

**HOLLIS PLANNING BOARD MINUTES**  
**January 21, 2020**  
**FINAL**

**PLANNING BOARD MEMBERS PRESENT:** Bill Moseley – Chairman; Doug Cleveland – Vice Chairman, Chet Rogers, Cathy Hoffman, Jeff Peters, Ben Ming, David Petry (Ex-Officio for Selectmen), Matt Hartnett (Alternate), Rick Hardy (Alternate).

**ABSENT:** All Present (J. Peters a few minutes late; R. Hardy votes in his place until he arrives.)

**STAFF PRESENT:** Mark Fougere, Town Planner; Evan Clements, Assistant Planner

**1. CALL TO ORDER: 7:00 PM.** B. Moseley led the group in the Pledge of Allegiance.

**2. APPROVAL OF PLANNING BOARD MINUTES** – Dec. 17, 2019. Corrections: Add D. Petry as arriving at 7:05 pm; lines 63 and 238 – change to B. Ming (not M. Hartnett). C. Hoffman moved to approve the PB minutes of Dec. 17, 2019, as amended. Motion seconded by C. Rogers and unanimously approved.

**3. DISCUSSION AND STAFF BRIEFING**

- a. Agenda additions and deletions – none
- b. Committee Reports - none
- c. Staff Report - none
- d. Regional Impact – none

**4. SIGNATURE OF PLANS** – The Board approved signature of the following plans:  
**2019:11-3 Clinton Site Plan; 2019:12 – 265B Proctor Hill Road; 2019:23 – Change of Use Care Farm; 2019:22 – Surwell Subdivision**

**5. PROPOSED ZONING CHANGES PUBLIC HEARING**

- a. **Amend Section VIII Definition by adding the term Setback.** *Setback – The minimum distance between the nearest portion of a building or structure and a lot line, a right-of-way line, or a terrain feature such as shoreline or wetlands area. Setbacks are required in this ordinance to support the purposes of Zoning* M. Fougere explained that this amendment comes from the ZBA. The ZBA feels this is necessary because the word “setback” appears so often in the ordinance, and it would be helpful to have a specific definition. Public Hearing: Joe Garruba, 28 Winchester Drive, asked if this would be limited to existing structures. M. Fougere re-read the definition and Mr. Garruba had no further comments. There being no other comments, the chairman closed the public hearing. Board comments: B. Ming – Item is incomplete; it leaves out septic and well setbacks. M. Fougere noted that these two terms would not be construed as a “substantial” change so he can add them. R. Hardy – ZBA has had more problems with ambiguity relative to structures than anything else which is why it is written this way. D. Cleveland asked if the septic applies to leach field, septic tank or both. M. Fougere – Hollis regs deal with the field. D. Petry moved to support this zoning change with the edits as stated by M. Fougere and send it to the ballot. Motion seconded by C. Rogers. In favor: Moseley, Cleveland, Rogers, Hoffman, Opposed: Ming, Petry. Abstaining: J. Peters. Motion carries. (It was clarified that R. Hardy was still voting for J. Peters so the amended vote with R. Hardy voting affirmatively is six in favor and one opposed.)

**b. Amend Section X.G. Residential & Agricultural District by adding a Special Exception provision in order to grant side setback relief for existing structures.**  
*Amend Section X. Zoning Districts, Section G. Residential and Agricultural District (R&A), by adding a new section 5, Special Exception in the Residential and Agricultural District Minimum Side Yard Width,*

**1.** *The Zoning Board of Adjustment may grant relief from the 35 foot side yard width requirement for existing residences by Special Exception, if the Board finds that:*

**a.** *The encroachment to the minimum side yard width requirement is reasonable and would not be detrimental to the neighborhood and either;*

**b.** *Strict adherence to the setback requirement would cause inconsistency in the massing of buildings or;*

**c.** *Strict adherence to the setbacks would be inconsistent with setbacks of existing adjacent buildings.*

**Explanation:** As stated in the Hollis Zoning Ordinance, any side yard width encroachment requires a variance and a hardship must be found to exist in order to grant the variance. There have been certain circumstances where side yard width encroachments have met the intent of the ordinance but the ZBA lacks the authority to grant a special exception. Public Hearing: Joe Garruba, 28 Winchester Drive, stated that he supports this change, There being no further comment, the chairman closed the public hearing. Board comments. B. Ming: A special exception is an implicit approval of no setback, and he would therefore not vote to approve this. D. Petry agreed, adding that there is too much subjectivity, and it is not consistent with past practice of needing to show hardship to get a variance. C. Rogers – Agree. C. Rogers moved to place this amendment on the ballot. Motion seconded by J. Peters. The Board voted unanimously to NOT send this amendment to the ballot.

M. Fougere explained that the next 4 items have been submitted by petition. The Board cannot make any changes to these petitions and they must appear on the ballot as written. They are on the agenda for a public hearing to gain input from the public. The Board then makes a determination to either support or not support the petitioned amendment.

**PETITIONED ARTICLES**

**a. Amend various portions of Section XVIII Workforce Housing.** The Board has received a lengthy letter from Atty. Drescher regarding this proposal from which M. Fougere quoted extensively. Mr. Drescher has a number of concerns with this amendment, which increases the Town's susceptibility to legal challenge. M. Fougere also noted that the Governor's office just came out with a press release noting the housing crisis in the State and the very low vacancy rate and inventory, which is having a significant impact on the economy. In addition to Section VIII Workforce Housing, the other sections addressing workforce housing are **Section XX Hollis Open Space Planned Development and Section XI D. Multi-family Workforce Housing.** Public Hearing. Michelle St. John, 29 Orchard Drive, spoke in opposition to these amendments, which are an attempt to hinder the ability of the town to offer workforce housing. There is very little affordable

95 housing in Hollis under \$350,000 and this presents more restrictions to prevent  
 96 those who are not at the \$800,000+ level from being able to live in Town. Joe  
 97 Garruba, 28 Winchester Drive, stated that he prepared the petitioned warrant  
 98 articles and got them signed by voters in this town specifically to address  
 99 situations like the project on Old Runnells Bridge Road where there will be 32  
 100 units on 9 acres of land. This is not in keeping with the rural character of Hollis.  
 101 He asked if the board would share the letter from Atty Drescher. Board members  
 102 pointed out that this letter is marked "Confidential and Privileged". D. Petry  
 103 noted that Mr. Drescher does not address each specific change; the point he makes  
 104 is that there is a risk that the Town will be challenged in Court if these restrictive  
 105 changes are enacted. There is no advantage to Mr. Garruba or the voters in seeing  
 106 the entire letter. D. Petry moved to release Atty. Drescher's letter. Motion  
 107 seconded by J. Peters. The Board voted unanimously in opposition to releasing  
 108 Atty. Drescher's letter. Mr. Garruba stated that what he understands from the  
 109 sections of the letter that M. Fougere read publicly is that there may be potential  
 110 that these amendments are restrictive, but none of the language that Mark quoted  
 111 said that the amendments are illegal. The only risk is that the town would not be  
 112 providing economically viable opportunities for workforce housing. Mr. Garruba  
 113 stated that the amendments are very carefully worded and he understood the RSA  
 114 when he wrote them. The wording states that "development is allowed to the  
 115 extent of economic viability and no more". What the Board is hearing in the letter  
 116 is that "developers don't like the amendments and they might sue", but not that the  
 117 amendments are illegal. Mr. Garruba asked the Board to support the amendments  
 118 because they are legal and the Board is charged with protecting the rural character  
 119 of the town to the maximum extent possible. PUBLIC HEARING. Chad  
 120 Brannon, Fieldstone Land Consultants, noted that some of the amendments  
 121 suggest removing references to the goals and objectives of the Hollis Master Plan.  
 122 It is important that the Board acts consistently with the Master Plan, which is the  
 123 guiding document for the Town. It is concerning that there is a request to  
 124 eliminate references to the Master Plan and the HOSPD sections. With respect to  
 125 requiring a 100' buffer to adjacent properties, Mr. Brannon stated that the Hollis  
 126 planning board had done a good job in evaluating what is an appropriate buffer to  
 127 a neighboring use. Putting in an arbitrary 100 foot buffer is a land taking and does  
 128 not take into consideration anything that is project specific, and prevents the Board  
 129 from producing a plan that is best for a particular site. D. Petry stated that, in his  
 130 opinion, the Workforce Housing article was not handled properly by the petitioner  
 131 and should have been discussed with the planning board. He supports some of the  
 132 changes and disagrees with others, but no changes are allowed to a petitioned  
 133 amendment. C. Rogers expressed concern with references to a developers cost  
 134 and economic viability, stating that the planning board is in no position to tell a  
 135 developer he cannot make a profit. He is against this petitioned amendment. D.  
 136 Petry noted that the reason some of this is in there is because a developer is getting  
 137 density bonuses and other credits that need to be quantified. M. Fougere stated  
 138 that the changes will weaken the ordinance and put handcuffs on the board,  
 139 removing the flexibility to provide affordable housing to the community. Some of  
 140 the changes also remove language that is meant to contain sprawl. The HOSPD  
 141 rules have saved thousands of acres of open space in the community. These  
 142 changes are sweeping and touch on a number of topics beyond Workforce  
 143 Housing.  
 144

145 D. Cleveland moved to support **Item 3. By Petition: Amend various portion of**  
146 **Section XVIII Workforce Housing** to the ballot. Motion seconded by J. Peters.  
147 All voted in opposition; none were in favor. The motion fails. D. Petry noted that  
148 the Board had no option but to take the items as written in their entirety. J. Peters  
149 reiterated that there are some items in the proposal that are very good, but there is  
150 not an option to change it.

151 D. Cleveland moved to support **Item 4. By Petition: Amend Section XX Hollis**  
152 **Open Space Planned Development**. Motion seconded by J. Peters. All voted in  
153 opposition; none were in favor. The motion fails.

154 D. Cleveland moved to support - **Item 5. By Petition: Amend Section XI. D.**  
155 **Multi Family Workforce Housing**. Motion seconded by ??? All voted in  
156 opposition; none were in favor. The motion fails.

157 M. Fougere noted that the Planning Board must state its position following each of  
158 the petitioned amendments. At a minimum it should say "The Planning Board does  
159 not support the petitioned zoning amendment as presented". M. Fougere has added  
160 to it as follows: "The Planning Board does not support the petitioned zoning  
161 amendment as it could increase the likelihood of legal challenge, wresting control  
162 from local review to that of a judge or administrative appeal." This could be  
163 followed by a statement that the Planning Board has no authority to amend the  
164 proposed changes. D. Petry moved to add the verbiage as described by M. Fougere  
165 to the ballot. Motion seconded by J. Peters and unanimously approved.

166 **Item 6. By Petition: Amend Section XXI Housing for Older Persons.** M.  
167 Fougere explained that this proposes a number of changes, including reducing the  
168 density allowed for this type of housing. This would reverse changes put forth by  
169 the Planning Board two years ago, relaxing the requirements and allowing it on 20  
170 acres instead of 30, and allowing 1 and 2 bedroom units at the same density. If  
171 passed, this would turn it back to the previous zoning but also make it more  
172 restrictive for one bedroom units. It would also remove Depot Road as an option for  
173 this type of project. The most substantial change would cut the allowable  
174 percentage to 2% of the housing stock (currently 25%), basically eliminating the use  
175 since it would only allow 64 units and there are already 97. Unlike Workforce  
176 Housing, there is no legal requirement to have this type of housing, but the  
177 community decided several years ago to enact it At that time there was 70%  
178 support from the community. D. Petry spoke in support from of going back to the 30  
179 acre requirement, which is what it was previously. He is against the rest of the  
180 changes.

181 Public Hearing. Joe Garruba, 28 Winchester Drive, noted that the Ordinance  
182 currently allows 25% of the housing stock to be built in one year as Housing for  
183 Older Persons. The concept that this petition would eliminate HOP in Town is  
184 incorrect. This change is going back to what was in effect in 2017. Why would  
185 anyone want to build that many units in one year? Mr. Garruba asked the planning

186 board to support his amendment; it is not an absolute number, but refers specifically  
 187 to the number that are approved each year. Mark Troddyn, 32 Hideaway Lane,  
 188 asked if there is a limit to the number of houses allowed to go up each year, and  
 189 what consideration is given to residents relative to taxes, schools, fire, police, etc. Is  
 190 there a 5 or 10 year plan? The decisions being made today impact the future for the  
 191 town. Workforce housing is just a way for developers to push and \$350,000 is not  
 192 workforce housing. D. Petry explained that the Master Plan governs what the town  
 193 does; this document is updated regularly and serves as a guide for the ordinances  
 194 and regulations of the town. There is a legal basis for towns in NH to enact impact  
 195 fees which can help address cost of schools, public safety, etc. The down side of  
 196 impact fees is that there is a limited amount of time to use the impact fees, and if the  
 197 money is not used within the time limit, the money must be returned to the  
 198 developer. For many years the town has the “building rights” ordinance which  
 199 restricted how many houses could be built on each parcel each year. This ordinance  
 200 was determined to be illegal. What is now on the books is not as strong as building  
 201 rights, but does allow for phasing. Hollis has protected 32% of its land, which may  
 202 be the most of any town in the state. Two acre minimum is not very common in the  
 203 state. To give up the building rights meant Hollis was able to maintain the two acre  
 204 minimum. Landowners have rights too, and there are times when there will be  
 205 friction. Chad Brannon, Fieldstone Lane Consultants, noted that the Master Plan has  
 206 data from 2016 which shows that over 30% of the population of the town consisted  
 207 of 55 and over, thereby meeting the criteria for this ordinance. This data led to the  
 208 changes to the HOP ordinance in 2017, which was passed favorably by the residents.  
 209 The Master Plan states that the town should continue to monitor the effectiveness of  
 210 this ordinance. What are the results of the monitoring that would trigger a change to  
 211 this section? There has only been one development approved under this regulation  
 212 (Cobbett Lane) which Fieldstone Engineering presented about two years ago. This  
 213 style of development is very positive for communities. The fiscal impact study for  
 214 this project shows that it will have a positive fiscal impact on the town. There are  
 215 currently 245 units in town that are 55 and older. Mr. Brannon agrees with Mr.  
 216 Fougere’s interpretation of the regulation. Why 2% when the townspeople clearly  
 217 supported the ordinance? This regulation was always 25%, and this percentage is  
 218 pretty common. Silver Lake Estates (Cobbett Lane) was done two years ago and  
 219 prior to that was Runnells Bridge Road, which was 15 years ago. This is not a  
 220 common development style done in town. This planning board has done an  
 221 excellent job of making developers go through extensive review and address design  
 222 standards. Removing or changing this ordinance would be a detriment to the town  
 223 and would not be consistent with the Master Plan. Martha Goodwine, 42 Black Oak  
 224 Drive, spoke in support of going back to the way the ordinance was two years ago.

225 Board Discussion. J. Peters addressed the % change. As it is now, the maximum  
 226 number of HOP units cannot exceed 25% of the housing units. If this goes to 2% we  
 227 will have to build another 1000 homes before we can add any more HOP. M.  
 228 Fougere noted that this section is poorly worded and open to interpretation. D. Petry

229 noted that the only change made two years ago was 20 to 30 acres and the density. J.  
230 Peters questioned why Depot Road is being removed from the list of roads where  
231 HOP are allowed. J. Peters moved that the Planning Board support **the amendment**  
232 **to Section XXI Housing for Older Persons**. Motion seconded by D. Petry. All  
233 voting in opposition. None voting in favor. Motion fails.

234 Board discussed verbiage to convey that it does not support the changes because it  
235 would preclude any more HOP developments. “The Planning Board does not  
236 support the petitioned zoning amendment as it would preclude any further housing  
237 for older persons.” R. Hardy moved to accept the qualifying language; motion  
238 seconded by C. Rogers and unanimously approved.

## 239 6. HEARINGS

240 **a. File PB2019:18** Proposed site plan for the installation of a two 450 square foot  
241 ground mounted solar tracking systems. Map 3 Lot 31, Applicant: Go Solar NE  
242 Owner Mathew Levine, 16 Blood Road, Zoned R&A Residential Agriculture. AA  
243 10/15/19. Tabled from Nov. 19.  
244 M. Fougere noted the applicant is not prepared to present for this evening. J. Peters  
245 moved to table File PB2019:18 to the Feb. 18, 2020 meeting. D. Petry asked if staff  
246 has received a landscape plan. M. Fougere – This is part of the survey plan that is  
247 pending, Motion seconded by D. Petry and unanimously approved.

248 **b. File PB2019:16** Proposed site plan for the installation of two ground mounted solar  
249 arrays, each 540 square feet in area. Map 13 Lot 67. 26 Dow Road. Applicant:  
250 ReVision Energy; Owner: Charlie & Kathleen Morgan. Zoned R/A Residential  
251 Agricultural. Tabled from Oct. 15, 2019.  
252 The Board held a site walk several months ago at which time the owner was able to  
253 describe where the units would be. A detailed plan, including landscaping, has been  
254 submitted. Owner Charlie Morgan distributed hard copies and requested approval.  
255 The chairman commented that Mr. Morgan had done a very good job of setting  
256 everything up for the site walk and documenting how it will look. C. Rogers moved  
257 to approve File PB2019:16. Motion seconded by J. Peters. All voted in favor; none  
258 opposed. The motion carries unanimously.

259 **c. File PB2019:21** Proposed Design Review subdivision application of an existing  
260 17.75 acre property into five frontage lots. Map 2 Lot 44, North Pepperell Road &  
261 Worcester Road. Owner/Applicant: Kathleen & Hans Olson, Zoned R&A  
262 Residential & Agricultural. Tabled from Nov. 19, 2019.  
263 M. Fougere noted that the board has received numerous letters from abutters as well  
264 as a letter from the conservation commission relative to studies they would like to  
265 see. Tom Carr, Meridian Land Services, took issue with some of the comments  
266 from the conservation commission. He noted that he has already reviewed his  
267 comments with staff, and presented a hard copy to the board. D. Petry suggested not  
268 discussing this application tonight since the board just received the comments from  
269 the conservation commission and has not had time to review them, as well as all the  
270 letters it has just received from abutters. D. Cleveland moved to defer File  
271 PB2019:21 to the April meeting. The site walk was held in December when there

was 2 feet of snow and several of the PB members were not able to attend. In light of all the questions raised by abutters, residents and the conservation commission it would be appropriate to conduct another site walk in the spring. D. Petry noted that the plan is still in Design Review so the clock has not started. He added that this is a good time to let the applicant know what studies are needed so they can be ready for April. J. Peters stated that the wildlife study should be done in the Spring. D. Cleveland suggested wildlife, visual impact and rural character. M. Fougere read the detailed description of what is required in the wildlife study. Other items addressed include stormwater and visual impact. R. Hardy noted that rural character, but not wildlife, was done on the Pine Hill subdivision. That project is similar to this one in terms of size, agriculture, use, soil types. D. Cleveland pointed out that this project covers a wide expanse of land and the lots are much larger than those on Pine Hill. There was no significant concern about wildlife on Pine Hill, but many residents and abutters, as well as the conservation commission, have expressed serious concerns about wildlife impact. D. Cleveland restated his motion to defer File PB2019:21 to the April meeting. A lengthy discussion followed regarding the studies. Conservation commission chairman Tom Dufresne stated that a wildlife study done in spring/summer should provide the answers the conservation commission is looking for. D. Petry added that they should also address how they plan to comply with the rural character ordinance. The required studies should be completed by the July meeting. J. Peters noted that 3D drawings of what it will look like from the road should be included. D. Cleveland again moved to defer PB2019:21 to the April 21 meeting, rural character study to be completed by the April meeting and wildlife study to be completed prior to the July meeting, and a site walk will be conducted prior to the April 21 meeting. Motion seconded by J. Peters. All voted in favor; none were opposed. Motion carries unanimously.

- d. **File PB2020:004** – Proposed two lot subdivision of an existing 53 acre lot to separate existing single family home from parent parcel. Map 32 Lot 2. 126 Nartoff Road. Owner/Applicant: Town of Hollis, Zoned Residential/Agricultural R&A.
- Application Acceptance and Public Hearing.**

The purpose of this plan is to subdivide a town-owned 53 acre parcel into two lots so that the existing home can be sold. The home lot will be 2 acres with 395 ft. of frontage with the remaining conservation lot being 48.2 acres. The town will retain an easement over the property using an existing farm driveway to access the rear fields. The ultimate decision regarding sale of the house lot will be made by Town Meeting and the plan will not be recorded until that decision has been made. J. Peters moved, seconded by D. Cleveland to accept PB2020:004 for consideration. Motion unanimously approved. Conservation commission chairman Tom Dufresne, 17 Pound Road, stated that this had been the plan since the property was purchased in 2015. The plan is done and ready to go. Mark Post, 43 Love Lane and chairman of the Agricultural Commission, stated that the Agricultural Commission supports this plan. Board members expressed confusion regarding the width of the access easement. Staff noted that the 100' easement refers to PSNH, not the driveway.

315 Regarding the driveway easement, M. Post stated that the current agricultural lessee  
 316 uses the house lot as access to the field. There are two breaks in the stone wall north  
 317 of the house lot; either of them could provide access to the field. Access through the  
 318 house lot is not required to farm the property. D. Petry will discuss removing the  
 319 easement with the other Selectmen. M. Post stated that the total property is about  
 320 190 acres and there will be about 100 acres offered for long term agricultural use. A  
 321 portion of the western part will become permanent conservation land. Public  
 322 Hearing. Joe Conley, 14 Sawmill Road, and member of the conservation  
 323 commission, spoke in strong support of this plan. If there is no subdivision the  
 324 house rots and the value is lost. It's a no-brainer to sell the house and get the  
 325 revenue, as well as annual revenue from the agricultural lease. Jennifer Hefele, 199  
 326 Pine Hill Road, stated that she is happy to hear about the conservation land. She  
 327 noted that in addition to agricultural use, the access road is used by hikers and  
 328 horses. D. Petry responded that while the driveway easement will probably be  
 329 removed, there will be an easement further up for use by both the farmer and others  
 330 who want to hike through there. Some activities may be restricted during growing  
 331 season and it is up to the lessee to monitor this. Joe Garruba, 28 Winchester Drive,  
 332 asked if it would make sense to separate the recreational access from agricultural  
 333 access. D. Petry responded that this is not possible because both accesses lead to the  
 334 agricultural fields. Mr. Garruba asked if the funds from the sale of the house will be  
 335 used to pay down the bond. D. Petry stated that the funds go into the general fund  
 336 and the town can vote to pay down a portion of the bond if it is allowed. He added  
 337 that speaking only for himself as one Selectmen, if this plan does not get approved,  
 338 the house will be razed because the town should not pay to maintain it. There were  
 339 no further comments.

340 J. Peters moved to approve PB File 2020:004, subject to the following conditions:

- 341 • NH DES approval
  - 342 • Setting bounds
  - 343 • Adding proper stamps
- 344 Motion seconded by D. Cleveland. All in favor with the exception of D. Petry, who  
 345 abstained. Motion carries

346 **e File PB2020:002.** Proposed site plan amendment for a change of use to the existing  
 347 industrial property, from a machine shop (Hollis Line Machine) to warehouse office use.  
 348 Map 47 Lot 44. 295 South Merrimack Road. Owner: Doris Siergiewicz Trust.  
 349 Applicant: Dynamic Installations, Inc., Zoned R&A Residential and Agricultural.  
 350 **Application Acceptance and Public Hearing.**

351 M. Fougere reviewed this site plan for a change of use from a machine shop to a  
 352 warehouse office space. Dynamics Installations will purchase and move their operation  
 353 from another location in Hollis to this location. The company installs office interiors.  
 354 There will be 1-3 office administrators along with 50 installers. There will be approx..  
 355 1-4 tractor trailer trips per week. No exterior changes to the building are proposed and



356 the site currently has 33 parking spaces. The ZBA granted a variance on Dec.19, 2019  
357 with a number of conditions:

- 358 • Applicant is to maintain and improve existing buffer to adjacent properties;
  - 359 • Applicant is to maintain proper procedures to protect wetlands from accidental spillage;
  - 360 • Hours of operation are to be 7:00 AM to 7:00 pm;
  - 361 • There shall be no external storage;
  - 362 • There shall be no expansion of industrial use of water;
  - 363 • The Town has a right to inspect storage facilities and disposal practices of industrial oils  
364 and other materials potentially hazardous to the aquifer at reasonable times;
  - 365 • The well shall be tested in conformance with State law at least once a year;
  - 366 • There will be no further expansion of the building.
- 367

368 The applicant also testified that there would be no hazardous waste so that should also  
369 be a stipulation. D. Cleveland moved to accept File PB2020:002 for consideration.  
370 Motion seconded by J. Peters and unanimously approved.

371 Gabriel Ungureanu , applicant, testified that he is currently leasing a property at 26  
372 Clinton Drive, and has now purchased this property. The impact to the neighbors should  
373 be minimal as there will only be 3 employees in the warehouse and the installers will be  
374 working in the field. There are typically 1-5 deliveries per week which will be loaded  
375 into the straight truck and brought directly to job sites. There will be no hazardous  
376 materials. Bogdan Pavel, his partner, confirmed their desire to purchase this property  
377 and change the usage. Staff noted that a representative from Pennuichuck was at the  
378 ZBA meeting and was satisfied with the stipulations. D. Petry noted that since South  
379 Merrimack Road is a no thru tucking road the access will be from Rt. 101A. John  
380 Siergiewicz, president of Hollis Line Machine, stated that South Merrimack Road is a  
381 cut-off from Silver Lake Road to Amherst Street. He routinely sees trailer trucks  
382 running down the road and there was a significant increase in this traffic after Walmart  
383 opened 20+ years ago.

384 There were no comments for the public hearing. D. Cleveland asked if well testing is a  
385 State requirement. M. Fougere noted that this stipulation is already on the property  
386 because the ZBA approved it that way. D. Cleveland argued that was a different use for  
387 a different time and this requirement is not imposed on any other businesses. Noting the  
388 large amount of wetlands on the site, D. Petry stated that it “can’t hurt” to do the well  
389 testing. D. Cleveland questioned if anyone follows up to see if this is done. J.  
390 Siergiewicz explained the Federal regulation that requires water testing for a water  
391 supply supplying more than 25 people. He has tested consistently and always been  
392 below detectable limits. The well is 325 feet deep and on the largest aquifer in the State.

393 D. Cleveland moved to approve File 2020:002 with the above-referenced stipulations.  
394 Motion seconded by J. Peters and unanimously approved.

395

396 That Board then recessed for about 10 minutes. Upon return J. Peters moved to hear  
397 case PB2020:003 followed by case PB2020:01. Motion seconded by D. Cleveland and  
398 unanimously approved.

399 **f. File PB2020:003** – Proposed site plan amendment for a change of use to the existing  
400 mixed use property, from a Printing use to a Gunsmith use. Map 52 Lot 5, 7+7A Main  
401 Street. Owner/applicant: Dennis Johnson, Zoned A&B Agricultural and Business.  
402 **Application Acceptance and Public Hearing.**

403 Staff noted that prior uses (printing and tattoo parlor) will be eliminated at this site.  
404 There is an existing ADU. This proposal is for a gunsmith business to sell custom “one-  
405 of” rifles as well as rifle repair. There will be a 96 sq. ft. customer waiting area with  
406 access to the outside and a 144 sq. ft. workshop area with access from the waiting area.  
407 The existing parking area can accommodate 5-6 vehicles. Hours will be Tuesday  
408 through Saturday 12:00 to 5:00 PM. Proposed stipulations include obtaining proper  
409 licenses from both Town and Federal agencies, removing all signage relating to previous  
410 businesses, hours of operation as stated, no discharging of firearms related to the onsite  
411 business on the property. D. Petry moved to accept PB2020:003 for consideration.  
412 Motion seconded by J. Peter and unanimously approved.

413 Applicant Dennis Johnson, 7 Main Street, noted that in order to issue the license the  
414 ATF needs to know the Town has approved the application. All other requirements for  
415 the license are complete. In addition to the federal ATF license, the local police chief  
416 must also sign off. D. Cleveland asked how a “one of” rifle is defined. Mr. Johnson  
417 explained that it is a custom rifle built to spec. There will not be a big inventory where  
418 people can pick and choose. B. Mosley asked if the license is restricted to semi-  
419 automatic; D. Johnson responded that this is correct. He does not deal with shotguns but  
420 that is covered under the license.

421 PUBLIC HEARING. Tanya Rasmussen, 16 Depot Road, and Pastor of the  
422 Congregational Church, asked about the difference between a gunsmith and a gun seller.  
423 The trustees have expressed some concern with it being in such close proximity to  
424 schools and to the church. Joe Garruba, 28 Winchester Drive, asked for clarification on  
425 the location. Michelle St. John, 29 Orchard Drive, expressed concern about youth  
426 access to this location. Ann Ferris, 11 Main Street, stated her opposition to the  
427 application. She lives next door, and has horses pastured, which is a concern, as is the  
428 nearby school and children playing in the area. John Carreiro, 11 Main Street, asked if  
429 the guns will be tested anywhere on the site. He asked this because he has heard shots  
430 and seen gunshot in the back yard near his field where he has horses. Brandon Yarmo,  
431 218 Federal Hill Road, stated that he supports gunsmithing. He personally knows more  
432 people who have more firearms at their homes than Mr. Johnson will have onsite for his  
433 business. People can have as many guns in their homes as they want so how does this  
434 differ. To make it difficult for an individual who wants to have a business and has the  
435 proper license is no different than taking away other people’s gun rights. There being no  
436 further comments the chairman closed the public hearing. Mr. Johnson explained that

437 license does not allow for any discharge of firearms. The law prevents discharge of a  
 438 firearm within 300' of a structure and 1000' from a school. The license has been  
 439 approved at the federal level and the only thing preventing them from issuing the license  
 440 is needing zoning approval. His business will focus on repair and custom orders. B.  
 441 Moseley asked about security. D. Johnson stated that there are two locked entry points  
 442 which are alarmed. There is also video monitoring. This is not required by the ATF but  
 443 is being done for security. R. Hardy asked for confirmation that there will be no  
 444 firearms discharged in the property. M. Johnson responded that this is correct. R. Hardy  
 445 asked if staff has verified the parking, and questioned if there is room for 6 vehicles. M.  
 446 Fougere responded that staff will verify. C. Rogers asked about signage. Mr. Johnson  
 447 responded that there will be nothing for now. D. Petry asked if approval from the police  
 448 chief is part of the ATF application. D. Johnson – No – it is separate. E. Clements  
 449 noted that he drove by the property and it appears that there are 4 or 5 parking spaces.

- 450 • Applicant to obtain proper licenses from both Town and Federal agencies as required by
- 451 law prior to operating
- 452 • All signage relating to previous businesses to be removed;
- 453 • No discharge of firearms on the property;
- 454 • Hours are Tues through Sat 12:00 – 5:00 PM
- 455

456 D. Cleveland moved to approve File PB2020:003. Motion seconded by C. Hoffman and  
 457 unanimously approved.

458 **g. File PB2020:01 Proposed Design Review**, site plan application outlining the  
 459 construction of a 4,500 square foot gas station and one apartment and an 8,000 square  
 460 foot retail store on a 4.19 acre site. Map 5 Lot 28, 82 Runnells Bridge Road, Applicant  
 461 Runnells Bridge Realty Trust; Owner Team Yarmo Investment 1 LLC; Zoned  
 462 Commercial. **Public Hearing – Site Layout Design Only.**

463 M. Fougere noted that due to a number of concerns and questions about site circulation,  
 464 parking and driveways, so staff felt it best to work through these issues before moving to  
 465 other aspects of the development. This mixed use development will utilize all three  
 466 properties. The rear area where the old house was is needed for open space and the  
 467 proposed well. The north building will be a 4500 sq. ft. gas station with ten pumps, a  
 468 convenience store and a drive-thru Dunkin' Donuts and an apartment. The two lane  
 469 drive-thru will be behind the building. The south building will be 8,000 sq. ft. of dry  
 470 goods/retail with a loading dock and circulation around the building. There are three  
 471 layouts in the Board's packets, the overall site plan and two layout versions. All will  
 472 require some waivers. Staff prefers the overall plan.

473 Jason Hill, T. F. Moran, stated that since the November hearing he has produced three  
 474 plans. The biggest material change is regarding the improvement of the internal  
 475 circulation and isolation of the drive-thru traffic. A parking area has been replaced with  
 476 a queuing lane for the menu board as well as a by-pass lane which will also accommodate  
 477 truck delivery traffic. This separates drive-thru traffic from traffic around the pumps. Of

478 the three parking alternatives the preferred option places 7 spaces along the westerly  
 479 property line and has the pedestrian cross-walk for those spaces interrupt the driveway.  
 480 This is most convenient for employees and customers, and provides an adequate amount  
 481 of parking for the proposed use. The building locations are fixed but there is flexibility  
 482 for locating parking. The first alternative eliminates the 7 angled spaces and maximizes  
 483 the remaining as parallel parking and maintains the two independent truck routes. The  
 484 negative aspects are less parking spaces and not as convenient. It is also on top of the  
 485 septic system. This plan is not preferable to the client. The second alternative deletes the  
 486 independent truck lane, thereby allowing for parking in this area. This is not preferable  
 487 because the parking is not convenient to the main access. It is also partially located over  
 488 the septic system. It also introduces more truck thru traffic through the site. The well  
 489 siting approval has been received, as well as the approval for the waiver for the siting of  
 490 the underground storage tanks. The waiver is to have fuel tanks within 500' of any  
 491 public water system. D. Petry questioned what happens if this plan is submitted to the  
 492 Town without any waivers. As an example of the positives of granting waivers, E.  
 493 Clements noted that a narrower drive asile (14' to 11') actually reduces traffic speeds  
 494 and creates a safer pedestrian environment. Another example is fewer parking spaces  
 495 resulting in less impermeable surfaces. D. Petry asked if the plan could actually go  
 496 forward if the planning board required it to be submitted without waivers. D. Cleveland  
 497 noted that 7 waivers are required and that is a lot. M. Hartnett discussed the requirement  
 498 for a 15' separation between internal roads J. Hill noted that the waivers are for the  
 499 benefit of the public, not to save money. Her an add 2' of pavement and eliminate the  
 500 need for a waiver, but what is the result? D. Petry stated that the applicant should  
 501 submit something that can be acted upon without waivers, and if this use does not work,  
 502 maybe it should be a different use. These are a lot of waivers to even allow this to go  
 503 forward. J. Peters asked about flipping the building and putting the parking in the back.  
 504 J. Hill responded that no one builds a gas station that does not face the road. He stated  
 505 that the applicant has listened to the suggestions of the Planning Board and produced a  
 506 good design that is not unique. The waivers are reasonable and to address comments of  
 507 staff. R. Hardy asked about the width of the lanes between the gas tanks and the asile. J.  
 508 Hill: 25', which is less than ideal. He has reduced pavement width to reduce traffic  
 509 speeds and minimize impervious coverage. J. Peters observed that this plan attempts to  
 510 "squish a lot into a little space". J. Hill responded that they have minimized many things  
 511 in the design based on feedback from the Board, for example, 29 parking spaces when  
 512 the minimum requirement is 33. D. Cleveland observed that there is "a lot of stuff  
 513 jammed in" and questioned if it is possible to have one-way circulation around the gas  
 514 pumps. J. Hill – Yes it is possible but he would want to keep the widths to  
 515 accommodate trucks.

516 The chairman called for comments on how board members would like to proceed. D.  
 517 Cleveland – Would like to see a plan with no waivers and one-way circulation for safety.  
 518 E. Clements questioned if people will follow the rules and go one way. J. Peters– They  
 519 will if there are large painted arrows on the ground. R. Hardy stated that there will  
 520 probably be a number of internal landscaping concerns. The chairman summarized

521 concerns noted: need to see a plan with no waivers, a plan with one-way circulation,  
522 incorporate setbacks and screening. J. Hill responded that the plan meets the security  
523 requirement of a 5' minimum with vegetation or opaque fence by providing a 6' privacy  
524 fence. There will also be a wall covered with vegetation (ivy). J. Hill showed  
525 architectural renderings. D. Cleveland suggested also looking into one-way traffic for  
526 the retail building. Board members agreed to continue this file to the next meeting, at  
527 which time they will hold the public hearing. C. Rogers moved to continue PB2020:01  
528 to the February 18, 2020 meeting. Motion seconded by C. Hoffman and unanimously  
529 approved.

530 **7. OTHER BUSINESS**

531 J. Peters noted that the March 17 meeting is also the date of the Coop School Meeting.  
532 Alternate dates are March 16 or 19. Staff will check on availability of the room

533 **8. ADJOURN**

534 There being no further business, the meeting adjourned at approximately 10:30 PM.

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536 Respectfully submitted,

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539 Virginia Mills

540 Secretary *Pro tem*

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