Board. Mr. Smith

177 stated they are waiting for a response from the Stratham DPW on the proposed one way cul-de-

178 sac and proposed vegetation in the center of the cul-de-sac. He directed the Board's attention to

179 profile sheet #2. He stated that they addressed CMA's comment regarding the three foot drop into

180 the sediment forebay by providing a short segment guardrail in that area. Mr. Smith stated that

181 CMA commented that the cul-de-sac plan should include all details required in the subdivision

182 regulations but Mr. Smith reviewed the plans and believes they are complete. He added it is

183 dimensioned exactly as required. Mr. Smith stated they modified a couple of things, including one

184 of the ponds to meet the Stormwater Regulations. They added a requested six inches of coarse sand

185 to the pond detail. He stated that on sheet #5 there was a mislabeling regarding the length of the

186 pipes coming out of that base, and on line three that has been corrected to 24 and is now consistent

187 with the with the stormwater model and does not does not change anything with regards to the

188 stormwater. Mr. Smith stated that regarding Mr. Connors' suggestion that a homeowner's

189 association be created for the stormwater features as opposed to the onus being on a single lot

190 owner, he has gotten the indication from Chinburg Properties that they have no issue with creating

191 the homeowner's association. Mr. Smith continued that a stopbar has been added at the intersection

of the existing road and they have called out very clearly on sheet #5 the buildings and the trees to be removed, but all other individual trees that are in the field are subject to removal if requested by the buyers. Final comments regarding notes and note numbering have been corrected and updated lot sizing by soil type has been submitted to CMA.

Mr. House asked Mr. Connors if comments are still pending from CMA. Mr. Connors replied that Mr. Smith submitted new plans so the Town is waiting for final comments from CMA.

Mr. House asked for questions from the Board members. Mr. Houghton and Mr. Canada had no questions. Mr. Zaremba asked Mr. Connors for confirmation that his interpretation of the subdivision design standards for lots states the desire for regular lots and not odd shaped lots. Mr. Connors replied yes, he believes there is something in the regulations about that. Mr. Zaremba stated he has concerns with Lot 4 with regards to that and possibly Lot 3 to a lesser degree. Mr. Smith replied that Lot 4's particular configuration is due to the arrowhead shape of the parent parcel and there is not much that can be done to maintain the 50 foot width which results in a lot with a jog in it. Mr. Allison stated he has the same feeling about that and he understands the configuration was done to maximize the yield of lots. But if areas are removed that are in easements, buffers, and wetlands, quite a bit of property is lost. He estimated about 1 or 1.5 acres lost and stated that if this were a five lot subdivision, that might not be an issue and the lots might be able to be much more regular. Mr. Allison stated the same thing is true with regards to the distance from the side of the road to the right away. His recollection is that in the main part of the road, that distance is about 19 feet, but is reduced to 13 feet around the cul-de-sac. He stated that might not be critical and the ordinance does not specifically say that is a requirement, but it is kind of unusual to see the distance from the edge of a road to the right of way line vary, to any significant extent just because it goes through a cul-de-sac. Mr. Allison's opinion is that the lots feel like six pounds in a five pound bag, but he acknowledges that they work for the regulations but believes it is an unusual configuration for the lots. Mr. Smith replied that specific to the cul-de-sac, that is the design in the subdivision regulations appendix. It is 75 feet to the outer edge of pavement and 88 feet to the outer edge of the right of way. Mr. Allison accepts the clarification and asked for confirmation that the cul-de-sac will be one way. Mr. Smith replied that is the proposal and they are waiting for a response from DPW and it would be a right turn. Mr. Allison stated he lived on a one way cul-de-sac and there were a number of close calls with head-on collisions. Mr. Allison asked if the existing house to be removed has a basement. Mr. Smith replied it is on a slab. Mr. Allison asked how the existing well and septic tank will be disposed. Mr. Smith replied that the tank will probably be drained and filled. Mr. Allison asked if the foundation walls will be removed. Mr. Smith replied the frost walls will be removed. Mr. Allison stated that the plans do not show demolition of the garage and sheds and do not show access to the new infiltration basin and removal of trees and poles. He believes there is a lot of disturbance that should be shown on the plans along with stockpiling areas. Mr. Smith replied that the driveway will initially be the entrance into the property. He stated that the stormwater pond on Lot 6 does not take any of the roadway for treatment and that it is just a volume and flow mitigating feature that will be constructed when construction begins on Lots 5 and 6 and that is what he needs to discuss with NHDES.

Mr. House explained that regarding the lot configurations, a previous Planning Board Chair came up with the idea that if the particular sized squares fit inside the lot lines then the lot configuration is okay. Mr. Zaremba asked if the square is in the regulations. Mr. Smith replied they wouldn't have included the squares if they weren't in the regulations.

Mr. House requested a motion to open the meeting to the public. **Mr. Canada made a motion to**

open the public hearing. Mr. Zaremba seconded the motion. All voted in favor and the motion passed. There were no comments from the public.

Mr. Canada made a motion to close the public hearing. Mr. Zaremba seconded the motion. All voted in favor and the motion passed.

Mr. Canada stated that he is in favor of approving the application tonight with conditions. He believes the few details left can be worked out.

Mr. Zaremba asked if there will be fire sprinklers. Mr. Smith replied yes, he met with the fire department.

Mr. Kunowski asked for confirmation that the road will be maintained by the Town and the grassy area inside the cul-de-sac. Mr. Smith replied they are waiting to hear from DPW on that. Mr. Connors stated that he spoke with the DPW Director and he is fine with the proposed meadow grass. Mr. Kunowski asked for confirmation that it does not require weekly maintenance and is a wild grassy space. Non-verbal confirmation was given.

Mr. Allison asked if the Town will maintain the infiltration basins. Mr. Smith replied that will be part of the HOA so that one individual lot owner is not responsible. Mr. Allison commented that there have been situations where the HOA is not formed and that the establishment of one should be an enforced circumstance. Mr. Smith replied that Mr. Connors requested legal language to that end along with an inspection and maintenance manual and he presumes annual reporting to the DPW. He added that if there is an AOT permit that will all go to the State too and that the proposed easements will grant the Town the right to perform the work and invoice the HOA if the HOA doesn't perform the maintenance.

Mr. Kunowski asked when will the drainage pond on Lot 4 be developed. Mr. Smith replied in collaboration with the cul-de-sac.

Mr. Zaremba asked if the Applicant has reviewed the conditions of approval. Mr. Connors asked if the Applicant is okay with removing the neighborhood sign. Mr. Smith replied yes.

Mr. Houghton made a motion to approve the subdivision application submitted by Chinburg Properties, LLC, of a proposed subdivision of 189 Bunker Hill Avenue, Tax Map 6, Lot 167, into six buildable lots served by a new road consistent with the subdivision plan by Beals & Associates, last revised May 10, 2024, subject to the following conditions to be satisfied prior to recording of the plan or as otherwise stipulated.

- 1. The applicant shall obtain all necessary state and federal permits and note the permit numbers on the plans, including:**
 - a. EPA Construction General Permit**
 - b. NHDES Subdivision Permit**
- 2. Any outstanding technical comments provided by the Town's consulting engineer or by the Town Planner shall be addressed to the satisfaction of the Planning Department.**
- 3. All references to a 'neighborhood entry sign' shall be removed from the plan set. The applicant may submit a Conditional Use Permit to the Planning Board at a later date should it wish to pursue the signage.**
- 4. The applicant shall obtain an Alteration of Terrain Permit from the NH Department of Environment Services and note the permit number on the plans unless NHDES provides**

- the Town written notice that the permit is not necessary. The Disturbance Plan shall be revised to the satisfaction of the Planning Department.
5. The Landscape Plan shall be revised to clearly note the species of each proposed tree.
 6. Easement language for access to stormwater basins shall be provided to the Town for review and approval by the Town's legal counsel. The easement language shall be recorded with the subdivision plan.
 7. Details for all proposed road signage shall be added to the plans. Final details associated with proposed guardrails and all road signage shall be subject to the final approval of the Department of Public Works (DPW) and Police Department.
 8. An Operations & Maintenance (O&M) Plan for all stormwater management facilities shall be prepared to the final satisfaction of the Town. The O&M Plan shall be recorded with the subdivision plan.
 9. Documentation shall be submitted forming a homeowners association (HOA) for the purposes of maintaining stormwater facilities in the subdivision. Legal documentation forming the HOA shall be to the satisfaction of the Town's legal counsel and recorded with the subdivision plan.
 10. A Stormwater Management Agreement shall be signed by the Town and property owner and recorded with the Subdivision Plan. During construction phases, the owner/contractor shall be responsible for maintaining stormwater facilities. After completion of construction, the agreement will require the HOA to submit annual reports to the Town completed by a certified professional certifying that stormwater management facilities are functioning in accordance with their design intent.
 11. The applicant shall submit to the final subdivision plans and associated documents for recording. The applicant shall be responsible for all recording fees to the Rockingham County Registry of Deeds as well as a \$25 recording fee to the Town of Stratham.
 12. The street name 'Windsong Place' shall be approved by the Stratham Select Board and proposed addressing and map and lot numbers shall be approved by the Stratham Assessing Department.
 13. A 20-foot non-disturbance vegetated buffer area shall be shown on the Subdivision Plan. Additionally, each property deed must reference the recorded plan and clearly note the non-disturbance vegetated buffer area prohibitions.
 14. Prior to the start of construction, a performance guarantee in the form of a bond, letter of credit, or check shall be provided to the Town along with a signed Site Development Agreement consistent with the Subdivision Regulations.
 15. Prior to the start of construction, an escrow amount to be determined by the Town's consulting engineer shall be provided to the Town to fund periodic engineering inspections of the road and stormwater facilities during construction phases. The applicant shall provide access to the site to the Town's consulting engineer to inspect important phases of the road development. Any unused escrow funds will be returned to the applicant upon the Town's acceptance of the road.
 16. Prior to the start of construction, the applicant shall install protective measures to insure the health of two existing tulip trees on the parcel. The applicant shall schedule a time with the Planning Department to review the measures prior to the start of construction.
 17. Prior to the start of construction, a detailed sediment and erosion control plan shall be submitted to the Planning Department for approval. Additionally, erosion and sediment control measures shall be inspected by the Town Planner prior to the start of construction and also periodically during construction phases.
 18. Prior to the start of construction, a Pre-Construction Meeting shall be scheduled with the Planning Department and all relevant town departments.

- 339 **19. Prior to the issuance of a building permit for any lot in the development, details for the**
340 **individual fire suppression/sprinkler systems shall be submitted to the Fire Department**
341 **and shall be subject to the approval of the Fire Chief.**
342 **20. Prior to the issuance of a building permit for any lot in the development, a street sign**
343 **meeting the Town DPW Standards shall be installed.**
344 **21. Prior to the issuance of a building permit for any lot in the development, NHDES well**
345 **and septic permits shall be issued and provided to the Town.**
346 **22. Prior to the issuance of a building permit for any lot in the development, Driveway**
347 **Permits shall be issued by Stratham DPW.**
348 **Mr. Canada seconded the motion. All voted in favor and the motion passed.**
349

350 **5. Public Hearing (New Business):**
351

- 352 **a. Peter Agrodnia, North Easterly Surveying (Applicant), Lovell Road Trust and Joyce Rowe**
353 **Revocable Trust (Owners) –Request for approval of a Lot Line Revision between 28 Lovell Road,**
354 **Tax Map 22, Lot 77 and 45 Gifford Farm Road, Tax Map 22, Lot 76. The parcels are Zoned**
355 **Manufactured Housing.**
356

357 Mr. Connors explained this request is to adjust a lot line between two properties to allocate
358 approximately 0.1 acre from 28 Lovell Road to 45 Gifford Farm Road. The minimum lot size in
359 the Manufactured Housing Zone is 1 acre and both lots will meet that and the frontage requirement
360 after the adjustment. Waivers were submitted for HISS mapping and soils based lot sizing
361 calculations, topographic mapping, and wetlands mapping.
362

363 Peter Agrodnia spoke on behalf of the Owners. He introduced Kathryn Nichols for 28 Lovell Road
364 and Chris Rowe of 45 Gifford Farm Road. The proposed lot line revision will move the side lot
365 line between the properties approximately 27 feet to the east which will allow a larger buffer along
366 the driveway to 45 Gifford Farm Road for uses like snow storage. There are no proposed
367 improvements involved or any grading which support the waiver requests.
368

369 Mr. House asked Mr. Connors if he thinks the application is complete. Mr. Connors replied yes.
370

371 **Mr. Zaremba made a motion to find the application is complete. Mr. Kunowski seconded the**
372 **motion. All voted in favor and the motion passed.**
373

374 Mr. Allison asked for clarification that 28 Lovell Road will be reduced to the minimum lot size of
375 1 acre. Mr. Agrodnia replied yes and the frontage will remain conforming.
376

377 Mr. Agrodnia presented the waiver requests. He stated that regarding HISS mapping and soil based
378 lot sizing calculations, there are no proposed improvements and no disturbance to the soil, so he
379 does not believe those are relative. He added that he knows that the soils in that area are quite good.
380 Regarding topographic mapping, because there are no proposed improvements he believes that the
381 added cost was unnecessary this project. Regarding wetlands mapping, there are no wetlands on
382 the properties now. There were no comments from the Board on the waivers.
383

384 **Mr. Houghton made a motion to waive the requirement for Section E HISS mapping, Section**
385 **D topographic mapping, and Section K wetlands mapping. Mr. Zaremba seconded the**
386 **motion. All voted in favor and the motion passed.**
387

388 **Mr. Zaremba made a motion to open the public hearing. Mr. Kunowski seconded the motion.**
389 **All voted in favor and the motion passed.** There were no comments from the public.

390
391 **Mr. Zaremba made a motion to close the public hearing. Mr. Kunowski seconded the motion.**
392 **All voted in favor and the motion passed.**

393
394 **Mr. Zaremba made a motion that the Planning Board approve the Lot Line Revision**
395 **application submitted by North Easterly Surveying between 45 Gifford Farm Road (Tax**
396 **Map 22, Lot 76) and 28 Lovell Road (Tax Map 22, Lot 77) as shown on the plans dated April**
397 **15, 2024, subject to the following conditions:**

- 398 **1. The plan shall be revised to incorporate the minor technical comments recommended by**
399 **the Town Planner in the Staff Memo dated May 15, 2024.**
- 400 **2. The surveyor shall submit documentation to the Planning Department that the**
401 **monumentation for the revised lot boundaries has been completed.**
- 402 **3. If approved by the Planning Board, the waiver requests and date of approval shall be**
403 **noted on the plan.**
- 404 **4. Prior to recording, the applicant shall be responsible to provide the Planning Department**
405 **recording fees to be paid to the Rockingham County Registry of Deeds and a \$25**
406 **recording fee to the Town of Stratham.**

407 **Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**
408

- 409 **b. Jonathan Nichols (Applicant and Owner) – Request for approval of a Conditional Use Permit to**
410 **construct a driveway that encroaches into the Wetlands Conservation District at Rear Lovell Road,**
411 **Tax Map 22, Lot 126. The parcel is Zoned Manufactured Housing. The applicant is represented**
412 **by Altus Engineering, 133 Court Street, Portsmouth, NH 03801.**
413

414 Mr. Connors described the project as a landlocked parcel off Lovell Road. In February 2024 the
415 ZBA granted an exception from NH RSA 674:41 which prohibits building on lots without road
416 frontage. The ZBA had six conditions of approval and Mr. Connors recommends a few additional
417 conditions for this application. The Conservation Commission reviewed the project at their
418 meeting on May 7th and voted to add no objection to the proposal. Mr. Connors distributed a memo
419 from the Conservation Commission stating that the only outstanding concern is a note on the plan
420 that the driveway will be paved two years after the certificate of occupancy is issued. From an
421 enforcement perspective it is difficult for the Town to enforce that because by that time the
422 homeowner will be living in the house and the case would need to go to court to enforce it. Mr.
423 Connors recommends that the paving be completed prior to issuance of the certificate of
424 occupancy. The two year allowance was a compromise of the fire department.
425

426 Mr. Canada asked if a bond would suffice for the paving. Mr. Connors agreed that is alternative.
427

428 Eric Weinrieb spoke on behalf of the Applicant. The parcel is a landlocked parcel with an access
429 easement across two parcels from Lovell Road to gain access to the site. There is a very small
430 wetland on the property and along the property line is a large wetland system with very poorly
431 drained soils with a 100-foot buffer that goes significantly into the parcel and through the easement
432 area. There are no other ways to access the areas of the lot that are developable for the house
433 without going through the wetland buffer. The road was designed to follow the grade and it's a
434 fairly steep slope road with a retaining wall. The Applicant's intent was to construct a gravel access
435 road, which they believe is more than adequate for any well-built vehicle. However, the fire
436 department requested that the driveway be paved. Because of the economic hardship for a fairly

437 long driveway, the fire department allowed two years to build it. Mr. Weinrieb agrees that
438 enforcement may be difficult, but there is financial hardship of doing the bond as well and it might
439 be more economically viable for Mr. Nichols to pave it. He asked the board to allow Mr. Nichols
440 the flexibility of paving within two years. In the submission package, Mr. Weinrieb stated that the
441 application provides details on each criteria for the conditional use permit. The goal is to construct
442 a driveway, restore the wetland buffer, and construct the home and septic system outside the buffer
443 zone. Mr. Weinrieb presented an existing conditions survey that was completed by Knight Hill
444 Surveying and described the location of the lot. He described an issue with the lot lines in historic
445 deeds that was worked through legally.

446
447 Mr. Canada asked how long the driveway is. Mr. Weinrieb replied about 400 feet. Mr. House asked
448 if the Applicant has an issue with paving the driveway before the certificate of occupancy. There
449 was a discussion but no response. Mr. Canada asked if the problem with the bond is that it is too
450 expensive. Mr. Weinrieb replied it is hard to get a bond if you aren't a business and it complicates
451 the construction loan. Mr. Canada suggested a contract with the Town and a lien on the property.
452 Mr. Weinrieb replied the bank would not like that. Mr. Canada replied it could be second to the
453 mortgage. Mr. Allison asked how much the driveway will cost. Mike Nichols, father of the
454 Applicant, replied that paving costs about \$40,000. Mr. Weinrieb continued to describe the
455 driveway location.

456
457 **Mr. Zaremba made a motion to accept the application as complete. Mr. Kunowski seconded**
458 **the motion. All voted in favor and the motion passed.**

459
460 Mr. House asked for clarification on the reason for the ZBA approval. Mr. Weinrieb replied that
461 NH RSA prohibits construction of a home on a back lot with no frontage. There is a mechanism
462 for approval through the ZBA and the ZBA granted that right.

463
464 Mr. House asked if the Conservation Commission is okay with the proposal. Mr. Connors replied
465 yes.

466
467 Mr. House asked if the septic reserve is on the plan. Mr. Weinrieb replied it is on a separate septic
468 plan.

469
470 Mr. Houghton had no comments beyond the project's review by the Conservation Commission
471 and the ZBA.

472
473 Mr. House asked where the wetlands conservation district encroachment is exactly. Mr. Weinrieb
474 described the driveway in relation to the buffer zone. Mr. House asked for clarification that is the
475 area subject to the Conditional Use permit application. Mr. Weinrieb replied yes and it is about
476 18,000 square feet.

477
478 Mr. Canada commented that he is not concerned with the driveway being paved as he believes the
479 owner will want to do that as soon as they can. Mr. House believes the driveway paving is
480 important for the winter season with regards to safety vehicles and plowing. Mike Nichols stated
481 that it is not desirable to complete paving during construction, that it should be completed at the
482 end, and the cost is part of the loan package. Mr. Weinrieb stated that the driveway will be built to
483 a condition that will allow fire trucks and construction trucks. It will be a very stable gravel subbase
484 and when construction is complete they will fine grade and pave it. Mr. House asked if they are
485 putting the entire asphalt down at once or a binder course down first then pave it later. Mike

Nichols replied it will be all at once. Mr. Houghton stated that prior to the CO would be at the end and because it is in the loan package, he is okay with that. Mr. House agrees but asked why the Applicant requested more time. Mike Nichols replied it just timing with paving companies. The house could be all done with a well-groomed gravel driveway and they can't move in because the paving company can't do it. Mr. Weinrieb suggested a temporary CO. Mr. Connors replied they can but they might want a bond or guarantee for paving. Mr. Houghton reiterated the concerns with enforceability and he believes the Board should not commit to a plan without some form of protection. Mr. Allison believes that the driveway being part of the construction loan is the next best thing to a guarantee.

Mr. House reviewed the conditional use permit criteria for roads.

The proposed construction is essential to the productive use of land not within the wetland conservation district, and with the upland area considered for development is not smaller in acreage than the wetland buffer area and acreage being impacted.

Mr. Weinrieb stated due to the shape of the lot and the location of the wetland, there are no alternatives to site the driveway. The parcel slopes away from the wetland and the proposal is a driveway greater than approximately 7.5% percent, which traverses the slope moving away from the resources as much as possible. The area outside the buffer is considered for development including the yard, the house, and septic are not within the buffer.

The design and construction methods will be will be such as to minimize detrimental impact upon the wetland.

Mr. Weinrieb stated there are no direct impacts to the adjacent wetland system. Temporary erosion control measures, silt fence barriers, and/or stump grindings will be placed at the toe of the work limits to reduce the potential for transport of sediment into the wetlands. The driveway is graded to minimized site grading with the use of a retaining wall. Disturbed areas between the driveway and the wetlands will be seeded with a wetlands conservation seed mix and will be allowed to naturalize.

The proposed construction design of powerlines, pipelines, or other transmission lines includes provisions for restoration of the site as nearly as possible to its original grade and condition.

Mr. Weinrieb stated the project does not include powerlines with the exception of the electrical service to the residence which will either be overhead or buried in a trench adjacent to the driveway.

No alternative route, which does not cross a wetland or wetland buffer, or has less detrimental impact on the wetland or wetland buffer, is feasible.

Mr. Weinrieb stated the only access to the parcel is through the narrow easement which is adjacent to the wetland system. The driveway could turn north once it reaches the property to avoid some of the buffer impacts. Altus notes that the proposed driveway follows the existing access way. Moving the driveway upslope would require an excessive amount of tree removal and a more invasive site grading design. Following the slope and existing clearing is a reasonable design approach.

Economic advantage alone is not reason for proposed construction.

Mr. Weinrieb stated there are no opportunities to access the lot without impacting the buffer. Thus, economic advantage is not the only reason for the proposed construction. Without the impact, the lot has little to no economic value.

All projects requesting Conditional Use Permits in accordance with Section XI, whether or not a State Wetlands Permit is required, shall submit a narrative outlining best management practices designed to mitigate wetland/wetland buffer impacts such as, but not limited to, low impact development techniques, stormwater design practices, easements or other deed restrictions, or on/off site improvements designed to limit future development of associated project parcels and/or impacts to wetlands or wetland buffers thereon.

Mr. Weinrieb stated the application package includes plans and details on the elements of the low impact design techniques, including maintenance and protection of the wetland buffer. The project includes restoring areas with a conservation seed mix and letting it naturally revegetate and become the natural buffer again. That will act as a filter strip to mitigate erosion down towards the wetland.

Mr. Zaremba made a motion to open public hearing. Mr. Kunowski seconded the motion. All voted in favor and the motion passed. There were no comments from the public.

Mr. Zaremba made a motion to close public hearing. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.

Mr. Weinrieb discussed with the Board an alternative to recording the plan with the Rockingham Registry of Deeds as suggested in the staff memo as the Registry is very difficult with plans.

Mr. Zaremba made am motion that the Planning Board approve the Conditional Use Permit under Sections 11.4 of the Zoning Ordinance for Rear Lovell Road, Tax Map 22, Lot 126, consistent with the plans prepared by Altus Engineering, last revised April 9, 2024 as the Planning Board has determined the application meets the Conditional Use Permit criteria per the Board's deliberations subject to the following conditions:

- 1. Prior to the start of construction, erosion and sediment control measures shall be installed per plan and the applicant shall contact the Planning Department to conduct an inspection prior to the start of construction.**
- 2. Prior to the issuance of a Certificate of Occupancy, the applicant shall contact the Planning Department to conduct an inspection verifying that mitigation measures are installed per plan.**
- 3. A plan or document shall be recorded at the Rockingham County Registry of Deeds that is to the satisfaction of the Planning Department memorializing the conditions placed on the property by the Planning Board at its May 15, 2024 meeting and by the Zoning Board of Adjustment at its February 6, 2024 meeting. The applicant shall be responsible for all recording fees to the Rockingham County Registry of Deed as well as a \$25 recording fee to the Town of Stratham.**
- 4. The plan shall be revised to include a note that the driveway will be paved prior to the issuance of a Certificate of Occupancy.**
- 5. All conditions of the ZBA approval on February 6, 2024 shall remain in full effect.**

Mr. Canada seconded the motion. All voted in favor and the motion passed.

- c. Albany Road-200 Domain LLC (Applicant and Owner) – Request for approval of a Site Plan Amendment associated with a building addition and conversion of an existing industrial building to accommodate multi-tenant industrial uses and a Conditional Use Permit to allow for construction of pedestrian accessways and a driveway that encroaches into the Wetlands Conservation District at 200 Domain Drive, Tax Map 1, Lot 3, Zoned Industrial. The applicant is represented by Tighe & Bond, 177 Corporate Drive, Portsmouth, NH 03801.

Mr. Connors stated the engineer for the applicant submitted a request to postpone the meeting to the June 5, 2024 Planning Board meeting.

Mr. Houghton made a motion to continue the 200 Domain Drive application to the June 5th, 2024 Planning Board meeting. Mr. Zaremba seconded the motion. All voted in favor and the motion passed.

6. Miscellaneous Community Planning Topics

a. Proposed 2025 Zoning Amendment

Mr. Canada stated that the Heritage Commission met on May 14, 2024 and discussed a possible ordinance which would give the Town authority to review demolition and prevent it when it is deemed in the best interest of the Town with respect to architectural and cultural interests. The Town recently passed a zoning change in the cluster zoning which requires existing historic structures to be preserved if feasible. The Heritage Commission would like to extend that requirement town wide. Mr. Canada asked the Board if the proposal is of interest to the Board. He stated that currently the Demolition Review Committee has 60 days to document that a structure will be torn down, but has no power to stop the demolition. Mr. Canada noted that the Board or the residents might not agree, but the Heritage Commission would like to present it for a vote. The Board was generally in favor of the concept.

Mr. Zaremba asked if this currently applies to the Route 33 Heritage District. Mr. Connors replied yes, Planning Board approval is required for demolition in that District.

Mr. Connors suggested to send thoughts on the proposal to the Town's legal counsel to make sure that it is something the Town can enforce. Typically these restrictions are limited to certain districts and not town wide. Mr. Connors suggested it might be trickier to enforce the concept of a date rather than a district.

7. Adjournment

Mr. Canada made a motion to adjourn the meeting at 8:54 pm. Mr. Zaremba seconded the motion. All voted in favor and the motion passed.