

LONDONDERRY, NH PLANNING BOARD MINUTES OF THE MEETING OF May 6, 2020, AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present via a ZOOM remote meeting: Art Rugg, Chair; Chris Davies, Vice Chair; Rick Brideau, Ex-Officio – Town Employee; Al Sypek, Secretary; Giovanni Verani, Ex-Officio – Town Manager; Jake Butler, member; Deb Paul, Town Council Ex-Officio; and Ann Chiampa (alternate member)

Also Present: Town Planner Colleen Mailloux, John Trottier, P.E., Assistant Director of Public Works & Engineering, Associate Planner Laura Gandia; Beth Morrison, Recording Secretary; Brian Johnson, Division Chief of Fire Prevention; Michael McQuillen, Battalion Chief of Operations; Drew Caron, Director of Cable Services and Darren O'Brien, Fire Chief

Chairman Rugg called the meeting to order at 7:00, and noted as Chair of the Londonderry Planning Board, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. He started the meeting by taking roll call attendance. He said that when a member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under Right to Know Law. He welcomed newly elected councilor, Deb Paul, to the meeting. He informed the Board that T. DeFrancesco resigned from the Board effective May 1, 2020, noting that the Board now has two openings that need appointment. He appointed A. Chiampa to vote for M. Soares open position this evening.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES:

Member A. Sypek made a motion to approve the minutes of March 4, 2020, as presented.

R. Brideau seconded the motion.

The motion was granted 6-0-2, with C. Davies and D. Paul abstaining. The Chair voted in the affirmative.

Member A. Sypek made a motion to approve the minutes of March 11, 2020, as presented.

R. Brideau seconded the motion.

The motion was granted 7-0-1, with D. Paul abstaining. The Chair voted in the affirmative.

Member R. Brideau made a motion to approve the minutes of April 1, 2020, as presented.

C. Davies seconded the motion.

The motion was granted 5-0-3, with A. Sypek, D. Paul and A. Chiampa abstaining. The Chair voted in the affirmative.

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Mailloux informed the Board that she had no projects for their consideration this evening.

C. DISCUSSIONS WITH TOWN STAFF:

Town Planner Mailloux explained there was also a request for a Building permit request on a Class VI road - 37 Brewster Road, Map 13 Lot 123, Zoned Ar-1, Scott & Darlene Ratte (Owners & Applicants). She reviewed the definition of a Class VI road noting a Class VI road is a public way which must be open for public travel but is not maintained, repaired or plowed by the municipality. She added that in 1995, a portion of Brewster Road from the town line to the NH Fish & Game boat launch was deemed an emergency access road. She commented that this motion was made owing to the unique nature of Scobie Pond as a body of water and the inherent dangers of water recreation and the need for emergency vehicles to gain access to the boat launch. She noted that this declaration allows the Town to expend funds and do limited maintenance in order to keep the road passable for the Fish & Game access. She said the Town currently performs maintenance consisting of grading and filling potholes 3 to 4 times per year on the emergency access lane section of Brewster Road in order to provide access to the boat launch for emergency vehicles. She commented that it is not designed to a Town Standard or National Fire Protection Association (NFPA) standard. She explained that under current statute, RSA 676:41, the Building Inspector cannot issue a building permit on a Class VI road without the authorization by the local governing body, Town Council. She said that prior to authorization by the Town Council this needs to be review and comment by the Planning Board. She told the Board that Staff and the Fire Department recommends the road should be improved to NFPA standards, as they have for other cases like this that have come before the Board.

Scott and Darlene Ratte, owners of 34 Brewster Road and 37 Brewster Road addressed the Board. S. Ratte informed the Board that he is requesting a building permit on the Class VI road and does not want any restrictions due to the unique nature of the road with the Scobie Pond area. He commented that the land is used for recreational purposes by the public. He told the Board that in 2013 he purchased the property with the primary intent to prevent this land from being developed by developers. He said at that time there was a state approved septic plan, but the septic plan has expired, so they had another one drawn up. He said that the land is in Current Use at present time and the land is not posted but is open for hunters and hikers. He explained that Brewster Road is approximately ³/₄

of a mile from Scobie Pond Road to the end, is the only public access to use Scobie Pond for kayaking, fishing, etc. He reviewed the property on the map with the Board, noting there is an Eversource substation at the end of the Derry portion of Brewster Road, as well as Victory Aquaponics, which has local produce. He told the Board that since 2016, the Conservation Commission uses Scobie Pond for their annual kayaking adventure. He discussed that his son would like to build a small, three-bedroom home on the property and presented a floor plan to the Board. He noted that in 2015 Londonderry adopted the NFPA 1141 standards that state there should be a minimum clear width of 12 feet for each lane of travel, or otherwise a 24-foot wide road, with turnarounds to be constructed at a maximum of 1200-foot intervals, the road to be constructed of a hard, all-weather surface to hold the weight of a fire truck and the maximum slope of the road should not exceed 6%. He remarked that he would have to double the width of the road, even the Derry portion, which would disrupt wetlands, move stonewalls, relocate a telephone pole, rebuild culverts and affect easements to the abutting property owners. He commented that he believes it would be about 1 million dollars to improve this road and does not feel that this is in the best interest of the residents of Brewster road as well as the residents of Londonderry. He stated that he is asking the Board to allow him to build on this property without restrictions. He emphasized that he is not looking to change the landscape, just build a three-bedroom home.

Chairman Rugg asked the Board for questions. Town Planner Mailloux explained that there was a similar request before the Planning Board in 2016 at Jack's Bridge Road, noting that Staff had similar recommendations for building on the road. She stated that Staff recommends that the Planning Board recommend that, should the Town Council authorize issuance of a building permit, it be with the following conditions:

1. Access to the lot be constructed to meet NFPA 1141 standard,
2. A survey should be performed by a licensed land surveyor to field locate the existing road right of way. All improvements must take place within the right of way. Where the existing right of way is not sufficient for the construction of required turnarounds, easements may be required from abutting property owners.
3. Appropriate permits (Conditional Use Permit, NHDES Dredge and Fill Permit) must be obtained for any disturbance to wetlands or wetland buffers as a result of the required roadway improvements.
4. The standard Class VI Release and Agreement be signed and recorded at the Rockingham County Registry of Deeds.
5. Appropriate stormwater management and erosion controls should be designed and installed to the satisfaction of the Department of Public Works and Engineering.
6. A residential sprinkler system should be installed in the proposed structure as recommended or required by the Fire Department.

She asked the representatives from the Fire Department attending the meeting to speak at this time. Brian Johnson, Chief of Fire Prevention, said that when the road the road is in poor condition up to the boat launch B. Johnson mentioned that last year New Hampshire adopted the 2015 NFPA 1 code, pointing out that the Fire Department can allow an alternative, but cannot just ignore the code. He told the Board that an alternative has not been proposed. He explained that in order to

receive a variance to the fire code, they would have to go through the state Fire Marshall's office. He read from the code noting it applies to anything that is built and the Fire Department cannot override this, but can allow alternatives. Michael McQuillen Battalion Chief of Operations, discussed that in the early 1990's they lost a camp that was out there during the winter time because getting an apparatus truck was especially difficult on Brewster Road, noting that that once the trucks got in, they could not get out. M. McQuillen explained that this is still a problem with the road today and believes it would be difficult to get an ambulance and fire truck down there. He noted that the other concern with dirt roads is in the muddy season as the fire truck will get stuck and block the road. S. Ratte commented that he believes the road is in better condition than it was in the 1990's. He affirmed that he does not want to see changes to the road and accepts the risk for living here. He stated that he understands the Fire Department's position and is willing to do what he can, such as putting in residential sprinklers. M. McQuillen remarked that from his position as Chief of Operations, he wants everyone to understand how difficult it would be to get an apparatus truck with the supply hose down the road. Darlene Ratte, 34 Brewster Road, addressed the Board explaining that she understands there are regulations that must be abided by, but believes that this situation is different than any other Class VI road in Londonderry. She added that she does not feel it is fair to have a single resident cover all the costs to improve the whole road to build a single-family home. Chairman Rugg said that the Town Council will be the Board that will either approve or deny the request and has to balance the risks versus the benefits for both the residents and the property owner. John Trottier, P.E., Assistant Director of Public Works affirmed that he agreed with Town Planner Mailloux's statement at the beginning and echoed the comments of M. McQuillen as well. C. Davies asked about the state Fire Marshall restrictions and if they supersede the Town's authority. B. Johnson responded that might be correct, as the Town can accept an alternative, but it most likely would go before the state. C. Davies asked if the property owner had been given a list what might constitute acceptable alternatives. B. Johnson stated that the concern is more than fire, such as if someone needed an ambulance and the ambulance could not get down the road. Darren O'Brien, Fire Chief, commented that if this was appealed to the state Fire Marshall's office, they usually side with whatever the local jurisdiction recommended. J. Butler asked for the width of the road after the boat ramp. S. Ratte answered about 11 or 12 feet. J. Butler commented that he does not like to be in this situation telling a property owner they cannot build on their land, but acknowledged that there is a safety issue here. He asked if there was a middle of the road solution for which the Town and the Fire Department could be satisfied. He asked for the width of the road before the boat ramp. S. Ratte said it was about 12-feet, noting that Eversource widened the road near the substation, but does not believe it is 24-feet. J. Butler asked if a solution might allow the property owner to extend the side of the road near the property and not the whole road. Town Planner Mailloux maintained that she was concerned about having a bottle neck where the road is not widened. B. Johnson reviewed the Jack's Bridge Road case where they suggested the same thing noting that a fire truck might get stuck in the middle and block the road. R. Brideau said he agreed with J. Butler. G. Verani asked if the road must be paved. S. Ratte responded that he does not have to pave it, but widen it with material that can support the weight of the fire truck. He noted that this still

leaves it as a Class VI road. G. Verani asked if there is a lot of record, even on a Class VI road, the property owner could still build on the property without going through this process. Town Planner Mailloux clarified that by state statute a Building Inspector cannot issue a building permit unless the lot has frontage on a Class V road or better, even though it is an existing lot of record. G. Verani noted that these similar problems keep coming up in the Town and wanted to be able to achieve middle ground where both the Town and the resident could come up with a solution. G. Verani voiced his opinion that he believes this is unfair, as this issue is already in existence. S. Ratte mentioned that there are currently these safety issues for six homes and the Town is not fixing anything. D. Paul asked how the Fire Department handles possibly not being able to get down the road, such as having residents sign a waiver. Town Planner Mailloux explained that current practice is to require a municipal of liability agreement to be signed and cannot speak to what the requirements were for any of the older existing houses out there. She added that she believes regardless of a liability agreement the Fire Department would do their best to get to an emergency. D. Paul asked if the Fire Department had calls from this area and could not make it. M. McQuillen responded that he believes there have been medical calls, but no fire calls that he can remember. He clarified that they did not state the Fire Department could not make it out there, but rather a tight fit for their trucks. He explained that they will damage their fire trucks to get to an emergency and gave the Board an example. He mentioned that he is not aware of any liability forms that a resident must sign as he has been doing this for 25 years. D. Paul asked if the home was a movable home if the same rules apply. Town Planner Mailloux noted that a building permit would be required for a tiny home even if it is movable. D. Paul voiced her opinion that there should be a work around for this as six residents have been dealing with this. A. Chiampa informed the Board that she drove down Brewster Road a month ago noting there were many potholes and was thinking that an ambulance or fire truck would get damaged trying to drive down the road at a faster speed. She said that she feels the Board should go along with Staff's recommendations at this point. J. Butler asked if the Town takes care of the road up until the boat ramp. J. Trottier answered that was correct. J. Butler asked if there was middle ground that could be accomplished to help this resident, such as small improvements. B. Johnson responded that any improvement would be beneficial to this road, noting there needs to be some widening past the boat ramp as the fire trucks are eight feet wide. He said that he felt the Town is willing to work with the residents, as the road does not need to be 24-feet wide and by adding residential sprinklers to keep a fire in check before the fire truck comes. J. Butler asked if the Fire Department would accept widening the road a little bit, adding turnarounds and making the road a hard-all-weather surface in their portion. Chairman Rugg asked for the property owners to meet with the Fire Dept, Department of Public Works and the Planning Department to come up with more of a detailed solution that is more middle of the road. Town Planner Mailloux commented that if the Planning Boards desire is to modify Staff's current recommendation such as access to the lot be either NFPA 1141 standards or an equivalent that is acceptable to the Fire Department. She added that this would allow the applicant to work with the Fire Department and allows the Town Council to make the determination. J. Trottier expressed his concern that there is a standard to follow and he is concerned about not completing

the whole road by just doing parts of the road. J. Butler remarked that he understands the safety issues, but feels that even doing improvements to part of the road would be better than no improvements. He added that he would like the property owner and the Fire Department have time to discuss the options and come back to the Board at a later date. B. Johnson commented that he understands that it seems like a viable option would be to improve some of the road, not just the end of the road near the boat launch. D. O'Brien discussed that he does not want to stop any property owner from being able to build on their land, but now there is a standard that was adopted in 2015, which give the Fire Department more control over some of the issues on this road. He stated that he is not an engineer and does not feel comfortable designing a road. S. Ratte said that there is a risk right now on this road, and the Town is encouraging residents to use Scobie Pond, so therefore, the Town should help the residents improve the road. D. Ratte echoed her husband's sentiments and said she does not think it is fair to make a resident pay to improve the whole road. J. Butler said that he feels this is a perfect reason that the Planning Board exists to try and reach a middle ground for a resident between the Fire Departments regulations and the DPW guidelines. He stated that the Town is supposed to maintain the road up to the boat ramp, so if the property owner addressed the road after the boat ramp it would be a win. Town Planner Mailloux interjected that since Brewster Road is a Class VI road the Town is not authorized to spend money or to maintain it, adding the only maintenance the Town is allowed is because of the emergency access lane declaration in 1995. D. Paul asked why there was not a better negotiation when Eversource fixed the road. J. Butler asked this could be continued so he could meet with the residents and the Fire Department on the site. Town Planner Mailloux discouraged J. Butler to meet individually and recommended the Board could do a site walk, which would be legally noticed. Chairman Rugg said that possibly before the site walk the property owner could meet with the FD to talk about options. J. Butler said that he does not believe that meeting with the property owner and the FD would accomplish anything and recommends a site walk by the Planning Board. Town Planner Mailloux informed the Board that since this is not a formal application so there is not a need for the Board to continue this or act on it She suggested that if the Board's consensus is to hold a site walk, she would look at dates to schedule a meeting, as it needs to be legally posted. She said that typically with a site walk it is for the Board to view it and then discuss it back in the meeting. Chairman Rugg asked for a consensus from the Board and the Board agreed on a site walk. Town Planner Mailloux told the Board that she would coordinate and schedule a site walk with everyone.

Town Planner Mailloux informed the Board that there is one request for an extension tonight. She told the Board that the request is from DeCarolis Estates Subdivision (Map 12 Lot 20), which conditions expire for on May 12, 2020. She commented that they are requesting a 90-day extension request, for additional time to meet the conditions of approval due to the COVID pandemic. She said the extension would be until August 10, 2020, and noted that Staff supports granting the extension.

Member A. Sypek made a motion to grant the 90-day extension request to DeCarolis Estates Subdivision (Map 12 Lot 20) to fulfil the conditions of approval until August 10, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

Town Planner Mailloux explained that she would like to discuss the Administrative Review and approval of temporary outdoor seating areas pursuant to Stay Home 2.0 with the Board. She said that the Planning Department has received some inquiries regarding outdoor seating space. She explained that Staff can approve some things administratively, such as a restaurant that has grass space near their restaurant and would like to use this to reopen. She noted that Staff can do this as administrative review and went over the criteria that would need to be discussed in order to grant this, such as fire access. She said that this would be on a temporary basis until the fall. Chief O'Brien added that the outside dining may allow a restaurant to put up tents for outside seating and the owners would work with Staff and the Fire Department to be able to do this. He stated that some restaurants might want to take up sidewalk space or parking spaces and he is going to work with them to still have appropriate fire access. Town Planner Mailloux asked if the Board would be okay with Staff handling these administratively where they are able to. G. Verani asked if the Town would work with a restaurant use that had been grandfathered and do not meet the current parking requirements. Town Planner Mailloux commented that she is willing to work with the owners on a case-by-case basis and is hoping to be flexible to accomplish this. A. Chiampa asked how soon this would happen. Town Planner Mailloux told her that May 18, 2020, would be when restaurants can do this. She said that she would report back to the Board on June 3, 2020. A. Chiampa voiced her concern that she is concerned about this as there are still active cases out there. B. Johnson told her that the restaurant would have to meet the governor's guidelines for social distancing. He said that most of the restaurants would not be going up in occupancy as they would only allowed six people at table that is minimally six feet away from other tables with staff standing six feet away from every table. He said that he does not believe parking will be an issue.

Town Planner Mailloux explained that she needs an appointment of CIP committee members and Heritage Commission liaison. Chairman Rugg asked for volunteers for the committee.

C. Davies made a motion to recommend Rick Brideau and Al Sypek to the CIP committee.

A. Sypek seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

C. Davies made a motion to recommend Art Rugg to the Heritage Commission liaison.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

III. Old Business

A. Application for formal review of a subdivision plan to subdivide one residential lot into three lots, 44 Auburn Road, Map 16 Lot 55, Zoned AR-1, Richard & Kathleen Sargent (Owners) & Cedar Crest Development, LLC (Applicant)

Chairman Rugg read the case into the record. J. Trottier informed the Board that there is one outstanding checklist item for which the applicant has requested a waiver. He noted that if the Board accepts the checklist waiver, Staff recommends the application be accepted as complete.

C. Davies made a motion to accept the checklist waiver for acceptance purposes only as per Staff's Recommendation Memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

A. Sypek made a motion to accept the application as complete per Staff's Recommendation Memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the 65-day time clock had started. Eric Mitchell, P. E., from Eric C. Mitchell & Associates, 38 S Bedford Road, Bedford, NH addressed the Board. E. Mitchell reviewed the plans with the Board stating that this is a three-lot subdivision where the existing lot is a little over six acres with an existing house. He said that the existing house is owned by the applicant and the driveway access is off Auburn Road. He commented that the existing house has an existing septic system and existing well. He told the Board the proposal is for each of the new lots to have frontage off Farm Meadow Lane, which is a road that was approved a year

and a half ago and was recently constructed. He said the two lots will have a septic system and on Manchester Water Works (MWW) for water. J. Trottier reviewed the design review comments with the Board.

Chairman Rugg opened it up to the Board for questions. C. Davies asked about the sight distances for the new driveways. J. Trottier reviewed the sight distances with the Board. Chairman Rugg asked if the stonewall along Auburn Road would be disturbed. E. Mitchell responded that the stonewall would be undisturbed.

Chairman Rugg opened it up to the public and there was none.

C. Davies made a motion to grant conditional approval of a subdivision plan to subdivide one lot into three, 44 Auburn Road, Map 16 Lot 55, Zoned AR-1, Richard & Kathleen Sargent (Owners) & Cedar Crest Development, LLC (Applicant) in accordance with plans prepared by Eric C. Mitchell & Associates, dated November 22, 2019 and last revised March 12, 2020 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated April 8, 2020.
2. The Applicant shall provide utility clearance letters per Sections 3.05 and 4.18.B of the Subdivision Regulations and Item X.7 of the checklist.
3. The Applicant shall provide the Owner’s signature(s) on the plans.
4. Draft easement documents shall be provided for review and approval by the Town and executed easements shall be submitted for recording with the plan.

5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. The Applicant shall provide checks for recording and LCHIP fees made payable to the Rockingham County Registry of Deeds.
7. The Applicant shall note all general and subsequent conditions on the plans.
8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
9. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
10. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

- 1. No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the appropriate financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements, if any, shall be completed.
5. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

B. Application for formal review of a lot line adjustment between 28 Kelley Road, Map 12 Lot 34 (Zoned AR-1) and 40 Kelley Road, Map 12 Lot 39 (Zoned AR-1), Paul & Meredith Beal and Jean Gagnon (Owners) and Jean Gagnon (Applicant)

Chairman Rugg read the case into the record. G. Verani recused himself from the Board for this case. J. Trottier informed the Board that there are two outstanding checklist items for which the applicant has requested a waiver. He said that if the Board accepts the checklist waivers, Staff recommends the application be accepted as complete.

C. Davies made a motion to Motion to approve waivers 1 and 2 as outlined in Staff's recommendation memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 7-0-0. The Chair voted in the affirmative.

C. Davies made a motion to accept the application as complete per Staff's Recommendation Memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 7-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the 65-day time clock had started. Eric Mitchell, P. E., from Eric C. Mitchell & Associates, 38 S Bedford Road, Bedford, NH, addressed the Board. E. Mitchell explained that this is a lot line adjustment between two existing parcels. He said that the Beal lot is an existing lot that is almost 22 acres in size with an existing house, septic system, well and cell phone tower facility on it. He told the Board the proposal is to cut two acres off the Beal lot reducing that lot to just under 20 acres. He said that there is separate application under design review for a subdivision on Lot 12-39 with the Planning Department as well. J. Trottier reviewed the design review items with the Boar.

Chairman Rugg opened it up to the Board for questions and there were none.

Chairman Rugg opened it up to the public.

Ryder Daniels, addressed the Board. R. Daniels said that he is concerned about the subdivision application as Kelley Road is very narrow and he does not want people to be able to exit out this way, but instead exit from the right-of-way off Hazelnut.

Bill DuBuono, 22 Hazelnut Road addressed the Board. B. DuBuono asked E. Mitchell

what this would look like behind his property. J. Trottier stated that this application is to relocate the lot line with the Beal property and the subdivision plan is still in design review. Town Planner Mailloux told the abutter that she could email the subdivision plan to him for review.

C. Davies made a motion to grant conditional approval of a lot line adjustment between 28 Kelley Road, Map 12 Lot 34 (Zoned AR-1) and 40 Kelley Road, Map 12 Lot 39 (Zoned AR-1), Paul & Meredith Beal and Jean Gagnon (Owners) and Jean Gagnon (Applicant) in accordance with plans prepared by Eric C. Mitchell & Associates, dated November 26, 2019 and last revised March 12, 2020 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 7-0-0. The Chair voted in the affirmative.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board.

Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated April 8, 2020.
2. The Applicant shall provide the Owner's signature(s) on the plans.
3. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
4. The Applicant shall provide checks for recording and LCHIP fees made payable to the Rockingham County Registry of Deeds.
5. The Applicant shall note all general and subsequent conditions on the plans.
6. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.

7. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.

8. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

C. Application for formal review of a site plan amendment to modify the construction phasing plan to allow for the occupancy of building 2 prior to the completion of all of the site improvements per the approved site plan, 30 Sanborn Road, Map 15 Lot 83-2, Zoned R-III, Sanborn Crossing Apartments Limited Partnership (Owner & Applicant)

Chairman Rugg read the case into the record. G. Verani came back to the Board for this case. J. Trottier informed the Board that there are no outstanding checklist items and recommends the application be accepted as complete.

C. Davies made a motion to Accept the Application as Complete per Staff’s Recommendation Memorandum dated April 8, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the 65-day time clock had started. Town Planner Mailloux gave some background information to the Board regarding this case. She told the Board the Sanborn Crossing site plan received final approval on September 12, 2018, and is currently under construction. She pointed out that at time the

plan was approved, there was no proposed phasing plan, but stated that in accordance with the Town of Londonderry Site Plan Regulations, prior to a certificate of occupancy being issued for a project, all site improvements shown on the plan must be completed. She explained that the regulations allow for a bond to be posted for the completion of landscaping, and the Planning Board previously granted a waiver for this project to allow for a bond for the final wearing course due to the anticipated construction completion during winter conditions. She stated that the applicant is getting close to looking at occupancy for the first building and is now presenting a phasing plan to the Board, which if approved, would allow for the issuance of a certificate of occupancy for building two prior to the completion of all the remaining site improvements. Steven Lewis, 11 Main Street, Atkinson, NH, addressed the Board. S. Lewis told the Board that under the New Hampshire Housing Finance Authority (NHFAA) phasing requirements state that one building must be built in its entirety, occupy it and then the next building can be started. He noted that the state of New Hampshire approached him and asked if he would do a bond issue, which he has never done before. He said when someone does a bond issue it is for everything, as they are selling the bonds at one fixed point, and this collides with Londonderry's regulations. He said that one building is done and ready for people to move in and the other building is ready to start the process of obtaining financing. He said the phasing would be for two months to coincide with Londonderry's regulations.

Chairman Rugg opened it up to the Board for questions. Town Planner Mailloux reviewed the conditions of approval from the Staff memo with the Board should the Board approve the phasing. D. Paul asked for a time frame as she thought this would be a safety issue with construction. Town Planner Mailloux asked S. Lewis what the time table for this would be. S. Lewis said that it would be two months, noting all the outside construction has been done. He said that he has spoken to the Fire Department about a gate. Town Planner Mailloux asked if six months would be reasonable. S. Lewis said that three months would be acceptable.

Chairman Rugg opened it up to the public and there was none.

C. Davies made a motion approve the site plan amendment to the Sanborn Crossing site plan to modify the construction phasing within three months, Map 15 Lot 83-2, 30 Sanborn Road, Sanborn Crossing Apartments Limited Partnership (Owner & Applicant) in accordance with a plan prepared by The Dubai Group, Inc., dated March 19, 2020 with the following condition:

- 1. All conditions of approval from the November 1, 2017 and August 1, 2018 approvals of this site plan must be met.**
- 2. Temporary construction fencing shall be discussed with the Fire Department (Brian Johnson) and a written understanding established and implemented to the satisfaction of the Fire Department.**

3. Any and all work within the 100-year flood area shall be completed and confirmation received from the design engineer that the associated work is in accordance with the approved plan.

4. Address off-site items from remaining work and concern list (Item 14), latest revision, including regrading area at abutting LeClerc garage.

5. Address any and all items from the remaining work and concern list associated with the Sewerage Pump Station.

6. Address any and all items from a yet to be prepared punch list of the items associated with building 2 and off-site.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

IV. New Plans/Public Hearings

A. Application for formal review of a lot line adjustment between 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD), 2V Londonderry, LLC (Owners and Applicant)

Chairman Rugg read the case into the record. J. Trottier informed the Board that there is one outstanding checklist item for which the applicant has requested a waiver. He noted that if the Board accepts the checklist waiver, Staff recommends the application be accepted as complete.

C. Davies made a motion to grant the checklist waiver per Staff's Recommendation Memorandum dated May 6, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

C. Davies made a motion to accept the application as complete per Staff's Recommendation Memorandum dated May 6, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the 65-day time clock had started. Jeff Kevan, TF Moran, 48 Constitution Drive, Bedford, NH addressed the Board. J. Kevan told the Board that this is a pretty straight forward lot line adjustment and reviewed the plans. He explained that they are going from three lots to two lots. J. Trottier reviewed the

design review items with the Board.

Chairman Rugg opened it up to the Board for questions. G. Verani asked how the second lot, furthest to the west obtain access. J. Kevan told him that there is common driveway that was agreed upon when the subdivision was done in 1990 with New Hampshire Department of Transportation (NH DOT) for a curb cut.

Chairman Rugg opened it up to the public and there was none.

C. Davies made a motion to grant conditional approval of a lot line adjustment between 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD), 2V Londonderry, LLC (Owner and Applicant) in accordance with plans prepared by TF Moran, dated October 17, 2019 and last revised March 12, 2020 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated May 6, 2020.

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated May 6, 2020.
2. The Applicant shall provide the Owner's signature(s) on the plans.
3. Required permits and permit approval numbers shall be noted on the plan.
4. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
5. The Applicant shall provide checks for recording and LCHIP fees made payable to the Rockingham County Registry of Deeds.

6. The Applicant shall note all general and subsequent conditions on the plans.
7. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
8. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

PLEASE NOTE –_If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674: 39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

B. Application for formal review of a site plan for a gas station and convenience store with drive through, and a bank with a drive through, 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD), 2V Londonderry, LLC (Owners and Applicant)

Chairman Rugg read the case into the record noting they have requested a continuance until June 3, 2020.

A. Sypek made a motion to continue the case until June 3, 2020, per the applicant’s request.

R. Brideau seconded the motion.

The motion was granted 8-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the application is continued until June 3, 2020, at 7 p.m., noting the meeting might be remote and this would be the only formal public notice.

V. Other

A. Recommendation to Town Council of Planning Board Appointment

Chairman Rugg said that A. Chiampa would like to go from alternate member to full time member.

A. Sypek made a motion to recommend Ann Chiampa as a full-time member of the Planning Board to the Town Council

R. Brideau seconded the motion.

The motion was granted by a unanimous roll call vote, 8-0-0. The Chair voted in the affirmative.

Town Planner Mailloux informed the Board that there will not be a meeting on May 13, 2020.

VI. Adjournment

Member R. Brideau made a motion to adjourn the meeting at approximately 9:30 p.m. Seconded by D. Paul.

The motion was granted by a unanimous roll call vote, 8-0-0.

The meeting adjourned at approximately 9:30 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,

Name: Oliver J. Sypek
Title: Secretary

These minutes were accepted and approved on June 3, 2020, by a motion made by C. Davies and seconded by D. Paul.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: April 8, 2020

Application: Application for formal review of a site plan amendment to modify the construction phasing plan to allow for the occupancy of building 2 prior to the completion of all of the site improvements per the approved site plan, 30 Sanborn Road, Map 15 Lot 83-2, Zoned R-III, Sanborn Crossing Apartments Limited Partnership (Owner & Applicant)

- Completeness: Staff recommends that the Application be accepted as complete.

Board Action Required: Motion to Accept the Application as Complete per Staff's Recommendation Memorandum dated April 8, 2020.

- Background: The Sanborn Crossing site plan received final approval on September 12, 2018 and is currently under construction. At the time that the plan was approved, there was no proposed phasing plan. In accordance with the Town of Londonderry Site Plan Regulations, prior to a certificate of occupancy being issued for a project, all site improvements shown on the plan must be completed. The regulations allow for a bond to be posted for the completion of landscaping, and the Planning Board previously granted a waiver for this project to allow for a bond for the final wearing course due to the anticipated construction completion during winter conditions.
- Project Summary: The proposed phasing plan, if approved by the Planning Board, would allow for the Applicant to obtain a certificate of occupancy for Building 2 prior to the completion of all of the improvements on the approved site plan.

Should the Board determine that the proposed phasing plan is acceptable, a draft motion of approval is provided below.

Board Action Required: Motion approve the site plan amendment to the Sanborn Crossing site plan to modify the construction phasing, Map 15 Lot 83-2, 30 Sanborn Road, Sanborn Crossing Apartments Limited Partnership (Owner & Applicant) in accordance with a plan prepared by The Dubay Group, Inc., dated March 19, 2020 with the following condition:

1. All conditions of approval from the November 1, 2017 and August 1, 2018 approvals of this site plan must be met.
2. Temporary construction fencing shall be discussed with the Fire Department (Brian Johnson) and a written understanding established and implemented to the satisfaction of the Fire Department.
3. Any and all work within the 100-year flood area shall be completed and confirmation received from the design engineer that the associated work is in accordance with the approved plan.

4. Address off-site items from remaining work and concern list (Item 14), latest revision, including regrading area at abutting LeClerc garage.
5. Address any and all items from the remaining work and concern list associated with the Sewerage Pump Station.
6. Address any and all items from a yet to be prepared punch list of the items associated with building 2 and off-site.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: May 6, 2020

Application: Application for formal review of a lot line adjustment between 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD), 2V Londonderry, LLC (Owner and Applicant)

- **Completeness:** There is one checklist item for which the Applicant has requested a waiver:
 1. The Applicant has requested a waiver from Section 3.09F of the Subdivision Regulations and Item III.34 of the checklist which require a driveway sight distance plan and profile for each lot. Staff **supports** granting this waiver as the Applicant has provided the required sight distance plans and profiles with the associated Site Plan Application.

Board Action Required: Motion to grant the checklist waiver per Staff's Recommendation Memorandum dated May 6, 2020.

Board Action Required: Motion to accept the application as complete per Staff's Recommendation Memorandum dated May 6, 2020.

- **Waivers:** There are no additional waivers requested for this project.
- **Recommendation:** Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval of a lot line adjustment between 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD), 2V Londonderry, LLC (Owner and Applicant) in accordance with plans prepared by TF Moran, dated October 17, 2019 and last revised March 12, 2020 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated May 6, 2020.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated May 6, 2020.
2. The Applicant shall provide the Owner's signature(s) on the plans.
3. Required permits and permit approval numbers shall be noted on the plan.
4. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
5. The Applicant shall provide checks for recording and LCHIP fees made payable to the Rockingham County Registry of Deeds.
6. The Applicant shall note all general and subsequent conditions on the plans.
7. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
8. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: May 6, 2020

Application: Application for formal review of a site plan for a gas station and convenience store with drive through, and a bank with a drive through, 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD), 2V Londonderry, LLC (Owner and Applicant)

- **Completeness:** There are no outstanding checklist items and Staff recommends that the application be accepted as complete.

Board Action Required: Motion to accept the application as complete per Staff Recommendation memorandum dated May 6, 2020.

- **Waivers:** The applicant is requesting four waivers as outlined below:
 1. The Applicant has requested a waiver from Section 4.6.7.7.D.1.a of the Zoning Ordinance, Route 28 Performance Overlay District landscape performance standards for the front buffer area.
 2. The Applicant has requested a waiver from Section 4.6.7.7.D.2.a of the Zoning Ordinance, Route 28 Performance Overlay District landscape performance standards for the side buffer area.
 3. The Applicant has requested a from Section 4.14.b.1 of the Site Plan Regulations to not provide existing sewer system information (inverts and pipe data).
 4. The Applicant has requested a from Section 4.14.b.1 of the Site Plan Regulations to not provide existing drainage system information (inverts and pipe data).
- **Conditional Use Permit:** A Conditional Use Permit for the proposed use in the Route 28 Performance Overlay District was approved by the Planning Board on July 10, 2019.

The project requires an additional Conditional Use Permit for 690 square feet of wetland impact and 9,793 square feet of buffer impact in the Conservation Overlay District.

The Conservation Commission recommended approval of the Conditional Use Permit, subject to approval of a Dredge and Fill Permit for the wetland impact indicated on the plan. The Applicant subsequently has obtained a Dredge and Fill Permit from NHDES.

As noted in the engineering review memo, there are outstanding review items relating to the proposed underground stormwater detention areas that include stormwater filtration/treatment with manufactured filter media. Additional clarification is necessary to ensure that the proposed system will provide appropriate separation from the seasonal high groundwater table (SHWT), that the SHTW will not impact the filtration/treatment media,

documentation that the filtration media will not be altered long term when placed under the driveways and parking areas, and inspection and maintenance method should be provided to ensure long-term compliance with the Town and NHDES regulations.

Additionally, the Applicant has indicated that a permit has been submitted to NHDOT for the site driveway onto Route 28. In accordance with the regulations, a copy of that permit should be submitted to the Town for the Planning Board's files. It is not clear if the Applicant has submitted to NHDOT a request for an amendment for the Town's existing curb cut for the signalized intersection of Symmes Drive with NH Route 28. A scoping meeting was held with NHDOT relating to this issue in April 2019 and the status of that review is not clear to Staff.

Finally, the proposed site driveway location on Symmes Drive is adjacent to the Reliable equipment driveway and the Park and Ride driveway on the other side of Symmes Drive, and requires drivers to watch for traffic on the other driveway. The Applicant's engineer points out that given the relatively low volume of traffic involved, the driver burden is negligible. Staff recommends that the Planning Board review and, if appropriate, discuss this concern with the Applicant.

Staff recommends that the Planning Board continue further discussion of this application to the June 3, 2020 Planning Board meeting in order to allow the Applicant to address outstanding review items relating to stormwater management and traffic.