

HOLLIS PLANNING BOARD MINUTES
December 21, 2021
Final

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

ABSENT: C. Rogers – K. Anderson voting; B. Ming – R. Hardy voting; J. Peters.

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:

- a. November 2, 2021: **Motion to approve** – motioned by D. Petry; seconded by D. Cleveland – motion passed unanimously
- b. November 16, 2021: **Motion to approve** – motioned by K. Anderson; seconded by V. Mills – D. Petry abstained – motion passed
- c. December 4, 2021 Lorenzo Lane Site Walk: **Motion to approve** – motioned by D. Cleveland; seconded by D. Petry – R. Hardy, V. Mills, J. Mook abstained – motion passed
- d. December 4, 2021 Gravel Pit Site Walk: **Motion to approve** – motioned by K. Anderson; seconded by D. Petry – R. Hardy, J. Mook abstained – motion passed

3. DISCUSSION AND STAFF BRIEFING

a. Agenda Additions and Deletions:

- **File PB2021:025** – Proposed minor subdivision of an existing 74.506 acre parcel into two lots, 14-35 Richardson Road, Applicant & Owner: Gloria R. Law Revocable Trust, Map 14 Lot 35. Zoned R & A. – **Tabled to January 4, 2022 due to a noticing error.**
- **File PB2021:026** – Proposed Lot Line Adjustment to amend the lot lines between lots 32-45-2, 32-45-6 & 16-1A Howe Lane in order to consolidate lot 16-1A into the other two lots, Owners: John & Linda Seager and James & Judith Seager, Applicant: David O'Hara & Associates, Map 32 Lots 45-2, 45-6 & 16-1A. Zoned R & A. – **Tabled to January 4, 2022 due to a noticing error.**

b. Committee Reports – none

c. Staff Report – none

d. Regional Impact – none

4. SIGNATURE OF PLANS: PB2021-023 Austin Lane LLR – tabled due to final plan sets not being submitted for review.

5. ZONING CHANGES:

- a. **Proposed Zoning Changes** – A Public Hearing was held to discuss four potential zoning changes.

Amendment 1:

Amend Zoning Ordinance as follows: amend the following Section XI, Overlay Zoning Districts, C. Wetland Conservation Overlay Zone, by **deleting** Article 5:

Drainage in its entirety : a. ~~There shall be no net increase in peak flow or overall volume of stormwater runoff in the WCO Zone as a result of any development. b. Calculations shall be based on 2, 5 and 25 year storm events in accordance with NRCS Technical Release 55 or Technical Release 20, or other calculation methods as approved by the Planning Staff. C. Drainage design shall be in accordance with the Town of Hollis Subdivision and Site Plan regulations. **Amend** Article 7 Special Exception in the Wetlands Conservation Overlay Zone, b (i) as follows: hydrological calculations based on drainage requirements in accordance with the Hollis Subdivision Regulations. Section XI.C.4.b. of this Ordinance. **Delete** Section XV Hollis Rural Character Ordinance, F. Design Standards, 6. Erosion Control, paragraph a. in its entirety. Restrict the post development runoff rate and volume to match the pre development rate or volume for each offsite flow area based upon a ten year rainfall event. The first 1/2 inch of runoff from all impervious areas is to be retained on site. Treated runoff should infiltrate into the ground in an amount approximately equaling pre development runoff conditions. Roof runoff is considered "treated" for the purposes of infiltration. If, after a recommendation by the Town Engineer, the Planning Board makes the determination that strict adherence to the above rate and volume regulations may cause more environmental harm than good, then offsite rates and/or volumes may be increased above pre development conditions by as much as 25%. However, drainage in wetland conservation overlay (WCO) zones must adhere to the standards provided in Section XI.C.4 of the Hollis Zoning Ordinance, which requires that there be no net increase in peak flow or overall volume of stormwater runoff in the WCO zone as a result of any development. At no time shall offsite flow increases be allowed onto an objecting abutter's property.~~

M. Fougere introduced the first amendment that details drainage regulations in the Town and noted that staff and the Planning Board have been working on this for over a year. The changes include shifting the regulations from a volume based standard to a water quality based standard. Increases the kinds of developments that will be subject to the new drainage regulations. The intent is to move drainage related zoning requirements to the subdivision regulations and update to reflect state of the art water quality requirements and recognize required EPA MS4 oversight. In addition, reduce environmental impacts associated with existing drainage requirements thereby maintaining the rural character of the community.

Public Hearing

Joe Garruba; 28 Winchester Drive – stated that the existing Stormwater Regulations have done a good job at protecting the rural character of the Town. He stated that he believes if the regulations are changed the developers will not just leave the land as open space but will put another house on the freed up land that is no longer needed for drainage.

He stated that there are many problems with the proposed changes. He stated that it will damage the resident's authority to regulate development in the Town. He believes that it is costly and will damage private property rights and agricultural and business interests. He believes that federally mandated regulations can be implemented in a limited fashion to protect the Town since the mandate only applies to a small portion of the Town. He discusses that moving the drainage rules out of Zoning and into a regulation will mean that a Variance will no longer be needed for exceptions. He noted that future Planning Board's will be able to make changes to

the regulations without a vote of the Town residents. He recommended that the proposed drainage regulations should be amended and then added to the Zoning Ordinance and not the Subdivision Regulations. He reiterated that need to keep the new requirements to only the portion of the Town that has been deemed “Urbanized” by the federal government and to not burden the community with costly requirements and inspections.

M. Fougere noted that the current draft of the proposed drainage regulations separate the federally mandated MS4 requirements from Town wide drainage requirements.

Amendment 2:

Amend Section X Zoning Districts, A. Agriculture & Business Zone, B. Commercial Zone, C. Industrial Zone, D. Mobile Home-1 Zone, E. Mobile Home-2 Zone, Recreation Zone, Residential & Agriculture District, Rural Lands Zone, Town Center Zone and Water Supply Conservation Zone by adding a new Section, **Prohibited Uses: Aircraft landings & take offs.**

M. Fougere explained that State statute allows aircraft take offs and landings unless prohibited. The Board discussed setting conditions for when it would be allowed but decided to prohibit planes and helicopters from taking off and landing.

Public Hearing

Joe Garruba; 28 Winchester Drive – made a suggestion to clarify the wording of the amendment to specify passenger aircraft. He did not believe that the intent was to prohibit drone and RC hobby aircraft use but those activates would also be prohibited.

M. Fougere noted that the language of the proposed amendment is taken directly from State stature.

D. Cleveland stated that was a good point and also asked if hot air balloons were considered aircraft.

Amendment 3:

Amend Section IV: Enforcement and Administration, by adding a new provision as follows: **If, prior to the issuance of a Building Permit, an applicant intends to disturb a site, then a Notice of Site Development shall be required. A Notice of Site Development shall be submitted to the Planning Department, prior to the issuance of a Building Permit, in order to begin any site disturbance in preparation for construction. The Notice of Site Development does not supersede the prohibition of activities and permit requirements detailed in subsection F below. Failure to submit the notice shall be considered performing work without a permit and subject to enforcement actions, including applicable fines.** In addition, **amend** Section IV: Enforcement and Administration, E as follows: No excavation for foundation, nor erection, construction or structural alteration of any structure or part of a structure, or occupancy of streets or alleys with building materials or temporary structures for construction purposes shall be undertaken until a permit shall have been issued by the Building Inspector. ~~No such permit shall be issued before application has been made for a Certificate of Occupancy.~~

E. Clements explained that this proposal is in response to an issue that the Planning and Building Departments have been dealing with related to site development activities taking place without the Town being aware.

Public Hearing

Joe Garruba; 28 Winchester Drive – stated that he was in support of this proposal and he hopes that it would address some of the issues that he hears from the community. He noted that there are specific State rules regarding Timber cutting that he worries can be abused to prep a site for development before local approvals have been issued.

Amendment 4:

Amend Section XI: Overlay Zoning Districts, A. Aquifer Protection Overlay Zone, Article 6. Prohibited Uses in the Aquifer Protection Overlay Zone, l. as follows: Subsurface storage of petroleum, other refined petroleum products, or other Hazardous or Toxic Materials as defined in RSA 147-A. **The subsurface storage of natural gas or propane products shall be allowed.**

M. Fougere stated this proposed amendment is to clarify the underground storage of petroleum products to allow heating fuel that is a gas and a leak would not impact the aquifer. It was suggested by the Fire Department as best management practices for the storage of heating fuel is to put the tanks underground.

Public Hearing

Fred Hooper; 123 Worcester Road – stated that he was in favor of the change but had some questions related to the regulation of the installation of these tanks such as tank depth and thickness.

M. Fougere stated that the Fire Department permits the installation of underground storage tanks for heating fuel and enforces the requirements.

Joe Garruba; 28 Winchester Drive – spoke in favor of this amendment. He noted that that the original change made to the Zoning Ordinance had an unintended consequence that the Board was not attempting to rectify and the Board should be careful in the future to avoid unintended consequences.

Public Hearing closed

Board Deliberation of Proposed Amendments

Amendment 1:

K. Anderson stated that the Town does not have control over federal drainage regulations and the MS4 permit and they should always be separate from Town regulations.

Mike Vignale, Town Engineer – believes that the federal requirements have been met with the new proposed regulations and the Town regulations have been updated to meet current standards and practices.

D. Petry asked if the proposed regulation is less restrictive.

M. Fougere stated that this is a shift from the Zoning Ordinance to the Subdivision Regulations. He stated that he was been working as a Planner in New Hampshire since 1987 and having drainage regulations in Zoning is very unusual. The shift to focusing on water quality makes the regulations more restrictive than current regulations and aligns the Town with state and federal water quality requirements.

E. Clements stated that requiring smaller Stormwater structures will not change the allowed density of a proposal.

D. Petry stated that he was in favor of the proposed zoning change.

K. Anderson stated that the proposed regulation is based on state standards that are more restrictive than the current Town regulation and he was in favor of the proposed amendment.

J. Mook noted that this would allow the Town to respond more quickly to any changes that the state makes to drainage regulations and she was in favor of the proposed amendment.

Motion to move amendment 1 to ballot – Motioned by K. Anderson; seconded by D. Cleveland – passed unanimously

Amendment 2:

B. Moseley noted that Mr. Garruba’s comment about manned vs. unmanned aircraft was worth looking into.

M. Fougere stated that staff would look into the matter.

Motion to table to January 4, 2022 – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

Amendment 3:

B. Moseley stated that he has been in the Town Hall and witnessed staff discussion revolving around developers who have “jumped the gun.” He believes that this would be a valuable tool.

R. Hardy stated that he was in favor of the amendment and noted that erosion control is important.

K. Anderson stated that he was in favor of the amendment but raised concern regarding the term “site development.” How do you prove that the activity on the site is for development?

E. Clements explained that this idea was a reaction to activity on an approved subdivision that happened earlier in the year. He clarified that this procedure is focused on projects that have already been approved by the Planning Board and is not a way to circumvent the authority of the Planning Board. He explained the project over the summer had opened up two building lots and the builder had cleared, stumped, and regraded the lot with no erosion control installed and no

building permit. When confronted the builder stated that since he had not yet dug his foundation hole there was nothing in the Zoning Ordinance preventing him from doing the work he had done. This amendment is intended to prevent situations like that from happening in the future.

Motion to move amendment 3 to ballot – Motioned by D. Petry; seconded by V. Mills – passed unanimously

Amendment 4:

J. Mook suggested adding that the Fire Department recommended this amendment in the explanation.

D. Petry clarified that this is just for the storage of heating fuel.

E. Clements stated that was correct. Other petroleum products would still be prohibited.

Motion to move amendment 4 to ballot – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

6. HEARINGS:

- a. **File PB2021:021** – Proposed site plan for a ground mounted solar system with the installation of two 41 foot by 14 foot solar arrays on a 19.1 acre residential lot, 91 North Pepperell Road, Applicant: Revision Energy, Owner Laura Gargas 2005 Rev Trust, Map 7 Lot 48. Zoned R&A. **Tabled from November 16th.**

The Board received an extension from the applicant from the 65 day review period as the applicant is still not ready to move forward with this application.

Motion to table PB2021-021 to the January 18, 2022 meeting – Motioned by D. Petry; seconded by R. Hardy – passed unanimously

The Board then made a motion to table PB2021-025 and PB2021-026 to January 4, 2022 as they could not be heard at this meeting due to a noticing error.

Motion to table PB 2021-025 & PB 2021-026 to the January 4, 2022 meeting – Motioned by D. Petry; seconded by V. Mills – passed unanimously

- b. **File PB2021:022** – **Design Review:** Proposed amendment to the approved Federal Hills Estates HOSPD (Keyes Road) subdivision, by attaching a minor subdivision of an adjoining 18.7 acre property into three lots (Lots sizes ranging from 5 – 7.8 acres) through the extension of Lorenzo Lane, in addition a lot line relocation will occur with an adjoining property, Owner: C.W. Rev. Lvg. Trust & Raisanen Homes

303 Elite, LLC – Applicant: Raisanen Homes Elite, LLC, Map 29 Lot 1, 1-17,2 & 4,
304 Zoned Rural and R&A. **Tabled from November 16th.**

305 M. Fougere discussed the site walk that took place on the site earlier in the month.
306 No major issues were identified at the site walk.

307 Chad Branon P.E., Fieldstone Land Consultants – stated that he was here to answer
308 any questions. He stated that the site walk was productive and all the work that had
309 been done on the site had the proper permits. The Board wanted multiple test pits
310 due to the significant amount of ledge removal that took place with Keyes Hill
311 Road. In order to conduct those test pits, trees had to be cleared in the areas where
312 the road extension and driveways were to be installed. He noted that 24 test pits
313 were done and every effort will be taken to avoid ledge and ledge removal. He
314 discussed the existing location of trails, where the trail easements will be placed
315 and where the existing trails will be moved to preserve trail connectivity.

316 D. Petry asked staff to reiterate the communication with the Town Attorney
317 regarding the reorganization of open space as part of this proposal.

318 M. Fougere explained that when this proposal was first submitted staff consulted
319 the Town Attorney as to if it was legal and how the reorganization would happen
320 procedurally. It was the Town Attorney’s opinion that as long as the open space
321 that was removed to allow the road to go through was replaced than it would be
322 acceptable and meet the intent of the Town’s regulations. He also noted that
323 significantly more land area was being put into open space conservation than what
324 was being removed.

325 K. Anderson asked if the original Keyes Hill Road development required an
326 Alteration of Terrain (AoT) permit and if it did he asked if this proposal would
327 require a modification to that permit.

328 M. Fougere stated that the original project did require an AoT permit.

329 C. Branon stated that the AoT permit will need to be amended because it is a
330 contiguous disturbance that will take place within 10 years of the issuance of the
331 AoT permit.

332 **Motion to move to Final Review** – Motioned by K. Anderson; seconded by D.
333 Cleveland – D. Petry and V. Mills abstained – motion passed.

334 c. **File PB2021:024** – Conceptual Review: Proposed conversion of an existing 41.16
335 acre gravel pit on Depot & Rideout Road into a Major Subdivision with residential
336 building lots and either a conventional or HOSPD design layout, Owner: Douglas
337 A. Orde, Applicant: CFC Development, Map 9 Lots 47, 48, & 51, Zoned R & A
338 and Recreation. **Tabled from November 16th.**

339 M. Fougere gave an overview of the site walk for this proposal. He noted that an
340 area of the site could be in the flood plain and needed detailed topographic details.
341 He also noted the potential for a through road for this project with a connection to
342 Rideout Road. He also noted that planning staff did a site walk with the DPW
343 Director and Fire Chief to discuss either a smaller cul-de-sac or through road for
344 this project. DPW was more in favor of a cul-de-sac but Fire was more in favor of a
345 through road.

346 Tom Carr, Meridian Land Services – discussed the site walk and noted that they
347 were waiting for direction from the Board on if the subdivision design will be a
348 conventional layout or HOSPD before conducting a detailed topographic survey of
349 the site as the data is outdated. He noted that the question regarding floodway rights
350 of the upstream dam is proving harder to answer as the information is quite old.
351 The City of Nashua owns the dam and rights but Meridian is working on it.

352 D. Cleveland discussed the through road and cul-de-sac ideas. He stated that it
353 would be helpful to see different plans that show the different ideas.

354 T. Carr that when the gravel pit came back for further approvals and at the time the
355 existing access to Rideout Road was decommissioned to reduce impacts to abutters.

356 B. Moseley stated that he would prefer to see the results of the topographic study
357 before deciding on a conventional or HOSPD layout.

358 K. Anderson stated that the design layouts of the building lots was being driven by
359 septic locations and asked if the design limitations were from state or local septic
360 regulations.

361 T. Carr stated that it was the local regulations pertaining to the depth of seasonal
362 high water table (SHWT) in the Aquifer Protection Overlay Zone. The requirement
363 for the overlay zone is 4' above the SHWT. A house can go there but a septic
364 system cannot. He stated that the septic systems could be made to meet state
365 requirements in the land area by the river but not local standards.

366 K. Anderson observed that the Board was discussing rural character and through
367 roads vs. cul-de-sacs but the site constraints that were driving the design of the
368 proposal is the local septic regulations. He noted that one layout shows 14 house
369 lots but other designs show less lots but by right the proposal should be able to get
370 14 lots based on zoning density. He noted that it would take a Variance to get relief
371 from the 4' to SHWT as that requirement is in the Zoning Ordinance. He asked
372 how the design would change if the applicant could get a Variance from the 4' to
373 SHWT requirement.

374 T. Carr stated that he did not think that the design would change significantly if
375 relief was granted from the 4' to SHWT requirement for septic systems. He noted
376 that it might change where a house would be placed but they did find locations for

377 each lot to have a septic system. There would still be issues with day lighting a
378 foundation drain and houses sitting on mounds to get foundation clearance.

379 K. Anderson stated that he liked the natural buffer to the river that the site was
380 providing but would also like to see some buffer to the existing residents on
381 Rideout Road that the site constraints were preventing.

382 T. Carr stated he understood but septic relief would not yield that result.

383 D. Petry asked about the point system and if staff agreed with the analysis.

384 M. Fougere stated that they did submit a point system analysis but it was too early
385 to review as the proposal was still in a conceptual stage.

386 B. Moseley stated that it was too early to make a design determination for this
387 proposal.

388 M. Fougere noted a quirk with the HOSPD design layout in that the required open
389 space is limiting the number of building lots that would allowed in a conventional
390 layout. In this case the Planning Board can reduce the amount of required open
391 space so that the applicant can get the same number of building lots as they could
392 with a conventional layout. He noted that there are constraints to this property are
393 unique and self-inflicted but it is an issue that the Board will have to address as this
394 proposal moves forward. He also noted that if the Board decides on a through road
395 then he does not believe that a HOSPD design makes sense since the intent of a
396 HOSPD is to reduce the amount of roadway and lot size to maximize the amount of
397 conserved open space.

398 K. Anderson agreed that the Board needed to see all design options to make a
399 determination on how best to move forward.

400 M. Fougere asked where the design for the reduced sized cul-de-sac came from.

401 T. Carr stated that it was based on designs from surrounding communities.

402 M. Fougere noted that the Board has not approved a cul-de-sac in 20 years but there
403 are a few in Town. The Board should consult with Public Works to see what kind
404 of design they want.

405 K. Anderson noted that since the hammerhead dead end was in the regulations that
406 a conventional subdivision with a hammerhead that had 14 lots would be the
407 allowed density as the Board considers different designs moving forward.

408 M. Fougere outlined the various studies that the Board could require as part of this
409 proposal. He noted that the project will need a DoT permit and that Stormwater
410 would be required.

411 D. Petry noted that site restoration would be required as part of this proposal.

412 M. Fougere noted that the entire site has to be restored by state statute.

413 **Motion to move this proposal to Design Review** - motioned by D. Cleveland;
414 seconded by D. Petry – passed unanimously

415 **7. OTHER BUSINESS**

416 **a. Discussion on submitted Resident Petition Zoning Amendments**

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418 M. Fougere informed the Board that two resident petitions had been submitted. One
419 on construction noise and the other pertaining to changes in definitions for
420 subdivision, net tract area, and condominium.

421

422 **Motion to hold a Public Hearing on the Resident Petitions at the January 4,**
423 **2022 Meeting** – Motioned by D. Petry; seconded by V. Mills – passed
424 unanimously

425 **b. Discussion on potential Subdivision Regulations Amendment**

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427 M. Fougere discussed the proposed amendment to the Subdivision Regulations
428 requiring the Planning Board to consider construction activity noise impacts on
429 surrounding properties.

430 **c. 2022 Planning Board Meeting Dates**

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432 E. Clements discussed the proposed meeting dates for the next year.

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434 D. Petry asked staff to explore if the December meeting can be shifted to move it
435 farther away from the holidays.

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442 **8. ADJOURN**

443 There being no further business, D. Petry presented a non-debatable motion to adjourn.
444 Motion seconded by D. Cleveland and unanimously approved. Meeting adjourns at 9:52 PM.

445 Respectfully submitted,

446 Evan J. Clements,

447 Assistant Planner