



Stratham Planning Board Meeting Minutes
December 6, 2023
Stratham Municipal Center
Time: 7:00 pm

Members Present: Thomas House, Chair
Mike Houghton, Select Board's Representative
David Canada, Vice Chair
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 7:01 pm and took roll call.

2. Approval of Minutes

a. November 1, 2023

Mr. Zaremba made a motion to approve the November 1, 2023 meeting minutes. Mr. Kunowski seconded the motion. All voted in favor and the motion was approved.

b. November 15, 2023

Mr. House requested a correction to strike the sentence in Call to Order/Roll Call appointing Mr. Allison as a voting member as it is a carry-over from the previous meeting minutes. **Mr. Zaremba made a motion to approve the meeting minutes from November 15, 2023 with the aforementioned change. Mr. Kunowski seconded the motion. All voted in favor and the motion was approved.**

3. Public Meeting:

- a. Chinburg Properties, Inc. (Applicant), Lanzillo Irrevocable Trust (Owner) - Request for a Preliminary Consultation of a proposed subdivision of 189 Bunker Hill Avenue, Tax Map 6, Lot 167, into six buildable lots served by a new road. The parcel is Zoned Residential/Agricultural. Application submitted by Beals Associates PLLC, 70 Portsmouth Avenue, Stratham, NH 03885.**

Mr. Connors introduced the project. This is a preliminary application so the Board will not take any action tonight. The discussion is non-binding. Subject to recent changes in the land use

regulations, the abutters were notified of the application. Mr. Connors recommended to the Board that even though this is not a public hearing, they open the discussion for public comment. This is a conventional subdivision with minimum two acres and will need to meet frontage requirements. The plan is straight forward but it is not a fully engineered plan so it is unknown if any waivers are required. The road will be built to town specifications in order to be accepted as a public road.

Mr. House invited the Applicant to speak. Justin Pasay, an attorney with DTC Lawyers, spoke on behalf of the Applicant. Mr. Pasay introduced Christian Smith with Beals Associates; Ken and Betty Lanzillo, Trustees of the Trust that owns the property; and members of the Gove Real Estate Group particularly Alexx Monastiero. They are presenting a design review for an internally vetted six lot subdivision. The Applicant is working with abutters to the property at 193 Bunker Hill Avenue which is owned by the sister of Betty Lanzillo. That process has been collaborative and productive and has yielded some alterations to the plan to include a relocation of the proposed right of way into the subdivision to accommodate more of a buffer. It has also spurred the hiring of Jeff Hyland of Ironwood Landscape Architecture to look at not only the landscaping for the proposed subdivision but to also look at the existing landscaping and the greater preservation of landscaping. The team has considered other uses of the properties including duplexes, but ultimately decided on the six-lot single family subdivision.

Mr. Smith presented the plan. He stated that they have not yet completed a full boundary or topographic survey. However, they have completed witnessed test pits for septic systems and potential drainage areas with Mike Cuomo from Rockingham County Conservation District. Gove Environmental has done a sweep of property for wetlands and determined there are no wetlands, but they have not completed the site specific or high intensity soils mapping. The property is approximately 14 acres and is in the Residential-Agricultural Zone. There will be approximately 820 linear feet of roadway with a 60-foot right of way and the required 88-foot right of way radius on the cul-de-sac. No wetlands impacts are proposed. They expect to need State subdivision approval and an NHDOT driveway permit but no other State approvals are anticipated to be required. Mr. Smith welcomes input from the Board on the design.

Mr. Houghton asked if any waivers are contemplated. Mr. Smith replied not at this time.

Mr. House suggested that the Applicant touch base with the police and fire departments specifically regarding the cul-de-sac. Mr. Smith agreed and expects that a fire cistern will be required. Mr. House added that septic systems will need to be located for the next plan. Mr. Smith replied that wells, septic systems, driveway cuts, etc. will be added when they receive the field located test pits from the surveyor. Mr. House asked if there will be shared septic systems. Mr. Smith replied no, there will be one for each lot and they will have a full existing conditions plan. Mr. Houghton asked for Mr. Smith to describe the location of the existing home. Mr. Smith described it is as towards the northwesterly corner.

Mr. Allison commented that the proposed lots are displayed to the hundredth of an acre and without a survey they don't really know what they have. Mr. Smith agreed and replied they did the best they could with publicly available boundary information. Mr. Allison commented that the lots are odd shaped but he understands why (to utilize the property to its maximum extent), but in the process of doing that, looking at the first lot, it has considerably less usable space than the other lots. He asked what are the squares depicted within the lot lines on the plan as some appear to be within the setbacks. Mr. Smith replied that the Ordinance requires a 150-foot by 150-foot square for planning purposes be fitted on each lot and does not state that it has to meet building setbacks.

Mr. Allison repeated his comment that the first lot still appears to have substantially less usable property. Mr. Smith appreciates the comment and there was a previous iteration where the road was tucked up against that property line and would have eliminated a feature described by Mr. Allison however in meetings with the abutter and what might be best for site distance, etc., they gave a 50-foot buffer to that lot. Mr. Smith believes there is still a very good building envelope for that parcel. Mr. Allison commented that the road design includes two reverse curves very close together and for safety and sight he thinks it would be better to straighten them out. Mr. Smith replied that might come to fruition once they have a boundary survey. Mr. Allison asked what the seasonal high water table at the property is. Mr. Smith replied 18 inches to 3 feet and they will all be mounded systems. Mr. Allison asked if that will require a good amount of material to be trucked in. Mr. Smith replied doubtful. He thinks the soil is fairly good and he believes there will be plenty of excavated material from the road construction. There may be some import but they will use as much as they can from onsite. Mr. Allison asked if the septic systems will be gravity. Mr. Smith replied that's the plan. Mr. Allison commented that with regards to cover, if a bed is 2 feet above the surface and it has to go uphill to the house, then that will require quite a bit of fill. Mr. Smith agreed that it could.

Mr. House asked if sidewalks are proposed. Mr. Smith replied that they have not considered that as there are no sidewalks on Bunker Hill Avenue and that area would be for drainage swales and 4 foot gravel shoulders. Mr. House commented that there is about a 16-foot drop from the existing house to the back and stormwater will need to be addressed. Mr. Smith replied that the grade benefits the project as they can collect it all in one place. He added they expect to have two or three BMPs for stormwater. Mr. House added snow removal needs to be addressed in the next plan.

Mr. House asked Mr. Connors if the Board needs to formally open the meeting to the public to hear the neighbors. Mr. Connors replied a vote is not needed.

Mr. House asked if any members of the public would like to speak.

George Philbrick of 188 Bunker Hill Ave spoke. He has a major concern with any water coming towards his property as he is downhill from the parcel. When Rollins Farm was constructed he did not expect to see any impact to his property but it has affected the water table. The pond that receives runoff from Rollins Hill also receives runoff from his property along with another abutter. The pond is a problem due to beaver dams and that problem is complicated because the pond is in Stratham and the beaver dam is either on the town line or in North Hampton. This is a major concern to himself and one other abutter. Mr. House replied that a lot of the slope is to the rear of the property and they are aware that they have to meet the regulations for stormwater. Mr. Philbrick commented that there were recent tax increases this year due to the schools and this development will bring more of it. He also said there used to be a dangerous passing lane on the Bunker Hill Ave that was addressed years ago but people still pass there. Mr. House asked Mr. Smith to insure they have proper sight line when they complete the plan. Mr. Smith replied of course and that NH DOT will also review it and require 400 feet and may require deceleration lanes for vehicles heading north. Mr. Philbrick's last statement is that wetlands should not be considered, but if there is no water coming his way, he understands that.

John Stevens of 195 Bunker Hill Avenue spoke. He owns about 15 acres next to the property and is concerned with the potential decreased value of his property because of the loss of privacy. Currently there are about 200 feet of trees that block his home from the existing home. There is also an animal trail for deer, turkey, foxes, and coyotes that he is concerned will be affected by Lot

143 3. He also has concerns with his property value due to loss of privacy. He thinks the subdivision
144 looks crowded. Mr. House replied that the proposal meets the two-acre minimum lot size. Mr.
145 Stevens replied that there is no space other than the lots and driving down Bunker Hill Avenue,
146 other recent places are wide open with lots of trees. It changes what he has been used to for 20
147 years in Stratham. He is concerned that he only heard about this project three days ago and believes
148 he needs to hire a lawyer, an engineer, and a real estate agent to find out what the impact will be
149 on his property and he needs time to assess that and he doesn't know when the next meeting will
150 be. Mr. House replied the next meeting will depend on the Applicant's schedule and that abutters
151 will be notified two weeks ahead of the meeting. Mr. Connors added that abutters will be sent
152 notices by certified and regular mail. Mr. Stevens complained about mail delivery in Stratham. Mr.
153 Canada replied it will also be posted on the website. Mr. Stevens replied that he will stay in touch
154 but he asked when the Applicant thinks they will be ready. Mr. Smith replied they don't know
155 when the survey will be completed and once that is done they need to complete soils mapping so
156 he cannot predict when the subdivision application will be submitted. Mr. Stevens asked if they
157 know what the target price per home will be, basically will it lower or raise the value of the
158 neighborhood. Mr. House said that question is not in the purview of the Board but requested that
159 the Applicant review the wildlife comment. Mr. House asked if the property is currently wooded.
160 Mr. Smith replied most of the property is open field. Mr. Stevens corrected that the majority of lot
161 3 is wooded. Mr. Smith replied that he will include the existing tree line on the existing conditions
162 plan.

163
164 David Ward of 6 Wedgewood Drive voiced concerns with drainage from the development towards
165 his property. He pointed out on a map significant wet areas in the spring after snowmelt and
166 rainfall. He commented that mounding septic systems could block the drainage. He requested
167 assurance that there will be no interference with the drainage from Wedgewood Drive and Hersey
168 Lane.

169
170 Donna Grant of 194 Bunker Hill Avenue voiced concerns with current drainage from 189 Bunker
171 Hill Avenue onto her property. Currently there is a culvert under the road onto her property. When
172 it rains her front yard is flooded and that water floods her back yard as well.

173
174 Jeff Sonneborn of 4 Wedgewood Drive shares similar concerns with drainage and added that the
175 area of his property that abuts 189 Bunker Hill Avenue is very wet. He added that he has about 15
176 feet of trees on his property, then a stone wall, and many more trees in the subject property. He
177 has seen in some developments a guarantee that a tree buffer be maintained on the property to be
178 developed.

179
180 Dori Wiggin, of 179 Bunker Hill Avenue, asked for a representative to point out on the plan where
181 the new road will go in relation to the existing driveway. Mr. Smith pointed to an approximate
182 location. Ms. Wiggin asked for confirmation that they are not using the existing driveway. Mr.
183 Smith replied correct and that he does not think there is adequate sight distance for the existing
184 driveway. Ms. Wiggin asked the scale of the plan. Mr. Smith replied one inch is equal to 60 feet.
185 Ms. Wiggin asked what the size of the houses is. Mr. Smith replied he does not know but he
186 suspects they will be three and four bedroom homes. He added he has not seen any architectural
187 drawings and this is very preliminary. Ms. Wiggin asked if there have been any pre-application
188 meetings with the State for Alteration of Terrain, etc. Mr. Smith replied it will not need an
189 Alteration of Terrain permit.

190
191 Jim Melfie of 6 Hersey Lane voiced concerns with drainage and if septic systems are above the

ground then a lot of dirt will be brought in to raise the elevation of the property resulting in a lot of drainage towards his property from the development. He pointed to the plan certain areas that are very wet in the spring and where it currently drains. He asked if people will construct fences and if there will be actual lot lines. Mr. Connors replied that fences require building permits and that they are usually allowed on individual properties. Mr. Melfie asked if the septic systems will be in the front or back yards. Mr. Smith replied that it is too early to determine that. Mr. Melfie replied that the further they are put from the boundary lines, the better the abutters will like it. He added that water always flows downhill. He asked for clarification on some of the boundary lines and asked if the project could add more like in Rollins Farm where they added 30 or 40 housing units where there was supposed to be six. Mr. House replied there will not be 30 houses on this property.

Michael Cole of 10 Wedgewood Drive asked if the 150-foot boxes on the plan are showing where the houses will go. Mr. House replied no that is to show that the lot is buildable; it does not show that a house or septic system will go there, it just means that the lot is large enough to fit that size box. Mr. Cole replied that he has concerns with water on the boundary for Lot 3. He added that's a long skinny lot and he asked where the house will be roughly on that lot. He asked if those are the final lot lines. Mr. Smith replied they could change based on what the final survey shows. Mr. Cole requested that through routes for wildlife be preserved.

George Philbrick of 188 Bunker Hill Avenue commented that the road is proposed to come out directly across from his house. In addition to the road concerns with speed, traffic, and two curves, he has concerns with headlights coming into his property. Mr. House replied that the Planning Board will review that as part of the formal application.

Rick Chellman of TND Engineering spoke on behalf of Leah Gray of 181 Bunker Hill Avenue. He stated they will reserve comments until there is more information but they have already met with the Applicant who has been very cooperative and they look forward to having additional meetings with them. There are some mature trees around the property that Ms. Gray would like to have preserved and they will work with the Applicant on that request.

Mr. Stevens provided one additional comment that all of the neighbors have problems with left turns from Bunker Hill Avenue onto Portsmouth Avenue and wondered if the Applicant could be induced to help with that. Mr. Connors replied that a traffic signal at that intersection is in the NHDOT 10-Year Plan and is slated for construction in 2027.

Mr. Houghton reminded the Applicant that the road name will need approval from the Select Board. Mr. Smith understands and added that after that he assumes it will go to the 911 Committee for addressing.

Mr. Stevens added it would be helpful for the site plan to be superimposed over Google Earth so the tree line is visible.

Mr. House stated this is not the last time the Planning Board will review this project and that the public is welcome to come back when the Applicant submits a formal application. Mr. Connors described the public notice process.

There were no additional comments from the Board members.

241 **4. Public Hearing:**

- 242
- 243 a. Sousa Signs, LLC (Applicant), NP Stratham, LLC (Owner), 20 Portsmouth Avenue, Stratham,
- 244 NH, Tax Map 4 Lot 14, Zoned Gateway Commercial Business District - Request for approval of
- 245 a Conditional Use Permit (CUP) under Section 7, Signs, to permit a backlit halo-style illuminated
- 246 building-mounted sign at the site.
- 247

248 Mr. Houghton recused himself from the Board due to a relationship with the Applicant. Mr. House

249 appointed Mr. Allison as a voting member for this application.

250

251 Jason Gagnon of Sousa Signs introduced himself and Melissa Fawcett from Pet Supplies Plus

252 (PSP) and presented the application. They are requesting approval of a CUP with a lighting system

253 that typically falls into a grey area when it comes to this illumination method. The new sign

254 ordinance passed this year relies heavily on external illumination with down lighting systems and

255 calls out that backlit signage is prohibited. Mr. Gagnon continued that this is where an

256 interpretation of halo lighting as internally or externally illuminated is debated. He has been

257 working with municipalities all over New England for 18 years and the label for this type of

258 lighting has never been determined one way or the other. Traditional downtown zoned properties

259 rely heavily on a down lighting system for aesthetics, but halo illumination has been accepted as

260 an alternative lighting condition for those districts. As Pet Supplies Plus lies in a commercialized

261 zoning district, having a sign that is both legible and viewable from a distance is extremely

262 important for them. One of the main challenges with down lighting is that a store front has a limited

263 area for the sign and as a result, the business may need to reduce the size of their sign in order to

264 have room for exterior lighting. Additionally down lighting can cast some shadows that makes the

265 sign more difficult to read from a distance. The store front for PSP is about 275 feet from the road

266 with additional buildings between the road and PSP. Having a sign that is visible that can be read

267 from a far distance is needed. Halo illumination will allow the size to remain as one that is allowed

268 by code and will also give the sign's night view a cleaner and more uniform lighting source. Halo

269 lighting helps control light pollution which can be an issue with internal illumination. One benefit

270 of halo lighting is that the amount of light that comes out from behind the letters is dictated by how

271 far the letters are installed out from the wall; typically that is between three-quarters of an inch to

272 two inches. In conclusion, they are only seeking approval of the lighting style. The size of the sign

273 will remain within code as well as the time of illumination. Mr. Gagnon brought a sample sign and

274 provided a demonstration.

275

276 Mr. House asked Mr. Connors if he wanted to add anything. Mr. Connors confirmed that the matter

277 before the board is to allow back lighting and that the size is compliant with the Town regulations.

278

279 Mr. Gagnon proceeded with his demonstration and added that there is a sign permit approved for

280 a non-illuminated letter set. However, with this sign set back so far in the strip mall and with the

281 surrounding signs being internally illuminated, having a down lit lighting system will cause the

282 sign to "stand out" (in a bad way) and will be hard for their sign to be distinguished amongst the

283 other existing, internally illuminated signs. Internal illumination has the best visibility, but halo

284 illumination has very good visibility and it does bring class to the district. Mr. Gagnon described

285 the details of the sample product he brought for demonstration and the details of the proposed PSP

286 sign.

287

288 Mr. House asked if there is any light coming through the letters. Mr. Gagnon replied no. Mr. House

289 asked for confirmation that the sign is white during the day time. Mr. Gagnon confirmed it is a

solid aluminum fabricated letter and no light ever penetrates through. Mr. Gagnon turned on the sample product and explained that the sample has more LED lights than typical.

Mr. Zaremba asked Mr. Gagnon to explain how they determine how far from the wall a sign will be installed. Mr. Gagnon replied that at night only the light around the letters is visible and the sign should not be too far from the wall in order to achieve a soft glow and defined light around the letters.

Mr. House commented that the application states the sign will be 1.5 inches off the wall and if they want to get closer to the wall they will need to revise the documents. Mr. Gagnon understands.

Mr. Connors asked if the letters will look black when illuminated. Mr. Gagnon replied yes, it is supposed to, but with the parking lot lights they might get some overcast.

Mr. Zaremba asked if gooseneck lighting could be installed above the sign. Mr. Gagnon replied that if goosenecks were used, they would have to install the sign lower and then the area available for the sign would be smaller. Mr. Zaremba asked for confirmation that basically due to the existing construction of the building, it doesn't bode well for down lighting. Mr. Gagnon replied correct.

Mr. Allison commented that the proposal is almost like a downward fixture and there is no leakage through the letters and that all of the light seems to cast onto the front of the building similar to a downward facing fixture. He is not endorsing it, just commenting on how it seems to operate, that it is not lit from within with the letters shining towards the road. The problem he has with it is that it is a new requirement in town and when the Board makes exceptions then that can escalate. He acknowledges that it does have something in common with downward lighting.

Mr. Kunowski asked if the Loyal Companion sign under the banner was internally illuminated. Mr. Gagnon replied yes and his understanding is the new code was adopted in April and the Planet Fitness has up-lighting for that unit and is one of the only non-internally illuminated signs on that building. Mr. Canada asked if up-lighting is allowed. Mr. House replied that is must be pre-existing non-forming and that the light does not really shine up the Planet Fitness sign, maybe just the bottom few inches. Ms. Fawcett added that at night it is very difficult to see the Planet Fitness sign.

Mr. House asked what the hexagons are representing in the sign package. Mr. Gagnon replied that Blair is the designer for the sign package and Sousa signs is the local contractor working on permitting and installation. The first page is the standard corporate branding and colors for Pet Supplies Plus. Mr. Zaremba asked for confirmation that they are only using white and bronze and not green. Mr. Sousa replied correct.

Mr. Allison asked if there is a sign for the shopping center that will also have PSP listed. Mr. Gagnon replied yes. Ms. Fawcett added that it is poorly operating and very dimly lit. Mr. Allison asked what the hours of operation are. Ms. Fawcett replied 9:00 am to 7:00 pm with hopes of expanding as they grow the business. This time of year when it gets dark around 4:00 pm they had customers coming in saying they had no idea the business was open so sign recognition makes a difference. In comparison they just had their Portland Maine sign installed six weeks ago and they saw a 5% increase in sales. They know that won't happen in every market but brand recognition is important. Mr. Allison commented that there would be a sign with downward lighting, it just wouldn't be where they would want it to be. Mr. Gagnon added that the size of the sign would also be reduced.

Mr. Canada commented that he agrees with Mr. Allison that he is hesitant to start exempting what they now require. One thing that speaks in their favor is that other business have illuminated signs and the previous sign was illuminated. He asked Mr. Connors why this sign isn't considered pre-existing, non-conforming. Mr. Connors replied that new signs even at the same location have to meet the new requirements. Mr. Canada asked why this is a CUP application and not an application for the Zoning Board of Adjustment (ZBA). Mr. Connors replied that as part of the sign ordinance overhaul, a CUP application is required for relief from the ordinance; the former process required a variance.

Mr. House commented that the application package should have included a letter from the owner of the property stating the Applicant has approval to represent the property owner in the application and he doesn't see a letter. Ms. Fawcett replied she is the representative of the franchise. Mr. House replied that she is not the property owner. Mr. Gagnon stated there was a letter in the package. Mr. Connors stated that the property owner signed the application.

Mr. House asked Mr. Connors if he thought the application was complete. Mr. Connors replied yes. Mr. House asked for a motion to accept the application as complete. **Mr. Zaremba made a motion to accept the application as complete. Mr. Kunowski seconded the motion. All voted in favor and the motion was approved.**

Mr. House asked for any more comments from the Board. Mr. Zaremba asked Mr. Connors if the CUP process for signs can include internal illumination. Mr. Connors replied yes and there has to be a relief mechanism so for signs it is to the Planning Board instead of the ZBA.

Mr. Zaremba made a motion to open the hearing to the public. Mr. Kunowski seconded the motion. All voted in favor and the motion was approved.

Mr. House noted there are no members of the public present other than Mr. Houghton who recused himself and had no comments.

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

Mr. House read aloud each of the CUP criteria from the application and Mr. Gagnon read aloud each of the application responses. Mr. House requested comments from the Board regarding the application meeting the criteria.

Mr. Kunowski commented that he doesn't want to create an undue hardship for the Applicant given the existing conditions of the shopping center. That essentially this Applicant is being held to a higher standard than the existing tenants. He added if this was new construction from the ground up, he would not feel the same way and he thinks in those cases, the sign ordinance would need to be complied with.

Mr. Allison commented that this option is almost like a downward facing fixture in that it is lighting up the face of the building. He still has concerns that if approved, it opens the flood gates for additional applications, but he understands how this can be a hardship for this application, especially considering the other existing signs on the building. He doesn't have a problem approving it but believes it could be problematic for the Board long term. He added that in his opinion, if they comply with the new ordinance and had to move the sign down or shrink the letters,

they would still have reasonable exposure at night. Mr. Zaremba agreed it is a slippery slope to grant an exemption, but they have to start somewhere any time the Town changes a requirement. He added that the Board spent a lot of time on the new ordinance and halo lighting was discussed and it was determined that the Board would not allow it, but since the strip mall currently has existing internally lit signs, it is hard to say no and he believes the application meets the criteria.

Mr. Canada stated that a decision to allow this should include reference to the sign being pre-existing, non-conforming and how this sign will fit into the entire building. He added that he believes the application addressed the criteria.

Mr. House called for a motion to approve or deny the application.

Mr. Zaremba made a motion that the Planning Board approve the Conditional Use Permit application to allow a backlit halo-style illuminated sign at 20 Portsmouth Avenue, Tax Map 4, Lot 14, Zoned Gateway Commercial Business District, consistent with the application materials submitted by Sousa Signs, LLC, as the Board has determined that the application meets all of the Conditional Use Permit outlined in Section 7.3.d of the Zoning Ordinance per the Board's deliberations. Mr. Kunowski seconded the motion. All voted in favor and the motion was approved.

5. Other Business:

a. Proposed 2024 zoning amendments and dates of the two public hearings.

Mr. Connors presented to the Board a copy of ballot language for proposed zoning amendments and also redlined edits to the Ordinance. He stated that the Board has reviewed the redlined edits at previous meetings, but he will highlight a couple of new items. At the first public hearing the Board can make edits. Mr. Connors briefly stepped through each amendment:

Article II is a housekeeping amendment to the definitions and the Table of Uses to include new definitions and property uses that are not defined under the Ordinance (adding half story and mixed-use development and amending the definition of structure).

Article III clarifies the circumstances in which the Building Inspector may require that a plan prepared and stamped by a licensed land surveyor or certified wetland scientist be submitted with a building permit application. Mr. Canada asked for confirmation that an Applicant could appeal that decision to the ZBA. Mr. Connors replied correct.

Article IV clarifies the requirements associated with home occupations.

Article V consolidates the number of criteria the Planning Board considers for Conditional Use Permit applications from 11 to 7.

Article VI incorporates four major changes to the requirements associated with residential cluster developments including: reducing the minimum lot size for cluster developments, establishing minimum lot sizes for individual lots, requiring that open space parcels meet additional minimum requirements, and requiring that historical and scenic resources be preserved and incorporated into such developments whenever practicable. The historic resource preservation requirement is a new change for the Board to review. Mr. Connors stated that he believes the Town can include that

requirement because a cluster-subdivision is an option, not a requirement. This could not be included as part of the conventional subdivision requirements as it could be considered a taking, but he believes it can be done for clusters because they are an optional path. Regarding reducing the available lot size for Cluster Subdivisions from 20 acres to 12 acres, Mr. Houghton and Mr. Canada asked why the Town would want to do that. Mr. Canada noted that the Ordinance already allows the Planning Board the authority to allow a reduction of the minimum open-space cluster development acreage to ten acres for a plan with guarantees a designated percentage of workforce housing. He commented that the proposed amendment takes away the encouragement for workforce housing which the Board has previously deemed as important. He questions if it is the right thing to do. Mr. Allison commented that the project looked at earlier tonight is only 14 acres and he questions whether that would be a suitable for a cluster development. Mr. Houghton added that if this amendment passes, that might very well be what ends up in that project. Mr. Zaremba asked how many houses could be established in a 12-acre cluster development. Mr. Canada replied they are approved for six but then it would depend on bonuses. Mr. Allison commented that he assumes the 20 acres was established assuming there would be buffers left over, but as the size gets below that, he thinks there will be less left over for common land. He understands the enthusiasm for workforce housing, but he questions whether the 12 acres will work. Mr. Canada commented that he heard from Lucy Cushman, who was on the Planning Board when Cluster Subdivisions were passed, stress that a feature to emphasize and encourage was to keep the front lots along the street with no houses on them, so when driving down the street it looked like old Stratham with a development tucked away and in a case like they saw tonight, it wouldn't be possible. He added that 10 or 12 acres does not give them enough land to do that. Mr. Houghton commented that in that project, they could take the lot near the road, reserve it as open space and then have 24 houses on half-acre lots. Mr. Canada stated that would meet the intent. Mr. Houghton questioned is that was the Town wants. He added that the addition of more houses is the addition of more costs to serve to the community from a tax point of view. All board members agreed to keep the minimum size at 20 acres.

The Board discussed the proposed requirement that no more than 40% of the open space shall be made up of wetlands. Mr. Houghton stated 40% is a big number. Mr. Allison commented that the problem is that if there are large areas of wetlands that are represented as common land to be used by the community, that's not true when it comes to wetlands. The tactic often used in development is to take the unusable and undesirable land and make it public land. That defeats the purpose of having land that can be used by the community. He thinks it is reasonable to say no more than 40% is reasonable. Mr. Houghton asked Mr. Allison if he thinks 40% is a good number. Mr. Allison replied yes. Mr. Houghton said he'd be inclined to say 20%. He added that typically developers target the wetlands to be Open Space, so they get all the buildable land. The spirit of the cluster development is that it contain open space for the enjoyment of residents who do not have 2-acre lots. The developer needs to maximize the use of the lands to put foundations in the ground. Mr. House asked Mr. Houghton if he is suggesting a lower percentage. Mr. Houghton replied his opinion is it should be less than 40%. Mr. Canada and Mr. Zaremba agree with a lower percentage. Mr. Kunowski commented if the current ordinance allows 100% then he is comfortable with a 40-60 split. Mr. Allison commented that there is a specific community in town that in addition to having wetlands that can't be utilized, it was determined that the entire area within the wellhead radius cannot be used by the community. That is another issue that hasn't been discussed and he thinks that 20% might be reasonable. Mr. Houghton asked if it was the Homeowner's Association that created that limitation. Mr. Allison replied yes but they deferred it to state requirements because of people that might be abusing the privilege. Mr. House summarized that 20% is a more reasonable revision. Mr. Houghton stated that as Mr. Canada noted, if the development commits

to workforce housing, they can have a whole lot more, so this is providing an incentive for developers to consider. Mr. House asked if Mr. Houghton was suggesting an exception to the open space/wetlands language for workforce housing. Mr. Houghton replied no that he was referring to the minimum 10-acre development size for workforce housing.

Article VII creates a new sub-section for small accessory structures in order to provide for reduced side, rear, and wetland setbacks for small sheds or accessory structures under 120 square-feet provided that the structure meets a number of criteria. There were no questions on this amendment.

Article VII amends the Dimensional Regulations to clarify that non-buildable areas, including wetlands, steep slopes, and areas protected by conservation easements or deed restrictions cannot be incorporated into maximum residential density calculations. This amendment would also reduce the maximum residential density in the Route 33 Heritage District from three units per acre to two units per acre. Mr. Connors stated that he believes the non-buildable area requirement should apply to all of the Commercial Districts and not just the Heritage District. He proposes a change for the density in the Heritage District but also added language that the non-buildable area calculation applies to all of the districts in the section. Mr. Kunowski commented that he lived in California where houses are built on lots with very steep slopes. He realizes it is not optimal, but he wants to be careful that we are potentially excluding steep slopes as unbuildable area as engineering will allow building on a steep slope. Mr. Connors replied that the amendment doesn't prohibit building on a steep slope just that when computing density that those areas are not included. Mr. Kunowski replied okay. Mr. Connors described an example that if there was a steep slope and another flat area, that just the slope would be excluded. Mr. Allison summarized that this is for the purpose of calculating density so if there was one small piece in the middle of a large property, then it can't be counted towards density, but it could be re-engineered during construction and wouldn't need to be saved. Mr. Connors confirmed.

Article IX will allow small-scale ground-mount solar energy systems by right if they meet a number of minimum criteria. Mr. Connors stated that he did not propose a change to the maximum size of a "small-scale" system because he reviewed other communities and the size seems standard. Mr. Canada asked what size are the ones on Stratham Heights Road and Boat Club Drive. Mr. Connors replied small. Mr. Zaremba asked for confirmation that someone could get a usable system that is small. Mr. Connors replied yes and that most seen on single family lots are small. He added that the array at Stratham Green is medium sized. Mr. Connors reviewed the proposed criteria and presented photographs of examples. Mr. Kunowski asked if the side yard is defined as everything behind the front corner of the house. Mr. House replied that if the house is setback 100 feet and the front setback is 50 feet, then the side yard is from the 50-foot line back, not from where the house is located. Mr. Kunowski replied okay. Mr. Connors demonstrated that the side yard would be behind the front corner of the house. Mr. Kunowski asked for confirmation that the side yard would never be beyond the front corner of the house. Mr. Connors confirmed. Mr. Allison stated the definition would be the front corner of the house as opposed to the setback line. Mr. Connors presented photographs of a 10 kW solar array that is about 1,700 square feet. The Board discussed how size is calculated for an array and determined it is the surface area of the panels and not the footprint. Mr. Canada suggested increasing the size to 2,500 square feet which would be a 50 by 50 foot square and if someone wants to use their backyard for solar, it's their prerogative. Mr. Houghton is not as concerned with the backyard but thinks that is a large array for the side yard. Mr. House asked if this is just for residential. Mr. Connors replied that it could be for commercial, but solar projects on commercial properties would require site plan review per the regulations. Mr. Zaremba and Mr. Houghton have concerns with arrays on the side yard. Mr.

Allison commented that as an example, a 40' by 40' array would be a big collection of panels and in many cases would be too large for the side yard. He added that if it was on the side yard, it would have to meet setbacks and he believes in most cases it would be physically impossible on the side yard. Mr. House asked if the arrays have to be located within the side yard or just take up part of the side yard. Mr. Connors replied that he thinks the board members are looking to remove the ability to place them in the side yard. Mr. House commented that could be hard as most rear yards are wooded. Mr. Connors asked the Board if they want to limit panels permitted by right to just the rear yard and are there any proposed changes to the definition of small-scale array. Mr. Zaremba asked regarding the definition, what is the average size needed for a four bedroom house. If the answer is greater than the definition of small scale then it seems too restrictive, but if it is well below then it seems reasonable. Mr. Allison commented that he had a 10 kW generator in his previous home and it was not enough to use the air conditioner and the dryer, but it was enough to cover basic items. He suspects that 10 kW is a reasonable number. Mr. Zaremba asked if the definition is by size or by wattage. Mr. Connors replied the requirement focuses on size and he read aloud the current definition. Mr. Houghton stated that this is what they are allowing by right and if someone wants something different, they would submit an application to the Planning Board. He is comfortable with the rear yard, 10 kW, and a 1,750 square foot system by right. Mr. Houghton commented the proposed language stating that small scale systems "may be" subject to the Site Plan Regulations is weak." Mr. Connors suggested a change to "shall". Mr. House asked if the proposed language related to a minimum of 50 feet from the front property boundary and 35 feet from the side or rear property boundaries needs to be adjusted if they are removing the option for side yard installation. Mr. Connors replied no because those setbacks would still apply to the side boundaries in the backyard.

Article X amends the Building Ordinance in order to enact a Fire Alarm Ordinance. The purpose of this amendment is to require new commercial and multi-family developments or major renovations in such facilities to include fire alarm systems. Mr. Connors stated that the Fire Chief requested this amendment. Mr. Connors discussed the proposal with the Town's attorney whose advice was to pass it through the Town ballot. Mr. Allison asked what a fire alarm ordinance is. Mr. Connors replied that is a requirement that alarms be installed that notify dispatch. Mr. Canada commented that it is late in the year to consider this. Mr. Houghton agreed it is a considerable request. Mr. Zaremba asked if there are any requirements today. Mr. House stated that this is covered under building code. Mr. Connors and Mr. Canada replied that it is not a current requirement. Mr. House replied this is an alarm (electrical) and not sprinklers. Mr. Canada replied that different communities have different standards. Mr. Zaremba commented he believes it is important, but above his expertise, and arguably a large burden and he doesn't want to rush something through the process. Mr. Kunowski asked what doesn't require a fire alarm. Mr. Houghton asked what the source of the information is and he asked for confirmation that the building code has requirements for fire alarms. Mr. House replied that the building code references NEC 70 which is the electrical code and includes fire alarms. He added that NFPA 101 is the standard for life safety. The board decided that they need more information before proceeding with the proposed amendments. Mr. Connors summarized that he will let the Fire Chief know that the Board wants to have a dialogue with him but they don't think there is enough time this year to capture amendments for 2024.

Mr. Connors presented an email from the Sprucewood Homeowner's Association complaining about a large, steel storage container on a property at the entrance of their subdivision that is not part of the HOA. Mr. House asked if it was part of the construction of the home. Mr. Connors replied he does not know and there is nothing in the zoning prohibiting it. He added they could be

required to obtain a building permit for the container, but it meets the setbacks and there is nothing in the ordinance that restricts them. Mr. Canada and Mr. Houghton were surprised that there is no regulation on storage containers. Mr. Connors stated he can draft a question for the public hearing, that the language does not need to be finalized tonight, and the Board can debate the language at the hearing. He added that because it is late in the process they can also defer it to next year. Mr. Zaremba asked if it is common for towns to prohibit these. Mr. Connors presented a photo of the storage container in question. Mr. Canada replied that a lot of towns would not allow them. Mr. Zaremba is in favor of looking into it this year. Mr. Canada agreed and added that it could be refined next year. Mr. Allison commented that it is similar to a shed and should need a permit. Mr. Connors agreed that the Town can require a permit but because it meets the setbacks, it would be allowed. Mr. Canada asked in the absence of a building permit, would this example be grandfathered. Mr. Connors replied no. Mr. Connors asked the Board if he should include this in the 2024 amendments. Mr. Canada, Mr. Houghton, and Mr. Zaremba replied yes.

Mr. Canada made a motion to post the proposed amendments to the Zoning and Building Ordinances, Articles II through X as discussed, for public hearings on January 3rd and 17th, 2024. Mr. Houghton seconded the motion. All voted in favor and the motion was approved.

b. Pending Land Use Applications

Mr. Connors updated the Board on some pending land use applications. The Stoneybrook project will go before the ZBA next week for a variance. Mr. Connors spoke with the applicant's attorney who clarified ZBA review is not for density or design and is solely to allow a single-family residential use. Mr. Canada asked if the variance is granted by the ZBA will the project come before the Planning Board for site review. Mr. Connors replied yes. Mr. Zaremba asked if they are going before the ZBA for permit by right. Mr. House replied it is for a variance for single-family residential as that use is not allowed at all. Mr. Canada commented that this is the Town's last large undeveloped commercial area and he has not seen any research that the land is not practical for commercial. Mr. Canada stated he has some concerns with setting aside all of that commercially-zoned land for a single-family residential use. Mr. Allison agreed. Mr. Zaremba questioned whether such a large change would be more appropriate as a zoning question so that voters at Town Meeting could have a say in the process.

Mr. Canada said he would like to see the Planning Board communicate to the ZBA it has concerns regarding the variance application. Mr. Zaremba asked if the Planning Board is permitted to do that. Mr. Houghton noted that there has been joint meetings with the ZBA in the past. Mr. Connors suggested to Mr. Canada that the Planning Board could request a joint meeting with the ZBA. Mr. Zaremba asked if the ZBA needs to agree to that. Mr. Connors replied yes. He believes that decision is up to the Chair. Mr. Allison stated the joint meeting would just be for the purpose of providing some additional thoughts and information that the ZBA may consider. Mr. Connors suggested that the Board make a motion to authorize Mr. House to write a letter to the ZBA requesting a joint meeting with the Planning Board. Mr. House recused himself from that process. Mr. Canada asked if the responsibility falls to him as vice-chair to make the request. Mr. Connors replied yes.

Mr. Zaremba made a motion to authorize David Canada, as acting Chair, to reach out to the ZBA to request a joint meeting on the Stoneybrook application currently in front of the ZBA. Mr. Houghton seconded the motion. Mr. House abstained and all others voted in favor and the motion was approved.

c. Miscellaneous Community Planning Issues

Mr. Houghton asked for an update on 275 Portsmouth Avenue. Mr. Connors replied that the Town has been in Superior Court with the owner asking for a series of compliance items to be addressed. The owner has addressed enough of these items that the Town is no longer pursuing the lawsuit against him. Mr. Houghton asked if that is only for existing uses. Mr. Connors replied yes. Mr. Houghton asked if there is a lock on introducing new tenants. Mr. Connors replied the owner has signed a document that he will not rent out the other units without going before the Planning Board.

Mr. Connors stated that at the next Planning Board meeting there will be a large cluster subdivision with 54 units on Winnicutt Road to review. Mr. Houghton asked if this is a preliminary consult. Mr. Connors replied yes but abutters are notified so there could be a significant turnout.

6. Adjournment

Mr. Canada made a motion to adjourn the meeting at 9:51 pm. Mr. Zaremba seconded the motion. All voted in favor and the motion was approved.