

HOLLIS PLANNING BOARD MINUTES

October 20, 2020

Final

PLANNING BOARD MEMBERS PRESENT: Bill Moseley – Chairman; Doug Cleveland – Vice Chairman, Chet Rogers, Matt Hartnett, Ben Ming and David Petry (Ex-Officio for Selectmen)
Alternates: Julie Mook, Rick Hardy

ABSENT: Jeff Peters

Rick Hardy voting for Jeff Peters

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

**THIS MEETING WAS CONDUCTED VIRTUALLY WITHOUT A PHYSICAL LOCATION
IN COMPLIANCE WITH GOVERNOR SUNUNU'S EMERGENCY ORDERS #12, 16, & 17**

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

2. APPROVAL OF PLANNING BOARD MINUTES:

Site Walk:

a. August 15, 2020

a. Motioned by D. Cleveland; seconded by C. Rogers – passed

i. B. Ming abstained

ii. C. Rogers abstained

iii. D. Petry abstained

b. September 1, 2020

a. Motioned by M. Hartnett; seconded by D. Petry - passed

i. R. Hardy abstained

ii. B. Ming abstained

iii. C. Rogers abstained

Planning Board Meeting:

a. September 1, 2020

a. Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

b. September 15, 2020 – not completed as of this meeting

3. DISCUSSION AND STAFF BRIEFING

a. Agenda Additions and Deletions:

- **File PB2020:024** – Design Review Proposed site plan/subdivision for the development of a 50 unit Housing for Older Persons development on a 36.09 acre property, Map 41 Lots 25, 28 & 44, 365 Silver Lake Road, Applicant: Fieldstone, Owner: Raisanen Homes Elite, LLC, Zoned R&A.

i. Motion to table to November 4th – D. Petry; seconded by M. Hartnett – passed unanimously

- **File PB2020:025** – Proposed lot line relocation between two adjoining lots, Map 8 Lots 1 & 1-1, 73 North Pepperell Road, Applicant/Owners: Thomas W. Cook, Jr. & Diane Siteman Living Trust, Zoned R&A.

i. Applicant withdrew application as they were not yet ready to proceed.

b. Committee Reports – none

c. Staff Report – none

d. Regional Impact – none

4. SIGNATURE OF PLANS:

- a. **PB2020-028** – 2 Market Place – Change of use to an ambulatory surgery center.
 - i. Motioned by D. Petry; seconded by D. Cleveland – passed unanimously
- b. **PB2020-022** – Worcester & North Pepperell – Olson minor subdivision
 - i. Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

5. HEARINGS

- a. **File PB2020:001** – Proposed **Design Review**, site plan application outlining the construction of a 4,500 square foot gas station and one apartment and an 8,000 square foot retail store on a 4.19 acre site, Map 5 Lot 28, 82 Runnells Bridge Road, Applicant Runnells Bridge Realty Trust Owner Team Yarmo Investment 1, LLC, Zoned Commercial.

B. Moseley noted that the Board conducted a site walk of the property earlier in the day before the meeting. He also noted that the topic of discussion would be focused on traffic impacts caused by the proposal.

M. Fougere noted that the applicant has purchased the abutting property to the west in order to secure a grading easement to install a retaining wall on the property. The driveway is now located along the western subject property line. He noted that during a scoping meeting conducted in 2019, three intersections were identified to be studied as part of this proposals traffic impact study. The three intersections are the site entrance and NH 111, Depot Road and NH 111, and South Depot Road and NH 111. He noted that the traffic study was prepared in Fall 2019. The proposal is for a mixed use development so multi-use trips are expected. During the AM peak time, 387 trips are expected. During PM peak time, 318 trips. No marked changes at any of the intersections are expected. The greatest impact to the neighborhood will be from the addition of the new driveway. Off-site roadway improvements include a 200' right turn lane. The existing center turn lane will be extended to accommodate 3 to 4 stacked cars turning left to enter the site.

M. Fougere went on to mention concerns already brought up by abutters and Board members such as speed of vehicles along NH 111, sight distance, should a flashing light be added for the driveway, will there be sufficient room for the westbound turning que to accommodate peak hour demand, and what is the AM and PM peak que for the Depot Road and NH 111 intersection. He noted that concerns raised by the Board would be summarized by staff and brought to a meeting with DOT officials.

B. Moseley noted that the abutting house to the east actually sits up on a hill and should be taken into account when designing proper screening. He also noted the noise that will be generated from the ordering board. He stated that even though there are wetlands on the western property the proposal should consider some way to take advantage of the newly acquired lot to broaden out the footprint of the project to increase the distance from the project and the eastern abutter.

B. Moseley also noted his concern relating to the inside turn of NH 111 – Nashua bound direction as it relates to sight distance.

M. Hartnett noted that taking the left turn to enter the site at 5 pm when trying to attend the site walk was challenging and warranted significant study. He stated that the only

way he made the turn was because another vehicle traveling on the opposite side let him turn.

R. Hardy stated that the discussed 470' sight line should be shown on the adjacent property as the existing tree line on the plan is not reflective of the amount of cutting necessary to achieve the discussed 470' sight line. He also noted that the screening for the adjacent properties needs to be better depicted.

Jason Hill, P.E. TF Moran began by discussing the queuing on NH 111 during AM and PM peak times.

Kim Hasiversion, Traffic Engineer TF Moran stated that the sight distance at the driveway location are going to be made to be at least 470'. The NHDOT standard is 400'. He stated that the Greenbook engineering standard depicts that 400' of sight distance is for a road speed of 45-50 MPH. He then discussed the other proposed off sight improvements specifically the extension of the left turn lane and the addition of the right turn lane.

K. Hasiversion went on to discuss the traffic study which considered peak month conditions and two horizon years of 2020 and 2030. He stated that a 1% annual growth rate was used which he considered to be conservative since traffic usually increases less than 1% annually. Estimated trip generation was created using standard methodology. He stated that the impact to the three intersections in the study was not significant. The majority of the trips to the project were considered pass-thru trips or traffic that was already on the road. He noted that the projected utilization of the left hand turning lane and que size would not be substantial. He believed that 200' of stacking storage in the left turn lane would be sufficient. He stated that the projected 2030 stacking length from the Depot Road, NH 111 intersection traveling Nashua-bound would be 271' during AM peak and 175' during PM peak.

C. Rogers asked if the traffic study took into account the trip reduction due to COVID-19.

K. Hasiversion stated that the counts were taken in October 2019 so before that all happened.

C. Rogers asked what was the site distance for the existing conditions along the inside curve of NH 111.

K. Hasiversion stated that he was unsure but if he had to estimate it would be roughly 300'.

C. Rogers asked how the 470' of sight distance would be achieved.

K. Hasiversion stated that the construction of the turning lane provides for a lot of the sight distance as well as vegetation removal. The slope along the right of way will also be reduced.

D. Petry noted that this traffic study is not independent but was produced in house by TF Moran, who is representing the applicant and as such is biased. He also stated that the trip counts come from a traffic study that NHDOT conducted in 2018. He asked if TF

Moran put out trip counters at the studied intersections in 2019 or was the counts estimated by computer model.

K. Hasiversion stated that in the appendix the existing traffic moving counts for the intersections in July of 2019. He had previously stated October but corrected himself to say July.

D. Petry asked what time of day the counts were collected and how they were counted.

K. Hasiversion stated between 7am - 9am then 4pm – 6pm. They were either on-site counts or done through a video recording of the intersections.

D. Petry stated that July was not a good time of year to get traffic counts since many residents are on vacation. He felt that these traffic counts were not accurate.

K. Hasiversion stated that they used NHDOT statistics to estimate peak month conditions.

D. Petry stated that was not the same as real traffic counts during a busier month with school in session.

J. Hill stated that they used common traffic study methodology that is accepted throughout the region.

D. Petry stated that not using real on-site counts is misleading.

B. Moseley stated that he lives in this neighborhood and can attest to the change in traffic patterns from July to September.

M. Hartnett asked if the off-site improvement sheet showed the road before or after the road is widened.

J. Hill stated that it showed the road after the right hand turn lane was added and clarified that off-site improvements will only take place on the south side of NH 111. He noted that the proposed detention area would be conveyed to the State for drainage.

E. Clements asked if the State would maintain the proposed off-site drainage structures.

J. Hill stated that a permeant maintenance easement would be conveyed to NHDOT.

R. Hardy asked about a yellow flashing light for the inside curve of NH 111. He noted that NHDOT has not been asked yet if a flashing yellow would be appropriate.

M. Fougere stated that he would add that question to the list that staff would be asking NHDOT about.

K. Hasiversion stated that there are no warrants for flashers unlike a traffic control signal and the decision to install a flashing yellow is based on the judgment of NHDOT officials. Generally if the sight lines are clean and there is ample sight distance NHDOT does not like to install a flasher since having too many yellow flashing lights

desensitizes drivers to them and reduces their overall effectiveness. He also confirmed that NHDOT has not been asked about the flasher as of yet.

M. Hartnett discussed the interior truck turning movement plans and believed them to be cumbersome and would disrupt customer traffic flow through the site.

J. Hill stated that the interior turning movements are the result of a design decision to limit the amount of impervious surface on the site. Widening the travel lanes would increase the space for truck turning. He also noted that the site intends to schedule deliveries before peak times. He noted that the proposed entrance is perpendicular to NH 111 and approximately 45' wide and is standard design practice.

M. Hartnett stated that he would not recommend relying on truck deliveries to be on time as part of the design elements for the site.

C. Rogers requested a conceptual design that incorporates the western abutting property because he believes that the existing site is too narrow to adequately accommodate the proposed use.

E. Clements noted that driveways are a permitted use within the wetland buffer.

J. Hill asked if the Board was formally asking for a conceptual design that incorporates 88 Runnells Bridge Road into the overall site plan. He noted that he could not commit to such a design without first discussing it with the property owner. He also clarified that the entity that purchased 88 Runnells Bridge Road was the same entity that purchased the subject property and was submitting the proposal. He stated that at this time the property owner was not interested in incorporating 88 Runnells Bridge Road into the current proposal.

J. Hill stated that they were working within the existing regulations and were attempting to work with the Board to provide additional screening for the benefit of the abutter to the east of the proposal. He stated that he could explore additional plantings and a privacy fence along the eastern property line.

J. Hill stated that the Planning Board approved a two way commercial driveway along the eastern property line with landscaping when the site was originally subdivided. He noted that the current proposal has more buffering than what was approved for the subdivision.

D. Petry asked staff what the lot area of 88 Runnells Bridge Road is.

M. Fougere stated that it was approximately 1.6 acres.

D. Petry asked if the current proposal included a lot line revision or just an easement.

J. Hill stated that they were just granting an easement.

D. Petry considered a land transfer of approximately 15' from 88 Runnells Bridge Road to the subject parcel to provide additional space but had concerns relating to 88 Runnells Bridge Road being legal non-conforming.

E. Clements noted that the driveway for the site would be very close to the existing house on 88 Runnells Bridge Road.

M. Hartnett noted that shifting the driveway entrance would increase the traffic conflict with the store across the street.

J. Hill noted that there is a community water system to the south west that is limiting the placement of the underground storage tanks.

M. Fougere stated that the storage tanks could remain in the same place and have the site move around it. He also noted that when the Board approved the subdivision for the site they reserved the right to change the required landscaping and buffering depending on the final approved uses of the subdivided parcels.

Public Hearing

B. Moseley opened the public hearing by noting that the topic of discussion would be on traffic and traffic related concerns only. Other topics of discussion would not be entertained at this time since the public hearing is remaining open.

Joe Garruba: 28 Winchester Drive – stated that he believed that there were some considerable problems with this proposal in terms of compliance with the Town’s regulations that the applicant has not taken into account. He stated that the aquifer situation has not been addressed. The Aquifer Protection Overlay zone allows for only 15% impervious coverage. He noted that the current proposal exceeds the 15% limit.

B. Moseley stated that Emory & Garret, the environmental firm that reviewed the aquifer analysis that took place on the subject parcel during its subdivision, was to be brought to clarify their review of the analysis. The analysis stated that the subject parcel was not in the Aquifer Protection Overlay (APO) zone and Emory & Garret corroborated those findings.

B. Moseley then requested that Mr. Garruba focus his comments on the traffic issues of this proposal as requested when the Public Hearing was opened.

J. Garruba stated that he has been trying to get his concerns related into the Aquifer Protection Overlay zone into the record for some time. He stated that he wanted to discuss his concerns with the Hydrogeological study that was conducted. He stated that according to the Hollis Zoning Ordinance only the “boundary” of the APO can be challenged. He stated that the subject property was not along the edge of the APO but within it and, according to Mr. Garruba’s interpretation, not subject to challenge or removal from the APO.

B. Moseley stated that Mr. Garruba has made his point that the aquifer is a concern and again asked him to move on to another point.

J. Garruba stated that he was just done defining the aquifer regulation and would talk further on the process of the aquifer regulation.

B. Moseley stated that Mr. Garruba’s time had elapsed.

J. Garruba continued to talk about the aquifer.

B. Moseley informed Mr. Garruba that he needed to move on with his comments or he would be muted to allow time for other resident comment.

J. Garruba stated that he had a lot of information as to why the subject parcel was in the aquifer.

For failing to follow multiple requests to move on to another topic, J. Garruba's comments were deemed out of order and he was muted.

B. Moseley stated that the Board is aware of concerns relating to the aquifer but muted the previous speaker in order to continue the meeting.

M. Fougere stated that the aquifer concerns are not a new issue and have been discussed multiple times. The hydro-geo study was conducted over a year ago and the decision to accept the findings of that study were not done lightly by the Board. He noted that the boundary of the aquifer is not locked into a paper plan done by the USGS 35 years ago.

D. Petry stated that all interested parties are allowed and requested by the Board to submit written letters and testimony to the Board. He noted that the Board is in receipt of a 10 page document from Mr. Garruba dated 10/5/2020 and received by the Planning Department 10/15/2020 that addresses Mr. Garruba's concerns. These documents and concerns are taken into account by the Board.

Public Hearing Suspended

J. Hill asked for any specifics that the Board may want to see on the next conceptual design other than utilizing a portion of the recently acquired 88 Runnells Bridge Road.

B. Moseley suggested final engineering plans.

M. Fougere stated the new entrance and drainage along the west property line needs to be reviewed by the Town Engineer.

J. Hill stated that final engineering was not yet ready since a final design has been decided on by the Board. Once the Planning Board has decided on a final concept design he can move forward with finalizing the entire plan set.

Motion to table to Nov. 4th Meeting – Motioned by D. Petry; seconded by C. Rogers – passed unanimously

- b. **File PB2020:029 – Final Review:** Proposed site plan to show the addition of one residential unit to a site with 5 existing housing units with a ZBA condition that a number of existing structures be removed from the site, Map 59 Lot 24, Applicant/Owner: Raymond Lorden, 11 Federal Hill Road, Zoned Recreation.

M. Fougere stated This Site Plan proposal shows the demolition of 6 existing unoccupied waterfront structures as well as the existing pavilion building. The 6 unoccupied waterfront structures and pavilion are located within the 250' shoreland protection area and 100' wetland buffer area. A new 18'x34' one bedroom detached

353 dwelling unit is proposed to be constructed in their place. This dwelling unit will be built
354 within the 150' shoreland natural woodland buffer area.

355 The Planning Board conducted a Site Walk of the property on September 1, 2020 and
356 discussed the location of the new dwelling, the driveway parking area, and the
357 demolition of pavilion and six seasonal cabins. The updated Site Plan shows the revised
358 driveway with a two stall parking area just west of the new dwelling. Access to the
359 dwelling will not be from the south side of the building so as to prevent any pedestrian
360 hazard with the driveway on the site. The six seasonal cabins will be lifted from their
361 pilings and brought off the shore and into the site for demolition. This will be done to
362 prevent any contamination to Silver Lake. Silt fencing is proposed around the work area
363 for additional protection of Silver Lake.

364 The existing septic systems on the site were inspected and found to be in working order
365 at the time of the inspection. A new leach field is proposed for the new dwelling unit as
366 well as unit #7 and unit # 11.

367 The subject property has been granted three (3) variances by the ZBA to accommodate
368 this proposal: ZBA2020-003, ZBA2020-004, and ZBA2020-005.

369 **Motion to accept application** – Motioned by D. Cleveland; seconded by D. Petry –
370 motion passed unanimously

371 Randolph Haight, Meridian Land Services – stated that the proposal includes a new
372 location for the driveway and parking areas. Additional siltation fence was added around
373 the demolition and construction area. They are also proposing to wait until the lake is
374 frozen to conduct the demolition.

375 M. Hartnett asked if the trees along the shoreline would be preserved.

376 R. Haight stated that was correct. No trees along the shoreline were to be removed. He
377 noted that the land where the cabins and pavilion rested would be restored to its natural
378 condition.

379 D. Cleveland asked if the six cabins rested on a concrete foundation.

380

381 R. Haight stated that they are on wooden pilings.

382

383 M. Fougere asked about a Shoreland permit from the State.

384

385 R. Haight stated that they already have the permit.

386

387 **Public Hearing**

388

389 No public comment

390

391 **Public Hearing Closed**

392

393 **Motion to approve application** – Motioned by M. Hartnett; seconded by D. Cleveland
394 – passed unanimously

- c. **File PB2020:030** – Proposed **Final Review**, minor subdivision application of an existing 13.121 acre property into four lots. Map 20 Lot 22 Broad Street, Owner Paul L. Tringoson Rev. Trust, Applicant Stephen Vadney, Jr, Zoned R&A.

M. Fougere stated that the purpose of the plan is to depict a minor four lot subdivision of an existing 13.12 acre site. The property sits at the intersection of Broad Street and Nartoff Road. NHDOT has granted three driveway permits to access the three proposed lots on Route 130. The lots range in size from 2 to 6.54 acres. Wetlands exist on lot 3 and a minor dredge and fill permit will be required to access the rear of the lot. The Conservation Commission reviewed the minor wetland impact and approved of the proposed driveway crossing. A small wetland is also present on Lot 22. Test pits have been performed on all of the lots and they have been witnessed by the Town's Inspector. The lots fronting on Broad Street consist mostly of open field, with the Nartoff Road lot heavily wooded. The applicant is proposing that the house along Broad Street be set at least 75' from the road and a series of 2" caliper maple trees be planted. The Board will need to make a determination if this will be sufficient to meet the Rural Character Ordinance. Staff is recommending that the driveway on lot 3 be moved out of the 100' wetland buffer as much as possible before crossing the wetland.

Motion to accept application – Motioned by D. Cleveland; seconded by M. Hartnett – passed unanimously

Tim Peloquin, Promised Land Survey – stated that they went to Conservation Commission and got approval for the wetland crossing. He noted that while the applicant was willing to move the driveway they chose that location to create an S-shaped driveway for additional privacy.

T. Peloquin stated that in regards to the “Old Milford Road” there is some kind of passageway there and noted that the surveyor Alan Swanson in the 1980’s identified this passage way as “Old Milford Road” on a worksheet plan. That is why this plan has that label. The label will be replaced with another identifier. He discussed a note that was added to the plan prohibiting vehicles from conducting a backup onto Broad Street for safety reasons. Turn arounds will be required for the driveways to support this requirement. A \$7,500 cistern fee will be required at the time of the issuance of a Certificate of Occupancy.

B. Moseley asked about the location of the property line along the road bed.

T. Peloquin stated that they had not monumented the road bed as of yet but the centerline of that road bed is considered to be the property line. He noted that there is evidence of stone walls on each side of the roadway.

D. Petry asked if this roadway was ever a class VI road.

E. Clements stated that he researched the roadway in question with the help of the Assistant Assessor, Connie Cain and they did not find any record of it being a class VI road or a discontinued roadway. They believe that it is the old access easement for Map

436 20 Lot 21. This parcel now gets it access off of a shared common drive from Nartoff
437 Road. This strip is the road frontage for Map 20 Lot 21.

438 D. Petry asked about the stakes on the subject parcel and what they are delineating.

439 T. Peloquin stated that they were showing the possible house locations greater than 75'
440 from Broad Street. The goal was to place them in the field to prevent any trees to be cut
441 and allow from an ample back yard. Lot 22 is approximately 80' from the road. Lot 22-1
442 is approximately 95' from the road. Lot 22-2 is greater than 95' from the road.

443 D. Petry stated that when he drove by the staked out footprint it still felt like the houses
444 were right on top of Broad Street. In interest of the Rural Character Ordinance he would
445 like to see them pushed back even farther. He mentioned that there was another
446 development along Broad Street where the house are pushed much farther back. He
447 stated that he would like to see the houses pushed back at least another 25'.

448 T. Peloquin stated that they were willing to extend the house setback to 100' from the
449 road.

450 D. Cleveland and J. Mook agreed with the 100' setback.

451 R. Hardy stated that the proposed landscaping is insufficient and not consistent with
452 what the Board has required of other, similar projects. He recommended an increase in
453 the quantity of trees and to change the layout from linear plantings to a more organic,
454 natural layout.

455 T. Peloquin stated that he was unfamiliar with creating a landscape plan that meets the
456 Hollis rural character. He stated that he did what he could without guidance from the
457 regulation. He stated that he would be willing to add more trees and change the layout.

458 R. Hardy stated that he would not be comfortable with a conditional approval for this
459 proposal with the landscape plan outstanding. He recommended that the applicant work
460 with staff to update the landscape plan then return to the Board for approval.

461 D. Petry agreed.

462 M. Fougere asked the Board to weigh in on staff's recommendation to move the
463 driveway on lot 3.

464 E. Clements asked if it was possible to move the driveway while still achieving the S-
465 curve that the applicant is wishing for.

466 B. Moseley recommended inverting the S-curve.

467 T. Peloquin stated that they would make an attempt to move the driveway and explore
468 some options.

469 **Public Hearing**

470 No public comment

471 **Public Hearing closed**

Motion to table to November 17, 2020 meeting – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

- d. **File PB2020:031** – Proposed lot line relocation between two adjoining properties, Map 28 Lots 2 & 3, Owner/Applicants Napier Rev. Trust & Duymazlar Rev. Trust, 247 & 249 Hayden Road, Zoned Rural.

M. Fougere stated that this proposed Lot Line Revision Plan shows the transfer of .076 acres from 247 Hayden Road to 249 Hayden Road. This will allow 249 Hayden Road to construct a 24'x28' garage without encroaching into the side yard setback. Both lots will retain their existing frontage. There is also a 150' private conservation easement along the frontage of both lots that will not be altered by this proposal. All zoning requirements will be maintained. The applicant has requested a waiver from the detailed subdivision plan requirements.

Motion to accept application – Motioned by D. Cleveland; seconded by D. Petry – passed unanimously

Carl Foley, Fieldstone Land Consultants – stated the application is a straight forward lot line adjustment. The purpose is to allow for the construction of a garage.

Public Hearing

No public comment

Public Hearing closed

Motion to approve waiver from Section V. – Subdivision Plat Requirements for topography, soils data, delineated wetlands, driveways within 200', and natural and man-made features – Motioned by D. Petry; seconded by M. Hartnett – passed unanimously

Motion to approve application – Motioned by D. Cleveland; seconded by C. Rogers – passed unanimously

- e. **File PB2020:033** – **Conceptual Consultation:** Proposed three lot subdivision creating properties ranging in size from 4 – 5.3 acres accessed via private ways (one Love Lane and two Proctor Hill Road), Owner: Fimbal Trust, Applicant: Federal Hill Properties, LLC, Map 17 Lot 34-1, Love Lane & Proctor Hill Road (NH Route 130), Zoned R&A, Town Center, A&B and Historic District.

M. Fougere stated that the purpose of this conceptual plan is to outline a proposed three lot subdivision of an existing 14.3 acre lot into three back lots. The existing property has frontage on both Love Lane and Proctor Hill Road (NH Route 130). These back lots will range in size from 4 - 5.3 acres, meeting the minimum 4 acre lot area requirement. Lots 2 & 3 will be served by a private way which currently serves two existing homes off Proctor Hill Road. A new private way will have to be constructed to meet current Subdivision Regulation standards. A small wetland areas exists on new lot 3. Rural Character needs to be addressed. He did note that letters from abutters have raised some

522 concerns. One issue in particular that has been raised is concern that this proposal will
523 create a cut-through for vehicle traffic from Proctor Hill Road to Love Lane. He stated
524 that there is no intent from the applicant to create such a cut-through but suggested that a
525 stipulation of approval be added to prohibit any such cut-through.

526

527 Randolph Haight, Meridian Land Services – stated that lot 1 has an existing driveway
528 easement from when the property was subdivided in 2018. Lot 17-34 was separated off
529 from the parent parcel and a second, 29 acre parcel was given to the Beaver Brook
530 Association.

531

532 R. Haight described that lot 1 would be serviced from the existing driveway easement
533 that currently serves the subject parcel and lot 17-34 and lot 17-35. He noted that lot 17-
534 35 originally had no frontage but had an access easement to Love Lane. During the 2018
535 subdivision, lot 17-35 was given approximately 20' of frontage to make it more
536 conforming. The lot is still legal non-conforming because it does not have the current
537 acreage to be a back lot.

538

539 R. Haight stated that in 1986 the Board approved a plan with 'Orchard Road' which is
540 why the existing common drive off of Proctor Hill Road is labeled as Orchard Road. He
541 noted that the suffix could be changed to Way to conform to established road naming
542 conventions. He noted that the driveway for lot 17-20 is located on the subject parcel
543 and not on its own property. It is the intent of the applicant to create a common drive
544 easement and request a waiver to allow for 4 lots to be served by a common access
545 drive. He did note that two lots already have access from this driveway but there is no
546 formal easement.

547

548 R. Haight stated that there is no intention to create a cut-through from Proctor Hill Road
549 to Love Lane.

550

551 R. Haight stated that there is an existing water line running from the Town well on
552 Rocky Pond Road that crosses lot 17-21, the subject parcel, 17-20, and 18-2 then goes
553 under Town land. The water line serves the schools, Town Hall, and a few properties in
554 Monument Square.

555

556 B. Moseley asked how large the pipe was.

557

558 R. Haigh did not know.

559

560 D. Petry noted that extreme care needs to be taken when constructing the driveways so
561 as not to impact the water line.

562

563 R. Haight stated that their intention was to build up and not down. He noted that they
564 could have created a new curb cut to service lot 3 off of Proctor Hill Road but did not
565 want to remove the existing trees.

566

567 D. Petry asked about underground utilities or above ground.

568

569 R. Haight stated that there was an existing utility easement along 'Orchard Road' then
570 moves towards the house on 17-20. The electric service polls run along 'Orchard Road'
571 and the applicant intends to run utilities underground from the last pole. Lot 1 has a pole

by the road and an easement along 17-32 so the utilities will run underground from the pole.

B. Moseley asked if there is some kind of marker for where the water line is.

R. Haight stated that there was not.

D. Cleveland noted that there was already another road in Town called Orchard Drive. He raised concerns to naming the common drive Orchard Way as it may be confusing.

R. Haight stated that they did not want to cause a E911 confusion and would be okay with another name.

E. Clements stated that the Town's naming convention for private common drives is to use first names and repeated road names is highly discouraged.

R. Haight suggested Nelson Way since Nelson Parkhurst used to own all land in the area.

B. Ming asked about trees along the common drive.

R. Haight stated that there were some trees but a lot had been cleared. He noted that the subject parcel used to be an apple orchard. NHDOT originally gave a driveway permit for a business to remove the apples from the orchard.

Public Hearing

James Chilton, owner of 34 Proctor Hill Road (lot 17-20) and 40A & 40B Proctor Hill Road (lot 17-21) – stated that he had a lot of questions and would send in a letter but wanted to ask about the common drive and his access. He wanted to know if another road would be built next to his driveway and if his address would have to change.

M. Fougere stated that he did not know about what legal rights Mr. Chilton may have and that would be between the applicant and Mr. Chilton. He explained that the private way would be privately owned and maintained and an easement document would be drafted to give all four property owners access for travel and utilities across the easement. He explained that there were Town road standards for size and construction of the private way so emergency vehicles can get into the properties. He also noted that the frontage for Mr. Chilton's properties would not change. He noted that there are specific standards dictated by E911 in regards to naming roads to prevent confusion during an emergency.

J. Chilton asked if that meant he would have to pay someone a fee for a road that is going to be put on top of his current driveway.

M. Fougere stated that he would have to negotiate with the applicant but there needs to be some kind of maintenance agreement so there isn't a disagreement on who pays to have the private drive plowed, etc. He noted that the strip of property where Mr. Chilton's driveway is located is owned by the applicant who has rights to that property. He also noted that as far as he is aware, there is no written rights to that property in Mr. Chilton's deed which complicates the matter but is not that uncommon in older deeds.

J. Chilton asked if he was not allowed to construct a new driveway on his property to avoid having to participate in the shared driveway.

D. Petry stated that it would take further research to answer that question. He also stated that he did not think the 40A & 40B Proctor Hill Road address would need to change. That Mr. Chilton could demonstrate that he could access that parcel from Proctor Hill Road. He then questioned why lot 20 did not have proper frontage on the road to be a legal back lot.

M. Fougere stated that if Mr. Chilton could get a new driveway permit from the State for both lots then he might be able to get out of this situation.

D. Petry noted that the easement would be for only the length of driveway until his portion of the driveway breaks off to the home.

E. Clements stated that if a new curb cut is established for 40A & 40B Proctor Hill Road, that may still cause the common address to change as common addresses are assigned based on the location of the curb cut. He also stated that if the common drive is named, it would be unlikely that the Proctor Hill Road common addresses could be maintained. This is due to emergency personnel looking for a Proctor Hill address and seeing a Nelson Way road sign.

D. Petry requested that the 'Orchard Road' area be zoomed in to get a better idea of the access area for the lots.

R. Haight stated that he would be surprised if NHDOT would allow another driveway in the area since they do not want to inhibit traffic flow with additional access points.

R. Haight stated that it was not Mr. Chilton's responsibility to pay for any of the construction of the common drive. The shared common drive document would identify who has rights of access as well as identifying a proportional maintenance agreement.

Mark Post; 43 Love Lane (lot 17-35) – stated that he had a concern about the creation of a cut-through from Proctor Hill Road to Love Lane but he understood that was not the intention of the applicant at this time. He was more worried about additional changes in the future. He stated that the worst case scenario would be to create pathway from Brookline to the middle school, legal or illegal. He requested that design and development of these lots be done in such a way that would make a cut-through impossible. He asked if the shared common drive document could have language that would prohibit the extension of the common drive through lot two and onto lot one.

D. Cleveland stated that the Board could consider such a stipulation.

Charles Wood; 51 Love Lane (lot 17-32) – stated that he had concerns relating to the driveway for lot 1. He is worried that if the driveway comes in at a 90 degree angle, vehicles will shine their headlights directly into his home. He requested that that driveway be constructed in such a way to mitigate this.

Deborah Shipman; 45 Love Lane (lot 17-34) – stated that she used to live at 40 Proctor Hill Road and is Mr. Fimbel's stepdaughter. The Fimbels have a 50' wide deed to the lower orchard from Nelson Parkhurst. She stated that Mr. Chilton's driveway starts at

the bend in the road but does not go all the way to Proctor Hill Road. She stated that their right of way goes through the woods and they share the driveway. She stated that she talked with Connie Cain, Assistant Town Assessor who indicated that that access is the only access to the lower orchard. She noted that there is a stone wall and a small stream that prevents other access to the lower orchard.

James Chilton, owner of 34 Proctor Hill Road (lot 17-20) and 40A & 40B Proctor Hill Road (lot 17-21) – spoke for a second time – asked if lot 17-20 does in fact have 20’ feet of frontage on Proctor Hill Road. He is aware that the driveway is not where it is supposed to be.

M. Fougere stated that was correct. Lot 17-20 has frontage on Proctor Hill Road. He wasn’t sure of the exact amount but the tax map and GIS both show frontage.

J. Chilton asked how many homes can be on a shard common drive.

M. Fougere stated that a maximum of four homes is allowed.

Deborah Shipman; 45 Love Lane (lot 17-34) – spoke for a second time – reiterated the location of Mr. Chilton’s driveway in relation to the deeded access to the subject property.

D. Petry stated that it is the applicant’s responsibility to research what has been recorded and untangle the access issue.

R. Haight stated that he would clarify it on the plan.

Public Hearing closed

Motion to move this proposal to Design Review – Motioned by D. Cleveland; seconded by D. Petry – passed unanimously

No new business is taken up after 10:00 pm

Motion to table PB2020-034 & PB2020-032 to the November 4th meeting – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

- f. **File PB2020:034 – Conceptual Consultation:** Proposed minor subdivision of an existing 22.17 acre lot into five lots ranging in size from 2 – 8.55 acres, 120 Federal Hill Road, Owner/Applicant: Federal Hill Properties, LLC, Zoned R&A and Rural.
- g. **File PB2020:032 – Conceptual Consultation:** Proposed major subdivision of a 55.49 acre property into 17 single family lots, conventional & HOSPD layout, Map 32 Lot 45-3, Howe Lane, Applicant/Owner Ducal Development, LLC, Zoned R&A.

725 **7. ADJOURN**

726 There being no further business, M. Hartnett presented a non-debatable motion to
727 adjourn. Motion seconded by. C. Rogers and unanimously approved. Meeting adjourns at 10:22
728 PM.

729 Respectfully submitted,

730 Evan J. Clements,

731 Assistant Planner