



**Stratham Planning Board Meeting Minutes**  
**January 22, 2025**  
**Stratham Municipal Center**  
**Time: 7:00 pm**

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

**Members Absent:** Thomas House, Chair

**Staff Present:** Carol Ogilvie, Interim Town Planner  
Susan Connors, Planning Project Assistant

**1. Call to Order**

Mr. Canada called the meeting to order and took roll call. Mr. Canada appointed Mr. Allison as a voting member for this meeting.

**2. Approval of Minutes**

**a. January 8, 2025**

**Mr. Zaremba made a motion to approve the January 8, 2025 meeting minutes. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**

**3. Public Hearing (Old Business):**

- a.** Copley Properties LLC (Applicant) and Helen E. Gallant Revocable Trust of 1995 (Owner), request for approval of a Subdivision application and Conditional Use Permit for a proposed subdivision of 80 and 80R Winnicutt Road, Tax Map 14, Lots 56 and 57, into a Residential Open Space Cluster Development with 28 single-family residential lots, and five (5) joined-array lots each with four (4) separate single-family units, for a total of 48 units. The parcels are Zoned Residential/Agricultural.

The applicant was represented by Tim Phoenix of Hoefle, Phoenix, Gormley & Roberts and Bruce Scamman of Emanuel Engineering and James Verra & Associates. Mr. Phoenix outlined two requests they have of the Board. The first is that the Board determines that the Preliminary Consultation process completed for this project meets the definition of a Design Review which protects the application against subsequent zoning or regulation changes. The Board agreed. **Mr. Zaremba made a motion that the previous application discussed in June 2024 is considered Design Review. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**

Mr. Phoenix described the applicant's objection to the Planning Staff Memo for this meeting that asserts the application needs to comply with Zoning Ordinance Section 4.3(i). Ms. Ogilvie

respectfully disagreed with Mr. Phoenix and explained that Section 4.2 states that it “shall apply for all lots” unless modified by other sections of this ordinance and Section 8 does not specifically state there is an exemption from dimensional requirements. Mr. Canada added that Section 4.2 also says that the section shall not regulate any Gateway or Town Center Zoning, therefore he believes the section applies to all other zones. Mr. Allison stated that he believes Section 8 stands on its own but not that it is independent from the rest of the ordinance. Mr. Kunowski agrees with Mr. Allison that Section 8 stands alone and he agrees that Section 4.3(i) would apply to development of the initial yield plan. Mr. Phoenix replied that the applicant has provided the squares for the yield plan but believes the requirement does not apply to the final cluster subdivision plan. Mr. Houghton agrees with Mr. Allison and recalls that the development of Section 4.2 was to apply to conventional subdivisions and that cluster subdivisions are guided under Section 8. Ms. Connors stated that the question of the applicability of Section 4.3(i) to the cluster subdivision was raised by staff because there is no other way for the applicant to demonstrate that the final cluster subdivision lots are not irregular if this provision is not applied. She believes that the single-family lots likely meet the requirement and it would only be the array lots in question. Mr. Goddard replied that the spirit of the cluster subdivision is such that the lots will be smaller and there will be higher density to aid the ability to create more protections of open space, wetlands, recreation, and wildlife. He asserts that Section 8 contains no provisions for shape of lots nor has he seen it discussed in past cluster subdivision applications, not that it wouldn’t be worthy for future applications or ordinance amendments, but he does not think it applies to his application under the current ordinance. Mr. Phoenix read the definition of Open Space Cluster Subdivision in Section 8.4.h. and read the definition of joined-array units in Section 8.8.d. and believes they are a modification to Section 4.3(i). Mr. Houghton stated that his recollection of the square is to demonstrate that new lots are buildable. Mr. Canada recalls it slightly different that the reason was to prevent irregular lots. Mr. Phoenix added that the Planning Board can add reasonable conditions to any approval and therefore there is opportunity for the Board to review the final lots before approval to ensure they are reasonably shaped. Mr. Allison stated that he believes the square was required to ensure that lots have a usable yard in addition to space allowed for a well and septic system. Mr. Scamman stated that the array lots are specifically designed in the Ordinance. Mr. Allison asked if Mr. Scamman is asking that the development square not be applicable to the array lots. Mr. Goddard replied he is asking for the exception from all lots. Mr. Phoenix added that it is common for there to be a requirement that lots are not irregular but other towns do not have a physical requirement. He doesn’t see the final lots as irregular. Ms. Ogilvie noted that staff reviewed this interpretation with Town Counsel who opined that Section 8.2 gives the Board authority to review innovations in land planning and that the Board has the authority to waive or modify the request and that the Board can be more lenient or require that Section 4.3 applies to all lots. Mr. Zaremba does not want to commit that the array lots are not concerning, but he doesn’t think the boxes are needed for all the lots. Mr. Phoenix noted that if the Board waives the requirement for this project, it does not bind the board for the next application where it would if the Board determines that Section 4.3 does not apply. Mr. Canada said that is what he is trying to prevent and he stated that lots 30, 31, and 32 are irregular and the box is intended to prevent that. Mr. Zaremba added that he believes they can waive the box requirement and still determine that the lots are irregular. Mr. Goddard believes the array lots look irregular because they are very large. Mr. Houghton believes that in other recent cluster subdivisions the dimensional box was used and he agrees the array homes are unique. Mr. Phoenix read to the Board the purpose of the Cluster Development from the Ordinance and opined that the box does not need to apply to the array lots because of the purpose of the array lots. Mr. Houghton stated that the array lots have not been proposed in the past and he agrees with a waiver to the array lots but would apply the requirement to the single-family lots. Mr. Allison agreed.

94 **Mr. Houghton made a motion to apply a waiver to Section 4.2 and Section 4.3(i) of the Zoning**  
95 **Ordinance to provide flexibility of land use to the array lots on the Copley Properties/Helen**  
96 **Gallant Revocable Trust Site Plan and non-array lots shall conform. Mr. Allison seconded**  
97 **the motion. All voted in favor and the motion passed.**  
98

99 Mr. Scamman presented the yield plan that depicts in different colors, the buildable vs. non-  
100 buildable areas. Mr. Allison commented that the areas include buffers. Mr. Scamman replied that  
101 the Ordinance states non-wetlands which include buffers. Mr. Allison stated that Section 11 of the  
102 Ordinance states that buffers cannot be used for construction or be altered so to that extent,  
103 although they may be uplands, they cannot be constructed in. Mr. Scamman replied that the  
104 Ordinance only requires that the areas be non-wetlands. Ms. Ogilvie asked Ms. Connors to present  
105 the staff comments. Ms. Connors questioned compliance with the minimum contiguous upland  
106 buildable area in Section 8.9.b.i.1 and noted that Town Counsel stated that minimums do not  
107 constitute automatic approval and that the Board can require more. She read the definition of non-  
108 buildable area in Section 8.4 focusing on the phrase land that is restricted by development by  
109 covenant, easement, or other restriction (emphasis added to 'other restriction') and stated that staff  
110 believes the minimum buildable area needs to be demonstrated that it is outside the wetlands  
111 building setback which is currently 50 or 100 feet depending on soil types and if the proposed  
112 wetlands ordinance is passed will be 75 feet and will be applicable to the building permits. Staff  
113 confirmed that with Town Counsel. Mr. Goddard noted that the current discussion is on the yield  
114 plan not the final plan. Mr. Allison believes the yield plan for a cluster subdivision needs to  
115 demonstrate two acres of non-buildable areas and the yield plan presented does not do that. Mr.  
116 Scamman replied that he believes the yield plan needs to show a traditional layout with 30,000  
117 square feet of non-wetlands on the lot and that they have done that and displayed potential houses,  
118 wells, and septic system locations. Mr. Kunowski asked for confirmation from Mr. Scamman as  
119 to which area of the lots are the contiguous non-wetland areas using Lot 21 as an example. Mr.  
120 Scamman confirmed Mr. Kunowski's interpretation. Ms. Ogilvie asked Mr. Scamman if the  
121 30,000 square feet of contiguous non-wetland area depicted on the yield plan includes wetland  
122 setbacks as Section 11.5.1 of the Ordinance states that the contiguous non-wetland area must be  
123 sufficient in size to accommodate all applicable setbacks. Mr. Goddard disagreed with the staff  
124 interpretation. Mr. Allison asked if they will construct in the wetlands buffers. Mr. Scamman  
125 replied no, that all houses and septic systems are outside of those. He believes the Ordinance  
126 requires that the applicant demonstrate that they can build while meeting the setbacks and that it  
127 does not say that the 30,000 square feet does not need to meet the wetlands setbacks because they  
128 are two different sentences. Mr. Kunowski said that he is comfortable with Mr. Scamman's  
129 interpretation. Ms. Connors explained further that staff's interpretation is that the ordinance  
130 requires that a contiguous non-wetland area of 30,000 square feet be provided for each lot and this  
131 (emphasis added) contiguous non-wetland area must be sufficient to meet all applicable setbacks.  
132 Mr. Canada agrees with Mr. Scamman that the key term is non-wetland and that does not include  
133 the buffers. Mr. Zaremba believes it does include the setbacks. Mr. Goddard asserts that the  
134 sentences in the paragraph are intended to be interpreted separately and that the contiguous non-  
135 wetland area only needs to demonstrate that the housing and utilities will be outside of the setbacks.  
136 Mr. Phoenix stated that the staff interpretation could result in a lot that is 60,000 to 90,000 square  
137 feet of upland on a lot. He believes the intent of Section 11.5.1 is to say that a lot must have 30,000  
138 square feet of upland and the construction meets land setbacks and the buffer. He added that if  
139 ordinance language is ambiguous then ambiguity is resolved against the drafter, which is the Town.  
140 Mr. Canada asked if they agree that all structures are subject to the buffers. Mr. Scamman replied  
141 absolutely.  
142

Mr. Canada asked when there will be an engineering review and if the yield plan will be reviewed by engineering. Mr. Phoenix and Ms. Ogilvie agreed it is not standard to have the yield plan reviewed by engineering. Ms. Ogilvie further clarified that the density bonus request will need to be reviewed after approval of the yield plan.

**Mr. Kunowski made a motion to approve the yield plan as presented of 35 lots subject to additional review regarding the density bonuses to be applied. Mr. Zaremba seconded the motion. All voted in favor and the motion passed.**

Mr. Canada asked Ms. Ogilvie to describe the list of density bonuses. Ms. Ogilvie stated the application requests a threshold bonus of 1 lot, a buffer preservation bonus of 2 lots, unique land features of 10% of the base, innovative layout of 10%, and 5% for trail development.

Mr. Scamman presented the bonus requests related to the open space parcel, the unique development to retain the existing farmhouse and barn, the addition of the array clusters for different style homes, and preservation of the front of the development. Mr. Goddard asked if they could explain each bonus individually. He stated that the required minimum Open Space lot percentage is 35% and they are providing more than that and are requesting one bonus lot for that. They are asking for two lots for preserving a buffer at the entrance on Winnicutt Road. Mr. Goddard requests 10% for preservation of unique land and environmental features and/or facilities for the repair and preservation of the existing historic house and barn. He stated that they tried to arrange the road in the subdivision to showcase the home and barn and minimize tree clearing and wetlands impacts throughout the subdivision. The wetlands impacts are only 3,000 square feet total which is minimal with regards to the amount of wetlands on the property. He proposes to preserve the on-site pond and provide an access easement for public recreation. A no-cut buffer is proposed along Spring Creek to preserve the wildlife corridor. Mr. Goddard said regarding the house and barn he would like to preserve and renovate it with input from the Heritage Commission. He anticipates the renovation could cost hundreds of thousands if not close to 1 million dollars and therefore is asking for the maximum bonus. Mr. Canada stated that it is wonderful the amount of money Mr. Goddard is willing to invest in the house and the barn and asked if he is willing to put a preservation easement on the structures, so they don't get changed. Mr. Goddard replied that he does not want to fully commit to that right now and he would like to get through the next density bonus to see where he is with bonuses. He added yes, it is on the table, and as long as he is satisfied with the overall project, then he will be willing to provide the easement. He stated that typically those easements are provided at a compensation and he is not requesting compensation but as long as he gets through the density bonuses tonight in a way that satisfies his project objectives, he would be agreeable to provide the easement. Mr. Canada stated he will ask the question again later. Mr. Goddard continued with the bonus requests. Regarding innovative layout, he believes he has harnessed the village layout as best as he can in a rural setting with diversification in housing type, lot sizes, house sizes, and bedroom sizes. He stated that a large portion of the open space will be useable and enjoyable for public access. He believes the pond will serve as a meeting and green space with public parking spaces. Regarding the layout, they have been conscious of limiting wetlands crossing. Mr. Goddard is asking for a 5% bonus for trail development and has spoken with the Parks and Rec Department, but he does not anticipate having a proposed trail network designed even within a month but commits to providing easements to the Town for trail connectivity. He thinks the value of the trail density bonus isn't necessarily related to what he creates today for a trail, but what's in the future. Mr. Goddard stated that if the Board grants his request on each item, he will not maximize it, he ultimately is looking for enough bonuses to get to 39.5 lots. Mr. Scamman described the bedroom calculations at the bottom of plan sheet C3

derived from the Subdivision Regulations section 4.6.7. Mr. Goddard provided the example that a 2-bedroom home is worth 0.65 lots. Mr. Scamman continued that a 3-bedroom home is worth 0.85 lots and a 4-bedroom home is one lot. They propose 20 2-bedroom homes, 10 3-bedroom homes, and 18 4-bedroom homes. The 20 2-bedroom homes is equivalent to 13 lots; the 10 3-bedroom homes is equivalent to 8.5 lots; and the 18 4-bedroom homes is equal to 18 lots for a total of 39.5 lots. The yield plan has 35 lots so they are seeking enough bonuses for 39.5 lots and they believe they submitted justification for enough bonuses to achieve 46 lots. Mr. Kunowski stated that the Ordinance allows for bonuses for lots or units and questioned if the Board authorized the maximum density of 46 units, he questions why the plans show 48 units. Mr. Scamman believes the term unit in the ordinance translates to Section 4.6.7 of the regulations where a 4-bedroom unit is equal to 1 and a 3-bedroom unit is equal to 0.85. Mr. Goddard added in response to Mr. Kunowski that the density section in the ordinance states that the maximum number of bonuses cannot exceed 50% of the yield plan so for this project would be  $(35 / 2) + 35 = 52$  lots. The lots and/or units combined cannot exceed 52 and he is only requesting 48 units and therefore below the threshold. Mr. Goddard suggested that instead of the Board detailing individually how many percentage points are approved for each category, that instead the Board consider that the overall discussion of all bonuses, he has applied a lot of the attributes that are mentioned and ultimately, he is approved for a lot yield of 40 lots. Mr. Canada asked Ms. Ogilvie if the Board can do that. Ms. Ogilvie replied that the Board does not need to itemize the bonuses, but the Board should review each request individually and agree that they meet the individual intent of the bonuses. Mr. Houghton asked for clarification from the Applicant that they are asking for 39 lots and 48 units. Mr. Goddard replied he is rounding up to 40. Mr. Houghton does not think he can round up. Ms. Ogilvie agreed. Mr. Zaremba asked questions to clarify lots vs. units. Mr. Goddard stated that he does not think he can get 48 units if it is calculated using 39 lots because of the bedroom calculations, that he needs 40 lots. He added that he could ask for 46 lots and not utilize all of them. Mr. Scamman noted that Section 8.11.b.2.viii allows rounding up where the final number is greater than 0.5. Mr. Canada called for a board discussion on bonuses. He asked the Board if they agree the applicant is approved for the Open Space bonus. There was no objection. Mr. Canada asked the Board if they agree that the applicant is approved for 2 lots for buffer preservation along Winnicutt Road. Mr. Kunowski asked for a description of the general dimension of the buffer space on either side of the roadway. Mr. Scamman replied it is 400 feet long and 200 feet wide. Mr. Zaremba asked if it is one lot or two lots and asked if Lot 11 goes all the way to Winnicutt Road. Mr. Scamman replied correct and explained that there is limited visibility into the development past the first wetlands crossing into the development. Mr. Zaremba asked how large the front open space lot is. Mr. Scamman replied about 2 acres. There was no objection from the Board on this bonus. Mr. Canada asked the Board if they agree with the preservation of unique land and environmental features. There was no objection from the Board on this bonus. Mr. Canada asked the Board if they agree with the innovative layout and design bonus request. Mr. Zaremba took exception to granting that bonus. He stated that he doesn't see a village on the plan, he sees increased density and he would expect to see sidewalks in a walkable village. Mr. Houghton also does not see features relative to common land and recreational opportunities and gathering spots for that particular density bonus. Mr. Canada thinks the pond and trails and different styled homes and grouping of homes answers the bonus partially but not to the full extent. Mr. Kunowski thinks it meets some of the criteria but not all of it. He agrees there is a park/open space area, he is not sure that the view of the house meets the community viewshed, there is no protected farm activity, and the trail system could be a recreational opportunity, but that is not existent. Mr. Allison had no comments. Mr. Canada asked the Board if they agree with the recreation and public access bonus. He doesn't think the trails are deserving because they haven't been developed. Mr. Houghton agreed. Mr. Goddard summarized the calculation so far. They have 35 lots, he is asking for 1 lot for the Open Space, 2 lots for one

lot protected along Winnicutt Road, and 10% for preservation of the home (3 lots) which would result in 41 lots. Mr. Goddard continued that they can leave it there or he can add an exterior preservation easement on the house and barn to work with the Heritage Commission and he can add access easements for future trails to coordinate with Parks and Recreation and the Trail Advisory Committee, but request no bonuses for the trails. Mr. Canada replied that he sees a couple of points off for two of the items and but they seem well below what the maximum would be. Mr. Canada called for a motion regarding 40 lots. Ms. Connors requested that before that motion is made, can the Board clarify that in the Ordinance where bonuses are discussed, that 'lot' refers to 'parcels' and 'units' refers to 'structures'. Mr. Houghton replied that is what he tried to question at the start of this conversation. Ms. Connors explained her interpretation of the Ordinance with respect to this project, that a yield plan of 35 lots results in a potential maximum of 52 lots or units. She does not understand why the application is seeking approval for 40 lots if only 35 lots are presented on the plan. Mr. Goddard replied that the yield plan shows 35 lots but for density bonuses he is asking for 40. Ms. Connors stated the yield plan shows 35 lots and the final subdivision plan shows the same so she doesn't understand why bonuses are needed. Mr. Goddard replied that the density bonuses are the lots, but regarding the number of units allowed in the subdivision regulations at section 4.6.7, he cannot exceed the yield plan plus 50% which is 52 lots or units. He stated that he is not exceeding that number in either lots or units. He agrees the calculation is confusing and believes the essence of the ordinance of why it states that two-bedroom units are worth 0.65, is because if a two-bedroom unit was worth the same as a four-bedroom unit, it would force a developer to only build four-bedroom units. So, it allows an open space plan to be innovative and create unique parcels and smaller lots. It incentivizes a developer to construct two-bedroom units. Mr. Goddard stated that this plan cannot exceed 52 units or lots and they are requesting only 48 units and 33 lots. Mr. Scamman added that there are less lots on the cluster subdivision plan than on the yield plan. Mr. Canada asked for confirmation that they are seeking 5 bonus lots. Mr. Goddard replied correct.

Mr. Houghton stated that he is struggling with how the plan meets the Open Space criteria. Mr. Scamman replied there is open space around the entire development. Mr. Houghton clarified that the open space should be usable and read from the Section 4.6.6 of the Regulations: "Useable Open Space shall be reasonably available for recreational use by residents of the subdivision. General Public Use may be considered, which shall not be required. The usability criteria are necessitated by the subdivision where land is to be developed in a manner that will result in a significant number of people forming a community on the land, adequate recreational space is a necessity". He stated that the regulations continue to state that a minimum of 25% of total required open space land must be usable uplands and reasonably available for recreational purposes, provided, however, that no more than 50% shall be utilized for such purpose in order to preserve a reasonable portion of natural area on the site. He stated the regulations continue to describe ski trails, tennis facilities, swimming pools, playgrounds, off-road bicycles, horseback riding, etc. In his opinion, he does not see that useable space provided. Mr. Goddard explained that 75% of the open space will be upland, usable, walkable and there will be parking spaces with access easements to the open space that is accessible not just to the residents of the community or that park there, but to residents of nearby neighborhoods. He stated that walking trails are not necessarily needed, that there are a lot of people that just like to go for a nature walk, so the essence of having the access and usability of that it is the one bonus. Mr. Houghton asked where the access is. Mr. Goddard identified the location of public parking spaces and stated they can access the pond for recreation and there will be access easement to the open space that goes around the entire perimeter. Mr. Houghton asked if that's where all the trails will be. Mr. Goddard replied that they are not showing any trails at this point and he doesn't think he needs to request a density bonus for the trails, but he is willing to

provide a trail easement to the Town for the creation of trails in perpetuity. Mr. Houghton understands not requesting a trail bonus, but his comment is a point of discussion for the plan review because the cluster subdivision regulations require that trail systems and recreation areas be developed, and that's not an easement. Mr. Goddard replied that the easement is if the Trail Committee determines in the future they need an additional trail, they would have the authority to create that trail and this parcel won't be a blockade.

Mr. Canada summarized that the request is for 40 lots including 5 bonus lots to build 48 structures with a trail easement to be given to the Town throughout the entire open land and to put a preservation easement on the exterior of the house and barn. The Board discussed the details of bonus itemization and Mr. Canada summarized the following: 2 bonuses for the preservation of each potential frontage lot as open space and up to 3.5 bonuses for unique land and environmental features allows for 5 bonuses. **Mr. Canada made a motion to approve that. Mr. Kunowski seconded the motion. All voted in favor and the motion passed.**

Mr. Kunowski asked if the project will receive engineering review by the Town. Mr. Canada replied yes. Mr. Goddard stated that they have received comments from Stratham DPW that they are addressing and they will continue to work with the Fire Chief and he acknowledges that the project needs to go to third party fire protection engineering review. Mr. Goddard asks if there is anything needed from the Board's perspective on the site plan. Mr. Kunowski asked for the plans to be more readable and clear with regards to the various areas – open space, individual lots, etc. Ms. Ogilvie asked the Board about the public comment regarding a traffic study. Mr. Canada replied that would be a matter for DOT. Ms. Ogilvie replied DOT won't perform a study. Mr. Scamman added that DOT will require it if they think it is necessary. Mr. Kunowski asked about Conservation Commission review. Mr. Scamman replied they will present the project to the Conservation Commission when they apply for the wetlands permits. Ms. Ogilvie added that staff have received estimates for engineering review of \$4,000 for the general review and \$2,200 for the fire protection review. Ms. Connors clarified that the first engineering review is just for the application and that a second escrow will be needed for on-site inspections.

Mr. Canada asked if anyone from the public wanted to speak. There were no comments from the audience.

There was a discussion as to whether the plans are ready for third-party review. It was determined that the plan presentation would continue at the February 5<sup>th</sup> meeting prior to sending the plans out for the general engineering review. Ms. Connors asked Mr. Goddard if they want to initiate the conceptual plan of the fire protection review. Mr. Goddard replied that is fine as he does not expect many changes on what has been submitted. Mr. Canada summarized that the plan is for the Applicant to return on February 5 with semi-finished plans and for the Board to review them to determine if they are ready for third-party review. Mr. Goddard agreed.

Mr. Canada made a motion to continue the public hearing to February 5, 2025. Mr. Zaremba seconded the motion. All voted in favor and the motion passed.

#### 4. Adjournment

**A motion was made and seconded to adjourn the meeting at 9:23 pm. All voted in favor and the motion passed.**