

**HOLLIS PLANNING BOARD MINUTES**  
**January 4, 2022**  
**DRAFT**

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

**ABSENT:** K. Anderson, J. Peters, B. Ming – R. Hardy voting

**STAFF PRESENT:** 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 30, 2021: **Motion to approve** – motioned by D. Petry; seconded by R. Hardy – motion passed unanimously

**3. DISCUSSION AND STAFF BRIEFING**

- a. Agenda Additions and Deletions:
- b. Committee Reports – none
- c. Staff Report – none
- d. Regional Impact – none

**4. SIGNATURE OF PLANS:**

**5. ZONING CHANGES:**

- a. **Proposed Zoning Changes** – The Planning Board will discuss clarification changes to the proposed aircraft prohibition zoning amendment. The proposal can be found at the Planning Department in the Town Hall or on the Town website.

E. Clements explained that after the last meeting staff did some research on how the FAA classifies drones as unmanned aircraft. It is staff's recommendation that the proposed amendment be changed to specify the prohibition of manned aircraft take offs and landings.

J. Mook asked if staff looked into hot air balloons.

E. Clements stated that staff did not do any research into hot air balloons.

B. Moseley stated that the zoning amendment could be changed in future years if it became an issue.

**Motion to send Amendment #2 to ballot** – Motioned by D. Petry; seconded by V. Mills – passed unanimously

- 47           **b. Petition Zoning Changes** – A Public Hearing will be held to discuss two resident  
48           petition zoning changes.  
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50           E. Clements introduced the first petition zoning amendment which is related to noise  
51           created by construction activity. He read the petition which stated: Add SECTION  
52           IX: GENERAL PROVISIONS S. Construction Noise Any construction activity for a  
53           project that creates three or more structures, or three or more buildable lots, may not  
54           create noise that is audible on any abutting lot outside of the hours of 8:30 AM to  
55           5:30 PM on Monday through Friday. The only exception would be in case of urgent  
56           necessity In the interest of public health and safety, and then only with a permit from  
57           the Building Inspector, which permit may be granted for a period not to exceed three  
58           days or less while the emergency continues and which permit may be renewed for  
59           periods of three days or less while the emergency continues.  
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61           E. Clements explained that the Board was not able to change the petition in any way  
62           and was just deciding if the Board supports the petition on not.  
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#### 64           **Public Hearing**

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66           Joe Garruba; 28 Winchester Drive – stated that the petition amendment is well  
67           written and addresses the problem of construction noise outside of work hours. He  
68           noted specifically with the Keyes Hill Road project that abutters have asked for  
69           more restrictions on construction hours of operation. He stated that construction  
70           noise from large projects go on for years and Town residents deserve peace and  
71           quiet in their back yards on nights and weekends. He believes that this petition  
72           attempts to evenly regulate the construction noise of large projects and by putting  
73           the proposal in the Zoning Ordinance sets a high bar and empowers residents who  
74           vote on the changes, unlike other regulations. He does not believe the proposed  
75           subdivision regulation change does no more than maintain the status quo as the  
76           Planning Board currently has the power to do so. He believes the proposed  
77           subdivision regulation is weaker because the Planning Board can grant waivers.  
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#### 79           **Public Hearing closed**

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81           E. Clements raised concerns that staff with the proposed amendment. The language  
82           is unclear, the term construction activity is not defined and open to interpretation.  
83           Restricting hours will increase duration of construction projects. 11 to 16 hours of  
84           work could be lost each week. The proposed petition treats all construction noise the  
85           same, from road construction to framing a house. He also noted that construction  
86           noise from the Keyes Hill Road development is not an example of historic work in  
87           Town. He also noted that any project approved prior to this petition would not be  
88           subject to these regulations.  
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E. Clements introduced the second petition zoning amendment which changes definitions and procedures in the Zoning Ordinance, which reads:

SECTION XXI: DEFINITIONS For the purpose of this ordinance, certain terms or words used herein are defined as follows:

SUBDIVISION: The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, transfer, condominium conveyance, or building development. It includes a re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners ~~shall~~ **must**-be deemed a subdivision. **The division of land for the purpose of developing Housing for Older Persons or other development types of more than one dwelling unit on a single lot must be deemed a subdivision.**

NET TRACT AREA: The net tract area of the parcel is determined **based on the pre-development conditions** by subtracting the total area calculated for wetlands, surface waters **including man-made surface waters**, hydric soils, flood plain, road rights-of-way, and altered/ unaltered slopes greater than 25% from the total (gross) tract area.

## SECTION IX: GENERAL PROVISIONS

### 0. DETERMINATION OF DENSITY FOR CONDOMINIUM DEVELOPMENTS.

The number of permissible dwelling units in a condominium subdivision shall be the same as that which would be applicable for a conventional subdivision of the contemplated housing type. Similarly, any buildings proposed to be built as part of a **Housing for Older Persons development or any other type** condominium development, shall be required to demonstrate compliance with the Building Area requirements set forth herein. **It is required that each building must have an exclusive non-overlapping building area in order to demonstrate compliance.**

### Public Hearing

Joe Garruba; 28 Winchester Drive – explained his petition amendment intends to address specific sections of the Zoning Ordinance where he believes the Planning Board incorrectly interpreted the Zoning Ordinance in favor of developers and unfavorable to Town residents. He stated that the Planning Board has failed to require building lots be set aside for conservation. He stated that the Planning Board did not consider high density project as a subdivision since they are on a single lot. He gave examples of Cobbett Lane, Old Runnels Bridge Road, and a unapproved project on Silver Lake Road. He then discussed the change to pre-development conditions to make sure that manmade surface waters would be excluded from density calculations. The last change includes the building box requirement to be applied to condominium style projects.

### Public Hearing closed

B. Moseley began the Board deliberation and focused discussion on the first petition amendment.

C. Rogers asked why the amendment was focused only on large developments. Noted that a single construction project could generate disruptive noise.

D. Cleveland discussed that audible noise is subjective. He also stated that the time limit is not reasonable. Contractors usually start at 7am and on Saturdays as well. This will lengthen the duration of construction. He raised concerns related to enforcement.

J. Mook stated that the time limit is challenging, especially during the summer. She stated that these issues should be addressed by the Planning Board during their review.

V. Mills raised concerns for creating a zoning amendment for one or two instances of a problem. This will now be a global requirement for almost all projects.

D. Petry noted that this zoning change is a reaction to a specific project where the residents did not want the developer to blast and pushed for hammering.

E. Clements explained the Code Enforcement process and stated that it would be time consuming and unlikely to cease the noise causing project until the after the project is complete.

**Motion to support Resident Zoning Petition #1** – Motioned by R. Hardy; seconded by D. Cleveland – motion failed unanimously

E. Clements and the Board discussed a notion to be added on the ballot discussing why the Board does not support the petition.

E. Clements began the discussion of the second resident zoning amendment by stating that the definition of a subdivision is defined by state statute. He noted that Housing for Older Persons are condominiums and condominiums are already considered subdivisions under the state definition. He noted that the building box was intended for single family lots that's front on Town roads and was not meant for private condominiums without separate lots or Town roads.

D. Petry stated that he was in support of changing shall to must and the net tract area definition clarification. He raised a concern that the Zoning Ordinance needs to be neutral and not be in favor of either the Town or a developer and worries that these changes are overly restrictive.

R. Hardy stated that the change to the definition to subdivision is not in the Town's best interest.

**Motion to support Resident Zoning Petition #2** – Motioned by B. Moseley; seconded by D. Cleveland – motion failed unanimously

E. Clements and the Board discussed a notion to be added on the ballot discussing why the Board does not support the petition.

6. HEARINGS:

- a. **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. **Application Acceptance and Public Hearing. Tabled from December 21, 2021.**

E. Clements introduced the application by stating that the purpose of this plan is to subdivide an existing 74.5 acre parcel into two lots. The subject parcel is located approximately 800' north of the Richardson Road and Lovejoy Lane intersection on the north side of Richardson Road. The new buildable lot will be a 5 acre front lot with 526' of frontage along Richardson Road. A curb cut for a proposed gravel drive is shown off of Richardson Road providing access into the new lot. The remaining parent lot will be 69.5 acres in size with approximately 44' of frontage along Richardson Road, located easterly of the new lot and approximately 76' of frontage on Van Dyke Road to the north. An existing cart path provides access into the parent parcel from Richardson Road. It is the property owner's intent to convey the remaining parent parcel to the Hollis Conservation Commission after the subdivision takes place.

This application is requesting six waivers from the Hollis Subdivision Regulations. The first waiver is requesting relief from section IV(2)G which requires that new property lines be perpendicular to the road for the first 100'. The easterly property line is proposed with a <90° angle from Richardson Road. Waiver requests two through five are requesting relief from sections IV(4)A, section V, section V(C), and section V(G) of the Hollis Subdivision Regulations. These requests pertain to detailed survey, topographic, test pits, and wetland boundary information for the parent lot only. This information is provided for the new lot. The last waiver request is from the subdivision checklist that requires that the location of existing utilities within 100' and existing septic systems and wellheads within 200' be shown on the plat.

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

Jim Petropulos, P.E., Hayner/Swanson Inc. - reintroduced the application and discussed the details of the proposal. He described the property as having a mix of open fields with rolling land that rises to the east. He noted that a water course travels to the east with some wetlands also on the east side of the property. He noted that rural character would be preserved with the 100' scenic road setback and there are some trees along the road that will be preserved except where a driveway would go. He noted that a fire cistern easement would be dedicated to the Town.

C. Rogers asked if there was public access to the property from both Richardson Road and Van Dyke Road.

J. Petropulos stated that the frontage on Van Dyke was challenging as it had a steep slope, a stream, and wetlands. He noted that the access on Richardson is the historical access point that has been used to maintain the property.

B. Moseley asked about the <90° property line.

J. Petropulos explained that it is close to 90° but was adjusted so as to keep the existing access path entirely in the larger parent lot.

D. Petry clarified that the trees along the roadway would require a scenic road hearing to be cut, except for the driveway access.

E. Clements asked if the trees were on the right-of-way or on the property itself.

J. Petropulos stated that the trees were on both the property and in the right-of-way.

E. Clements clarified that trees in the right-of-way would need a scenic road hearing but trees on private property would not.

D. Petry asked if the Board wanted to stipulate a buffer.

V. Mills asked if there is a concern with the fire cistern in the 100' scenic setback.

E. Clements stated that it is public safety infrastructure and not subject to the setback.

### **Public Hearing**

Michael Bates; 26 South Merrimack Road – asked if the remaining 69 acre lot would be permanent conservation land and could not be developed in the future. He is in support since it will not be developed in the future.

Carol Birch; 52 Richardson Road – stated that she is in support of the proposal. The Law family has been great land stewards.

Paul Edmunds; 142 Dow Road – stated that he is a member of the Conservation Commission and negotiated this proposal. He stated that the Law's families desire to preserve this land in perpetuity is what makes Hollis the Town it is today.

Tom Dufresne; 17 Pound Road – stated that he is the chair of the Conservation Commission and stated that conserving this property is a great opportunity to protect wildlife habitat, wetlands, and other natural resources. The Con. Comm. will be holding a public hearing on purchasing the property on February 3<sup>rd</sup> and all the other prep work had be done. He noted that he was in support of the requested waivers.

Rod Pearlman; 50 Van Dyke Road – stated that he has had the pleasure of living with this property across the road from him for many years. The Law family has done a wonderful job of maintaining the property and he is in support of the land being put into permanent conservation.

Joe Garruba; 28 Winchester Drive – stated that he was in support of the proposal and thought it was a big win for the Town. He did not believe that a fire cistern was necessary and asked the Board to not require the cistern easement.

J. Mook asked when the cistern would be installed.

E. Clements explained that the applicant was only responsible for providing the cistern easement and the Town would be responsible for installing the fire cistern itself.

D. Petry noted that this application is a good example of when waivers benefit both the applicant and the Town.

**Motion to approve wavier from section IV(2)G** – Motioned by D. Petry; seconded by C. Rogers – passed unanimously

**Motion to approve wavier from section IV(4)A** – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

**Motion to approve wavier from section V** – Motioned by D. Petry; seconded by V. Mills – passed unanimously

**Motion to approve wavier from section (C)** – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

**Motion to approve wavier from section V(G)** – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

**Motion to approve wavier from Subdivision checklist that requires that the location of existing utilities within 100’ and existing septic systems and wellheads within 200’ be shown on the plat.** – Motioned by D. Petry; seconded by D. Cleveland – passed unanimously

D. Petry asked if a note should be added on the plan for the parent lot that it shall not be further subdivided.

J. Petropulos stated that the intent was that it would not be further developed so there is no need to add a note.

P. Edmunds stated that part of the agreement between Con. Comm. and the Law family is that this parcel will never be developed.

E. Clements stated that a note shall be added prohibiting lot 35, the parent lot to be conserved, from being further subdivided.

**Motioned to approve application with conditions** – Motioned by D. Petry; seconded by D. Cleveland- passed unanimously

- b. **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. **Application Acceptance and Public Hearing. Tabled from December 21, 2021.**

E. Clements introduced the application by stating that the purpose of this lot line relocation plan is to remove a 15,411 square foot "spite" strip lot that exists in front of Lots 32 45-2 & 46-6 and transfer a portion of this area to both properties. At this time, the 907 foot long Lot 32 - 16-1A lies in front of the Seager's properties cutting off both access and frontage to Howe Lane. The plan proposes to transfer 12,816 sq. ft. to Lot 45-2 and 2,595 sq. ft. to Lot 45-6. No other changes are occurring and all zoning requirements will be adhered to. The Applicant has requested a waiver from various provisions of Section V. including abutting property details, topography, wetland mapping, etc. given the minor nature of the proposal. Staff supports the requested waivers given the simple purpose of the plan.

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

Dave O’Hara, Dave O’Hara, Associates – stated that he was the surveyor for this proposal and discussed the details of the application. He noted that the parcel 32-16-1A might not have been intended as a spite strip but it did act that way. He noted that he had not yet researched if the Town had abandoned Old Howe Lane but he would so before the plat was recorded.

C. Rogers asked if the east side of lot 32-45-2 would then have enough frontage to subdivide.

D. O’Hara stated that it might meets the requirements to subdivide with the additional frontage.

C. Rogers suggested a condition be added to prevent lot 2 from being further subdivided.

E. Clements, B. Moseley, D. Petry stated that the Board could not do that.

B. Moseley asked staff to explain what a spite strip is

E. Clements explained that it is usually a sliver of land intentionally left after a larger parcel is subdivide in order to deny a new lot frontage which can prevent access to the lot through the spite strip or prevent enough frontage from being available to further subdivide the new parcel at a later time. Current Subdivision Regulations prohibit this practice.

The Board discussed Old Howe Lane, its location and its discontinuance.

E. Clements noted that lot 1-A had a deed that the Seager’s purchased. He believed that the Old Howe Lane was discontinued but the abandoned right-of-way did not transfer to the abutting property owners like it would now.



Jim Seager added some clarifying details regarding Old Howe Lane.

D. Petry stated that he was comfortable conditioning approval on staff double checking the status of Old Howe Lane.

David Seager explained that the old road went between the house and the barn. The Howe estate and the Hogan estate were separated by a boundary wall. The Farvil's purchased the land and subdivide the north side of the road but the spite strip was left over on the south side of the road and just left as a standalone parcel.

### **Public Hearing**

Jim Seager; 467 High Street Hampton NH – spoke in favor of this application.

David Seager; 81 Ranger Road – spoke in favor of this application.

### **Public Hearing closed**

**Motion to approve waiver from Section V** – motioned by C. Rogers; seconded by V. Mills – passed unanimously

**Motion to approve application with conditions** – motioned by C. Rogers; seconded by D. Cleveland – passed unanimously

## **7. OTHER BUSINESS**

- a. **Proposed Subdivision Regulations Amendment** – The Board will discuss a proposal to add a noise control provision to the Hollis Subdivision Regulations.

E. Clements discussed the procedure for amending the Subdivision Regulations.

B. Moseley asked what the impact would be if the petition zoning amendment regarding construction hours of operation passed.

E. Clements stated that Zoning Ordinance supersedes the Subdivision Regulations. This does not prohibit the Board from doing their own proposed procedural change but the project would also be subject to the zoning change.

D. Petry noted that the Board could not require different hours of operation.

R. Hardy asked if there are any staff on duty after 3pm on a Friday to enforce the Zoning Ordinance.

E. Clements stated that there is not. Staff is also not here on Saturday. A zoning complaint is submitted in writing and there is no immediate response to noise.

D. Petry noted that this amendment can be implemented much quicker than a zoning change through Town Meeting.

E. Clements read the proposed amendment which states:  
During the course of an application review, the Planning Board shall take into consideration the impact of construction activity (road & building) on neighboring residential properties. In appropriate situations, the Board may limit construction hours to reduce noise related impacts. The Planning Board shall consider the following when reviewing a proposed plan:

- The proximity of the proposed project to residential uses.
- The size of the project and the anticipated length of construction activity necessary to complete the development.
- Will ledge removal be required and if so, what quantities are involved? How will the ledge be removed?
- Are there other access points available to reduce impacts?
- What is the timeline for road construction?

E. Clements stated that the applicant should be providing answers to these questions as part of their application.

General discussion amongst the Board occurred. Requiring more test pits for road construction.

J. Mook asked if a project hits significant ledge should they be required to come back to the Board.

E. Clements noted that in the past the Board has prohibited blasting on a development project which leaves hammering as the only option left.

R. Hardy noted that depending on the size of equipment can increase the duration of ledge removal. He stated that the Board should ask about what equipment is to be used, how long do they anticipate the removal will take place, ect. The Board then can ask a consultant to verify the information if it wants.

B. Moseley set a tentative date of February 15, 2022 for a Public Hearing on this proposed amendment.

## 8. ADJOURN

There being no further business, C. Rogers presented a non-debatable motion to adjourn. Motion seconded by R. Hardy and unanimously approved. Meeting adjourns at 9:15 PM.

Respectfully submitted,

Evan J. Clements,

Assistant Planner