

## **LONDONDERRY, NH PLANNING BOARD MINUTES OF THE MEETING OF April 14, 2021, Via a Zoom remote meeting**

### **I. CALL TO ORDER**

Members Present via a ZOOM remote meeting: Art Rugg, Chair; Al Sypek, Secretary; Jake Butler, Assistant Secretary; Ann Chiampa, member; Jeff Penta, member; Bruce Hollowell, Administrative Official Ex-officio; Deb Paul, Town Council Ex-officio; Roger Fillio; alternate member; Lynn Wiles, alternate member; and Jason Knights, alternate member

Also Present: Town Planner Colleen Mailloux, John Trottier, P.E., Assistant Director of Public Works & Engineering; Associate Planner Laura Gandia; and Beth Morrison, Recording Secretary

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 appointed J. Knights to vote for C. Davies.

### **II. ADMINISTRATIVE BOARD WORK**

A. APPROVAL OF MINUTES: N/A

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

C. Discussion with Town Staff:

Legislative Update – Tom Dolan, New Hampshire representative from Rockingham 5, addressed the Board. T. Dolan told the Board that they had a three day session last week where they went over 300 to 400 bills. He said that if anyone want copies of the bills, they are on the house website or ask Kirby Brown, Executive Assistant. He started off with HB111, as it was a Planning Board bill, where it eliminated qualified immunity for people working in the towns and state, noting it was tabled. Chairman Rugg asked if it would be brought up again next year at the second part of the session. T. Dolan replied that it might. J. Knights asked what tabling a bill means. T. Dolan answered that it means the bill is dead for one year and it can come back later this year or next year. He went on with HB616, that dealt with Planning Board decisions and appeals of decisions, stating that it was tabled. He added that if a citizen had an objection to a site plan approval, they can object to it, but they would have to pay the legal cost of their own attorney, the developer and

the carrying cost of the developer during the court process. He said that HB588 had to do with tiny houses, which are thought of by some as sheds on wheels, like mobile homes, which would not work in the winter time, and it was tabled. He commented that HB467, had to do with current use allowance and changing the tax treatment for current use if non-indigenous animals were on the land. He explained that some people do bring in animals to hunt, and if they are not indigenous animals, the owners of the land would lose the favorable tax treatment. He said that HB467 was tabled. He mentioned that HB392 directly affected Planning Boards by saying that you need to be a resident of the town to be on the Planning Board and then it changed by saying ex-officio members had to be members of the town as well. Town Planner Mailloux stated that Londonderry, by charter, mandates that board members must be a resident. T. Dolan said that HB392 was tabled due to the confusion that it created. He pointed out that HB341 talked about how many permissible residential units one could have on a lot, which he felt would change the look and feel across several communities across the state. He added that if the Planning Board had approved a single family house on a lot, the developer or owner could change it to four units without the Board's approval. He said that HB341 was killed, as it might change the feel of some towns and take the power away from the Planning Board to decide what they want in their community. He said that HB288 was a bill to eliminate the housing appeals board, which was tabled. He stated that ~~HB586 was the original workforce housing bill, which was also tabled.~~ He pointed out that there is a lot of senior housing in the state, of which New Hampshire is the second oldest state demographically in the country. He mentioned that New Hampshire does not need additional incentives for elderly housing, as there is so much now. He commented that the bill stated if a town was going to have incentives for elderly housing then they needed to provide the same kind of incentives for workforce housing. He said that this bill was tabled, but he thinks this will come back, noting that it is one of the Governor's priorities. Chairman Rugg commented that 13 to 14 years ago the Planning Board tried to evaluate what would be Londonderry's fair share of workforce housing, but found that it was impossible to do so. T. Dolan voiced his opinion, that Londonderry has done their fair share. Chairman Rugg asked if the Governor has a plan or strategy to address the housing shortage. T. Dolan replied there are some committees that are working to try and found solutions that would be acceptable to the state, noting that some rural communities do not want apartment buildings in their small towns and look at workforce housing as negative. He said that communities should be encouraged to do this, but they need public water and sewer for these large developments. D. Paul mentioned that there are apartments in Londonderry, but she would not call them affordable for young people, because of high property taxes, and stated that looking at smaller homes, is what the young people want as surveys have shown. T. Dolan said that affordability is out of their hands as it is handled by the feds or the state. He went on to HB322, which is related to regional impacts, noting that it gave the Planning Board an extra 30 days to conditionally approve the application, which passed and needs to go to the senate. He commented that HB183, otherwise known as "the lemonade stand bill", said that if a young person wants to open a soft drink stand, the town cannot shut them down for not having a permit. A. Chiampa asked what the age limit of the bill was. T. Dolan replied that he believed it was under 18. Town Planner Mailloux asked if there was testimony from any



towns that have been enforcing lemonade stands. T. Dolan said that no towns in New Hampshire had any testimony. He explained that SB86, just left the senate and came to the house as part of the cross over activities. He noted that some towns are starting to restrict new developments to be electric only for the source of heating. He added that SB86 allows Planning Boards to be able to decide what source of energy for heating can be and cannot restrict this to electric only. He concluded his discussion, and asked if the Board has any questions for him.

D. Paul thanked him for coming to the Board to explain the bills and hear what residents have to say and hopes that he will be back to talk to the Board in the future. R. Fillio voiced his opinion regarding workforce housing, stating that the town needs smaller two bedroom homes, which can fit on smaller lots, and the town can receive more in tax revenue with these. Chairman Rugg stated that Office of Strategic Initiatives (OSI) had a workshop for some towns about workforce housing and noted that the dialogue is happening. T. Dolan said that years ago when developing Pettengill Road, they had talked to the state about constructing a community college in that area to specifically train a skill set for companies in the area. Chairman Rugg said that the first step is the dialogue and then address the issues. J. Trottier asked on the portion of SB86, regarding third party inspections, if it died. T. Dolan replied that the bill is split in three sections, and his committee is looking to delete section two out of the bill and focus on section three, which deals with the energy. J. Trottier commented that the section of SB86 states that a developer would sit with the Planning Board to come up with a time table for inspections, and he does not recommend Londonderry do this.

Town Planner Mailloux informed the Board that at its meeting on April 7, 2021, the Board granted conditional approval of a subdivision plan at 40 Kelley Road and Hazelnut Lane (Map 13 Lot 39). She said that staff became aware that the certified abutter notification sent to the Schoolhouse Square Condominium Association was incorrectly delivered by the Post Office. She explained that they consulted the Town Attorney, and staff recommends that, though the abutter list and notification was completed in accordance with statutory requirements for abutter notification, the best practice would be to reconsider the previous approval and advertise and hold a new public hearing. She added that they emailed the applicant and the decision will be vacated and reheard next month. She pointed out that tomorrow is the deadline for the May 5, 2021, Planning Board agenda. Chairman Rugg polled the Board. B. Hollowell recused himself from the discussion. The Board's consensus was they agree there should be a rehearing.

**J. Butler made a motion to reconsider the April 7, 2021 conditional approval of the subdivision plan to subdivide one residential lot into eight lots, Map 12 Lot 39, 40 Kelley Road & Hazelnut Lane, Zoned AR-1, Jean Gagnon (Owner & Applicant).**

**A. Sypek seconded the motion.**

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



### **III. Old Business – N/A**

### **IV. Conceptual Discussions**

A. Conceptual review and non-binding discussion of a proposed consolidation and subdivision plan to consolidate and subdivide two lots into three, Five Greeley Road, Map 3 Lot 163, Zoned AR-1, Zachary Whitten (Owner) and Nine Greeley Road, Map 3, Lot 163-1, Zoned AR-1, Scott & Louise Whitten (Owners) and Adam Cole (Applicant)

Town Planner Mailloux informed the Board that a conceptual discussion is a nonbinding review and comments. She noted that this application is in design review where it comes before staff, engineering, Heritage Commission, Conservation Commission, Police Department, Fire Department and other departments to review and identify any technical issues that need to be addressed. She noted that the applicant is looking to get some feedback before they submit a formal application. She explained that the applicant is requesting a creation of one lot on Greeley Road, which is a Class V town maintained road. She went on to note that the subdivision regulations require that all lots have access on Class V road or better, and if the road is considered substandard, the road may need to be improved to a town standard. She said that town standard roads are 28-feet wide, paved, have closed drainage or on a low volume road may be 24-feet wide with open drainage. She commented that the applicant is looking for input if the Board would grant a waiver of the subdivision requirements relating to the road access. She said that Brian Johnson, Division Chief of Fire Prevention, from the Fire Department is on the call as well as there are National Fire Protection Association (NFPA) requirements that are required by the state, which the Board cannot waive. William Gregsak, P.E., from Gregsak and Sons, P.O. Box 271, Chester, NH introduced himself to the Board. W. Gregsak pointed out there are two existing lots on Greeley Road, that total 10.75 acres and they want to re-subdivide and make it into three lots. He noted that one lot is owned by one of the applicant's parents and the other lot is owned by one of the applicant's brother. He said that the proposal is to create a lot in the middle for the applicant to build their house. He mentioned that in discussion with the town, there is about 850 feet of Greeley Road that needs to be upgraded to town standards. He said that the applicant has put together a presentation that they would like to share with the Board. Adam Cole and Paige Whitten, Greeley Road, shared their screen with the Board and read their presentation to the Board, of which the slides are attached hereto. A. Cole said that Greeley Road is two-way unpaved gravel road that is 0.16 miles long and there are currently five houses on the road. He stated that Greeley Road has varying widths throughout and is classified as a Class V road. He mentioned that on March 4, 2021, the subdivision was placed on hold because Greeley Road was considered a "life safety hazard" not up to NFPA standards. He reviewed the solutions that were presented to him at the time of their meeting, which were for the applicant to be financially responsible for upgrading (pave and widen) Greeley Road, build on 5 Greeley Road without subdividing the lot, or add an addition to 9 Greeley Road, such as in-law apartment. P. Whitten reviewed slides that show the progression of Greeley Road from 2007 to the present. P. Whitten and A. Cole asked the Board to



consider that they already live on Greeley Road, they will not be adding traffic to Greeley Road, this is the last buildable lot on Greeley Road, there are plans completed to begin the project, they are part of the Londonderry community, they wish to remain close to their family and Greeley Road is safer today than it has ever been.

Chairman Rugg opened up the discussion to staff. J. Trottier said that all the improvements that were done to Greeley Road were done by Paige's grandfather in order for him to get the appropriate sight distance and it looks good. Town Planner Mailloux reiterated that the Board is being asked to consider a waiver on the subdivision regulations, but noted the Board has no authority on NFPA fire code. Brian Johnson, Division Chief of Fire Prevention, addressed the Board stating that unfortunately, he cannot offer a waiver to state code fire regulations, and it is only allowed through the State Fire Marshall. B. Johnson added that the only way a waiver is considered by the State Fire Marshall is by offering an alternative that has equal or greater life safety. He explained that there is a difference between a standard and a code, where a standard is recommended to be followed, but a code that is adopted by the state is state law. He reviewed the NFPA fire code that each lane is 12-feet wide, each lane holds the weight of a fire truck and be constructed of a hard, all-weather surface to hold the weight of the fire truck. He noted that the road does not have to be paved, just hold the weight of a fire truck. P. Whitten asked how Greeley Road is considered safe now. B. Johnson replied that it is not safe now, but he cannot change what happened 10 or 20 years ago, but enforce the current code. He said that per NFPA 1 it states that for any building or portion of a building built here on out, this is the code that needs to be met. He noted that it does not state that you have to fix old roads, but rather comes into effect when you wish to build something new. A. Cole commented that after they found out if was deemed a life safety hazard, he asked the town if they plan to upgrade it and the response was that Greeley road is not a priority. P. Whitten asked if they could add home sprinklers for another life safety feature. B. Johnson replied that if sprinklers are added to the house, the code allows the Fire Chief to reduce the road down to 20-feet wide, but it would still have to maintain the weight of the fire truck. He added that this has come up before, with Paige Road and Brewster Road in town, and the legal counsel for the town and Fire Chief have decided against this as an alternative. P. Whitten asked what they are supposed to do now from his standpoint. B. Johnson replied that they need a 24-feet wide gravel road that will hold the width of a fire truck. P. Whitten asked if B. Johnson would come down the road with a fire truck, as she believes the road can hold the weight. B. Johnson responded that she told him that her car gets stuck in the mud, and if it cannot hold a car, it cannot hold a fire truck. A. Cole interjected that if there is a concern regarding getting a fire truck or an ambulance down Greeley Road, the town needs to do something immediately. B. Johnson mentioned that this is a town issue, not a fire code issue. P. Whitten clarified that she said her car does not get stuck on the dirt road, but it is very muddy, and her parents own a dry wall supply company and their boom trucks are in and out every day without problems. Chairman Rugg mentioned that a lot of the conversation can be taken off line from the Planning Board, as there are town issues, but not Planning Board issues. A. Cole asked at what point is a town engineer coming to look at the road. Chairman Rugg replied



that their engineer can make an evaluation of Greeley Road and report back to the town, noting that the town would then review this with the third-party engineer. He said that the Board has been through this before and cannot do anything in regard to the NFPA code. B. Johnson encouraged the applicant to see if the Board would be inclined to waive things in their purview, such as a paved road and curbing. A. Cole told the Board that he walked Greeley Road with a tape measure and it is anywhere from 20-feet to 24- feet, but cannot testify that it can hold a fire truck. W. Gregsak said that the only area where they may not have 24-feet wide on Greeley Road is the furthest away from the existing fire station back on Old Nashua Road. He asked if the Board would waive the paving requirement and that the road has to be 24-feet throughout.

Chairman Rugg opened the discussion up to the Board. A. Sypek asked how the 24-feet width applied to the graveling standards. J. Trottier asked for clarification. A. Sypek asked J. Trottier's and B. Johnson's opinion if they would allow the subdivision if the road was cleared to 24-feet in width with gravel. J. Trottier replied that there needs to be pitch lines for drainage, vertical alignment and survey the road to understand the geometry of the road. B. Johnson responded that the code requires the road hold the weight of a fire truck and he defers to engineers to gather this data. A. Chiampa said that the town is looking out for the resident's safety and noted that they have to follow the NFPA standards. She mentioned that the Board can talk about waiving the paving, but it has to comply with the NFPA standards, hold the weight of the fire truck and meet the drainage requirements. She asked if the applicant would consider the addition of an accessory dwelling unit (ADU). W. Gregsak asked how the applicant would be allowed to construct an ADU and not have to comply with these standards. Town Planner Mailloux replied that the ADU means that you do not have to comply with the town's subdivision regulations of roadway standards, but would still need to meet the NFPA requirements, as it is new construction. B. Johnson added that it would fall under the state fire code, as New Hampshire has adopted 2015 NFPA 1 in which chapter 18, Fire Access, states "approved fire department access roads shall be provided for every facility, building or portion of a building hereafter constructed or relocated." A. Chiampa asked for clarification that in order to build the house, they have to build the road under NFPA standards. B. Johnson remarked that if an engineer says the road is 24-feet wide and can hold the weight of a fire truck, then nothing needs to be done to that section under fire code regulations. W. Gregsak asked if they are required to do the entirety of Greeley Road or just the portion closest to the fire station to the proposed driveway, which is 850 feet to 300 feet respectively. Town Planner Mailloux asked if the Board could continue going through with comments related to the waivers and then it would be B. Johnson's determination on the length of the road that needs to be improved. J. Butler started by commenting that this is an example of another road in town that does not meet the standards that it should, and he feels the town is shifting the burden to the home owner, which is completely unfair in his opinion. He added that if he is hearing things correctly tonight, the town is letting Greeley Road not meet a standard required by the state. He said that this might be the third or fourth time this has come across the Board with substandard roads with no plan from the town to fix them. Chairman Rugg told him that the issue regarding fixing substandard roads should be brought to the



attention of the Town Council, as it is not in the jurisdiction of the Planning Board. J. Butler asked if they can apply for a variance at a state level. B. Johnson replied that they can and they have to provide an equivalent or greater degree of safety alternative, noting that nothing has been done yet. J. Butler stated that if the Fire Chief and the town attorney will not accept an alternative, there is no solution for these residents other than to take care of fixing a road that a town has neglected. B. Johnson maintained that there is an appeal process where they can go before the State Fire Marshall with an alternative as the State Fire Marshall is not going to waive the entire code. J. Butler asked if an alternative would be sprinklers. B. Johnson replied that is an alternative. Town Planner Mailloux interjected that the town attorney has advised the Fire Chief not to waive a standard and accept a 20-foot wide road with sprinklers, as it is an additional liability to the town that is unacceptable. J. Butler maintained that this is a Class V town maintained road that does not meet the town standard. He asked B. Johnson what fire code was adopted by the state. B. Johnson replied that NFPA 1 and 101 are adopted by the state and the other codes are adopted by referencing those. J. Butler asked if another code would be NFPA 1141. B. Johnson responded that was correct. J. Butler asked if NFPA 1141 was adopted by the state. B. Johnson replied that it is adopted through NFPA 101 through reference. J. Butler asked if Greeley Road could be made a one-way road, as then it would meet the 12-foot width. B. Johnson answered that he would have to talk to the Department of Public Works and Engineering (DPW) for the standards for one-way roads. He offered his interpretation of NFPA as the road has to be a minimum of 20-feet wide, noting that it appears as though Greeley Road does if it was a one-way road. J. Trottier explained that the town does not have one-way road standards. J. Butler voiced his frustration that is so disappointing. He asked if J. Trottier stated that the town is not going to make a one-way road standard. J. Trottier replied that the town does not have a one-way road standard. J. Butler asked if the town does not have a one-way road standard, can the Board decide to make this road a one-way road. Town Planner Mailloux interjected to point out that the Planning Board does not have the authority to make this a one-way road, rather it would be a Town Council decision. J. Butler remarked that maybe the applicant whom is getting railroaded by state requirements that cannot be met, can go to the Town Council to make this a one-way road. He went on to ask if the Town Council made Greeley Road a one-way road, then the state requirements would be met. B. Johnson mentioned that that fire code does not specify a one-way road versus two-way road, but it needs to be a minimum of 20-feet wide. J. Butler voiced his opinion, that he would suggest the applicant go before the Town Council to ask for Greeley Road to be allowed to be a one-way road, as he feels this would allow the applicant to build and not have to do all the off-site improvement work to a road that does not meet town standards. J. Penta thanked the applicant for their presentation as he thought it was helpful to see the changes to Greeley Road over time. He asked how a road is tested to meet the weight of a fire apparatus. J. Trottier replied that the applicant's engineer would auger through the gravel and take samples to analyze the material that is out there. B. Hallowell started off by stating that he also had the suggestion of making Greeley Road a one-way road. He commented that from a personal standpoint and on behalf of the Planning Board, he apologizes to the applicant for having to endure this as he feels their request is quite simple to build a single family home on a



property in a community in which they live in. He added that to put it quite bluntly, as a Planning Board member, since the town does not seem to care about the road, neither should he, from a standpoint of paving it or putting up curbing. He remarked that he thinks the town makes the message loud and clear that they are not concerned about Greeley Road. He mentioned that while some amount of burden to the developer or applicant should be shared to at least make the lot accessible, it is unreasonable to ask an applicant to upgrade an entire roadway for a single house to be built. He stated that if the request was to build 50 new homes, he would not be in favor of granting the waiver. He said that it is a small road that has been there for a very long time and the town has not taken any steps to upgrade or improve it; therefore, he is in favor of granting the waiver to the subdivision regulation. He concluded that he is in favor of waiving any other requirements that would need to be waived in order for the applicant to build their house on the lot, as long as it does not put undue stress on the town and safety. He went on to state that he understands that B. Johnson has to enforce the code, but said that the applicant is no safer after they build their house than they are right now. D. Paul commented that these issues pull on her heart strings, and feels that every resident should be safe, just like every resident should have clean drinking water. She agreed with her fellow Board members and recommend that the applicant present before the Town Council. R. Fillio commented that the applicant should retain an engineer that has experience in obtaining core samples to be analyzed. He suggested that the applicant might want to come together with the other residents on Greeley Road to see if they would like to upgrade the road, which would lower the cost. He said that he does not believe that the NFPA state requirements are going to be waived and personally he does not believe they should be. He remarked that if the town allowed them to build without making the appropriate upgrades and another house happen to burn down, the first thing someone would ask is why were they not in compliance. P. Whitten asked if a house were to burn down on Greeley Road tonight what the difference would be, as the road is not in compliance now. R. Fillio replied that the town would not be liable as the house was built a long time ago, but when you are building something new, there are regulations that must be enforced. A. Cole asked if some private residents are supposed to keep up the roads to NFPA standards. R. Fillio responded that some of them are, such as in a condominium association. B. Johnson confirmed that condominium associations and private roads, have to maintain NFPA standards. R. Fillio said that every time you make an exception to the rule, there will always be other people coming forward saying their situation is worse. L. Wiles mentioned that if the road is upgraded, the tax payers will be the ones paying for the upgrading through taxes. He commented that he does not know what the unintended consequences might be if the waiver is granted. He asked for a legal opinion from the town attorney on this and what other roads are in a similar situation, noting that if this waiver is granted there will be others coming forward with requests. Town Planner Mailloux replied that she can ask the town attorney for a legal opinion and will put together a list of roads that do not meet the regulations. P. Whitten asked if the taxes the current resident's that live on Greeley Road pay could go towards upgrading the road. L. Wiles clarified that when speaking about the town paying for it, it is really the tax payers pay for it. P. Whitten stated she understood. J. Knights stated that he does not think it makes sense to make them



upgrade a town owned road. Chairman Rugg explained that in 2015 the state adopted the NFPA standards, which shifted local control back to the state. He noted that there are some Class V and Class VI roads that are not up to town standards, such as Page Road, Scobie Pond Road and Wilson Road, and this is in the jurisdiction of the Town Council. He commented that from listening to the Board tonight, it appears that the Board is willing to grant the waivers to the subdivision regulations. B. Hallowell asked if P. Whitten's parents put on an addition, would the town require them to upgrade the entire road. B. Johnson replied that it would be required under state fire code. B. Hallowell asked if any property owner on Greeley Road wanted to do something to their property, they would have to rebuild the town owned road. B. Johnson reiterated that if you read the code it states "an approved fire department access road shall be provided for every facility, building or portion of a building hereafter constructed or relocated. He added that a portion of a building would be considered an addition. B. Hallowell voiced his opinion that as both a resident and a tax payer, if you want to know why there are problems with drawing the younger generation into the state, this is why. He said that the motto of "Live Free or Die" is more of a saying and not really followed. He added that he does not think the applicant is asking for anything that is unreasonable, but rather what the Board/Town is asking is unreasonable. He encouraged them to go before the Town Council and advised their neighborhood to seek legal counsel. P. Whitten said that she does not know how the younger generation can afford to buy single-family homes in town as they are \$500,000. A. Sypek offered the applicant the avenue of another option, which would be a petition for a warrant article to upgrade Greeley Road at the town meeting. He said that it has been done successfully in some cases and not others. Chairman Rugg informed them that it takes 25 signatures of registered voters in Londonderry to have a warrant article go to the Town Council. He pointed out that the only way money is appropriated for roads in Londonderry is through a town meeting. B. Johnson asked if they only improved the new section of the road with the Bancroft Road project recently. He asked how the town would feel if the applicant only had to improve Greeley Road from Old Nashua to their new home, as the code does not address the houses past that in theory. J. Trottier replied that for Bancroft Road they were responsible for improvements along their frontage. B. Johnson said that since they had access off Hardy Road for the Bancroft project, they were able to meet the intent of the code. He commented that if they were able to meet the intent of the code by coming in from Old Nashua Road to their driveway, it would reduce the total length of improvement from 850 feet to about 300 feet. He pointed out that he cannot waive the code, but the code states they need a fire access road to the building that is being constructed, rather than the entire road. Town Planner Mailloux mentioned that if this is going to go before the Town Council for a one-way road, the whole road would need to be upgraded, but if it remains a two-way road, then it could be looked at with just improving the road up to the new lot. J. Trottier agreed with Town Planner Mailloux and B. Johnson. Chairman Rugg suggested that Town Planner Mailloux, J. Trottier and B. Johnson meet with the Town Manager to try and come up with a solution. Town Planner Mailloux stated that the request would be is the Board granting waivers over the entirety of the road's standards, such as drainage and shoulders, or just waivers for paving and width of road. J. Butler asked if the applicant could do something similar that Bancroft Road project did. J.



Trottier replied that the Fire Department has access off Hardy Road for Bancroft, which is a different story. A. Cole stated that he likes all the ideas and said that they want to go ahead with B. Johnson's idea of coming off Old Nashua Road to their proposed house on Greeley Road. B. Johnson mentioned that he would meet with J. Trottier and Town Plan Mailloux to make sure this is acceptable to the town. He said that if this is acceptable, the next step would be for the applicant's engineer to get core samples to make sure the road would hold the weight of the fire truck. B. Hallowell asked if the applicant was to pursue an entrance onto their lot by an alternate means with a right-of-way, would it meet the requirement of the town. J. Trottier replied that it might work in theory, but with this particular lot it would not work. Town Planner Mailloux stated that zoning has some other requirements that might impact that as well. B. Hallowell told the applicant that he hopes the engineering study of Greeley Road meets the requirements and that the town will be more than happy to take their tax payment. A. Cole thanked the Board for the discussion and stated he would be in touch with B. Johnson, J. Trottier and Town Planner Mailloux.

B. Conceptual review and non-binding discussion of a proposed application for design review of a site plan amendment for Block 2 of Woodmont Commons to construct a 19,792 SF two story medical office building, Map 10 Lot 41, Pillsbury Road & Michels Way, Map 10 Lot 41, Zoned C-I & PUD, Woodmont Commons Planned Unit Development, Pillsbury Realty Development, LLC (Owner) and LD 2020 LLC (Applicant)

Chairman Rugg read the case into the record noting that this is a conceptual discussion only. Town Planner Mailloux told the Board that this application is going through the design review process. She explained that they are here before the Board presenting some different concepts for layouts related to the building configuration and building elevations. She said that they are here tonight to seek input from the Board on a waiver of the hard conformance with the PUD Master Plan. She stated that the PUD Master Plan requires that the buildings be oriented to the street and the parking lot be oriented behind the structures. Chairman Rugg informed the Board that the Heritage Commission brought up some issues, one being the location and they will be presenting again on the May 27, 2021. Chris Nickerson, developer on behalf of Derry Medical addressed the Board. C. Nickerson told the Board that he has been developing medical office properties for the past ten years. He said that their model is to pull together a pool of independent practices from Londonderry or other surrounding communities and bring the scope of services under one roof for the benefit of patient access. He said that the practices for this site are DMC primary medical family practice, Spindel Eye Associates, Dermatology and Skin Health, Granite State GI, Bedford Commons OB/GYN, Concord's Orthopedics, a PT user and a lab user, as well as Derry Imaging. He commented that they believe that Woodmont is an attractive location as Londonderry is a growing town and has excellent transportation. He mentioned that access to transportation is one of the biggest concerns for the elderly. He noted that they are looking at a site on Michels Way due to the layout. He reviewed what a typical building would look like, noting the typical retail storefront does not meet their needs. He added that they need a central loading area and parking. He



mentioned that the biggest concern at their Buttrick Road site is parking, noting they use a model of five per thousand spaces, which would be 200 spaces on 40,000 foot building. He said that they use a 60/40 split between patients and staff. He went on to note that the concepts they have for the Board tonight have 60% of the parking on-site for patients and 40% of the parking shared and inside the PUD. He explained that they have a unique site proposed as it is bordered on three sides between Michels Way, Governor Bell and Settler's Lane. He noted that they have reconfigured the building so that more of the frontage is on Michels Way, angled the parking so it is further away from Michels Way, and gives more green space. Jeff Kevan, P. E., from TF Moran Inc. addressed the Board. He noted that Heritage did not like the parking along Michels Way and wanted them to talk it over and see if they could present other options. He said that there is not another location that they could change the proposed project to. He explained that they have narrowed the building as much as they could to get more building frontage on Michels Way, noting the primary entrance is now on Settler's Lane. He added that he pulled the parking away from Michels Way so there is 20-feet of green space on the narrow end and 55-feet of green space as you get closer to Building 201. He reviewed the other options with the Board, which are attached hereto. He showed the Board a rendering of the proposed project, noting that they are proposing to put a decorative fencing with columns every twelve feet and landscaping. He said that they looked at different facades and reviewed those with the Board. C. Nickerson reviewed the schemes with the Board, which are attached hereto. J. Kevan asked if the Board could provide input on granting a waiver to allow there to be no structure in between the parking and Michels way.

Chairman Rugg opened up the discussion to the Board. He noted the section of the Master Plan they are being asked to waive is on page 147 and read it to the Board. He told the Board that the Heritage Commission did suggest relocating the building and screening the parking. A. Sypek said that in looking at the scheme's he liked the one with the building on the far left, which is Option B. He suggested leaving a dedicated parking spot for ambulance use. J. Kevan said that they would look into this. A. Chiampa read from the PUD Master Plan on page 45 stating "the quality of site design will provide public benefits in terms of sustainable use of resources, visual quality from public vantage points and complementary relationship to adjacent land ergonomics." She said that the idea behind Woodmont Commons was that it would have a cohesive look for the entire development. She stated that right now, she sees a huge parking lot that looks like every other development, especially on Michels Way, which is a premier street in the development. She commented that she does not feel that this represents what Woodmont Commons originally presented and what was passed by the Planning Board. J. Kevan noted that they are asking for relief as this was the only piece of land that was available at this time, and they tried to mitigate the parking with the wall fence feature. A. Chiampa voiced her opinion, that since Main Street is already constructed, this sets the tone for the development. C. Nickerson reviewed the proposal noting that the style they are proposing is similar to what it is currently on buildings in Woodmont now. He went on to state that a medical site has particular needs, such as parking and access to the site. He added that the parking they are presenting only serves 60% of the total parking need of the development. He said that they will get the



other 40% of the parking through mixed-use parking the way Woodmont is intended. J. Butler asked if the building is not permitted. Town Planner Mailloux replied that is related to the building type related to the architectural guidelines. J. Butler asked for Option B to be shared on the screen, noting that this is what he likes the best because of the landscaping buffer. He noted that he was concerned if this would set the tone for the rest of the project. He asked if anything presented this evening was different than what was submitted to the Heritage Commission. J. Kevan replied that there are different renderings this evening. J. Butler stated that he would like to see the brick incorporated on the building and not just the material that has been presented. He voiced one concern about the concrete on all the walkways and how this will hold up over time with salt use. He mentioned that the Heritage Commission might want to think about meeting every month instead of every other month. Chairman Rugg commented that the Heritage Commission has met more often, but it has been upon request of the applicant. He noted that the applicant did acknowledge that they would come back for the May 27, 2021, Heritage Commission meeting, and any changes need to be made by the chair. J. Penta asked if there were any other features considered, in addition to the fence and landscaping, that could bring the community together. J. Kevan asked for clarification. J. Penta replied that some ideas could be a statue or water feature that is unique but aligns with the Master Plan. Town Planner Mailloux mentioned that in one of the bigger green space areas, there could be a hard scape or water feature addition, instead of just landscaping. J. Kevan replied that is something that they can look at. B. Hallowell remarked that he is tired of looking at blank lots in Woodmont. He noted that that this development was presented as a city within a town. He asked if they considered incorporating a parking garage under the building. C. Nickerson responded that the economics do not lend to this style of development. He reviewed how they look at the financials and how this would not work. B. Hallowell commented, that he likes Option B from an aesthetic view, but as a fire fighter responding to this building, Option A is better for access. He said that he likes scheme 3 the best and would like the brick to continue on the building. He voiced his opinion, that this is the type of business that he expects in this type of development. D. Paul said that she likes Option B the best and echoed J. Penta's thoughts on developing a sense of community. She suggested a bike rack, picnic tables, benches, more gardens and art sculptures. She added that she does not like the roof line as it so flat and gave some ideas. R. Fillio said that there needs to be a mix of form and function so that the building fits. He added that there needs to be enough parking for this type of building as well. L. Wiles agreed with D. Paul on the roof. He said that he likes Option D as his preferred option, as he does not want to see a curb cut onto Michels Way, and thinks it almost meets the Master Plan requirement of parking behind the buildings. He asked about parking on Settlers Lane. J. Kevan replied that Settlers Lane was designed in Phase 1 and approved with on-street parking and a low level parking deck. L. Wiles commented that the parking spaces are going to be used for other purposes and cannot expect those to always be there for the medical office. He asked if the left turn lane is there now on Michels Way. J. Kevan replied that it was and would ultimately have to be removed. J. Knights remarked that he likes Option B the best and echoed the comments about changing the roof line. Chairman Rugg suggested visiting the Elliot in Londonderry to look at how they accomplished access and parking. He asked if they



can relocate this as he does not feel it represents the Master Plan. He noted that if push comes to shove and the parking lot has to be there, he would like it to be hidden better than it is now. J. Butler changed his opinion after listening to L. Wiles, that Option D hides parking the best, but asked for more plantings on the left side. B. Hallowell also said that he now believes that Option D is the best rendering. He asked if the developer could elongate the building along Michels Way to push the parking behind it even more. C. Nickerson replied that if they wanted to relocate the parking and narrow the building, the building becomes so narrow for medical use that it becomes functionally obsolete. Town Planner Mailloux pointed out that you can still see the parking coming from the northerly route. Chairman Rugg said that he needs to see architectural renderings on hiding the parking from Michels Way. L. Wiles remarked that if they come back with a nice new building design, the eye will be drawn to the building and not the parking lot. B. Hallowell agreed. A. Sypek asked what the occupancy is for the proposed buildings on the right. J. Kevan replied they are proposed for retail. A. Sypek asked if those buildings will affect the parking for the medical office. J. Kevan responded that there will be some cross use parking, but they will have parking behind them that they can use. C. Nickerson mentioned that they are looking to start the process sooner than later and asked for the Board to define the comments, so that he and J. Kevan can put something more substantial to bring back to the Heritage Commission. He asked if he understood that the Board likes Option D, make adjustments to the roof line, more brick, and have substantial landscaping where the parking is going to be. Chairman Rugg replied that was correct. Town Planner Mailloux added that there can be a special request to have the Heritage Commission meeting sooner than the May 27, 2021, meeting. C. Nickerson commented that would be helpful in this process.

## **V. Other**

Chairman Rugg told the Board that B. Hallowell wanted to start the discussion on having public water to all new subdivisions. B. Hallowell said that he would like to change the subdivision regulations regarding water, such that if a developer is a certain radius away from public water, they should have to bring it in. D. Paul stated that she likes this idea, but would encourage a discussion with the town attorney as this would be promoting a water company. She offered that the town could also try and get into the water business and create a water department. A. Sypek explained that water is a regulated utility that falls under the purview of the Public Utilities Commission (PUC) and approval for water lines must get approval from the PUC. He noted that if the PUC does not consider it to be financially feasible, they will not approve it. D. Paul told the Board that Pennichuck buys its water from Manchester Water Works (MWW) for 10 cents a gallon and then resells it to the consumers at 80 cents to the gallon. She noted that Pennichuck sells water back at the highest rate. J. Butler voiced a concern about what this might do to the cost of the price of the houses, but overall likes the idea. L. Wiles commented that he likes the idea in general, but does not like the idea of the town getting into the water business. He added that this is really in the realm of the PUC. Chairman Rugg asked if the Board would like staff to do more research on this and get back to the Board. The Board agreed. B. Hallowell mentioned that he was not trying to impact the small house lot subdivisions, but rather a 10 or 12 lot subdivision in which the



developer is 10,000 feet away from municipal water. Town Planner Mailloux stated that they will consult with the Town Attorney and gather information on what surrounding communities do. She said that she does not think that this will be on the May meeting, but most likely June. Chairman Rugg asked if this would dovetail with the PFAS work being done in town. Town Planner Mailloux replied that she did not think this would be relevant to the PFAS committee. B. Hallowell asked who would be in charge of the town making a water department. D. Paul replied that she did not know at this time. A. Sypek said that back when they did this years ago, you would have to pay after an assessment for all the value of the infrastructure for the franchises in the ground, establish a water department, hire appropriate staff and get approval from the PUC.

J. Butler voiced his opinion, that he would like to get back to in-person meetings, as he feels that the Board is doing a disservice to the residents by continuing with virtual meetings. Chairman Rugg stated that he would like to see statewide numbers coming down and is looking at possibly a June or July timeframe for in-person meetings.

D. Paul mentioned that she would like to take a look at the sign ordinance and the chicken ordinance, as these come up almost monthly at the Zoning Board of Adjustment meetings. Town Planner Mailloux said that the Town Manager would like to look at the sign ordinance, as it has been a while.

## **VI. Adjournment**

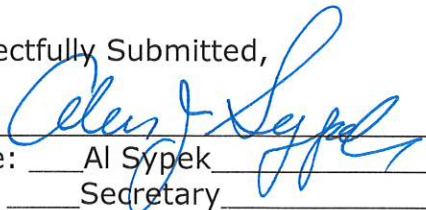
**Member J. Butler made a motion to adjourn the meeting at approximately 11:12 p.m. Seconded by R. Fillio .**

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

**The meeting adjourned at approximately 11:12 PM.**

These minutes were prepared by Beth Morrison.

Respectfully Submitted,

  
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Name: Al Sypek  
Title: Secretary

These minutes were accepted and approved on May 5, 2021, by a motion made by C. Davies and seconded by J. Butler.



## **STAFF RECOMMENDATION**

**To:** Planning Board

**Date:** April 14, 2021

**From:** Colleen P. Mailloux, AICP, Town Planner  
John R. Trottier, PE, Director of PW&E

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**Application:** Application for formal review of a subdivision plan to subdivide one residential lot into eight lots, Map 12 Lot 39, 40 Kelley Road & Hazelnut Lane, Zoned AR-1, Jean Gagnon (Owner & Applicant)

At its meeting on April 7, 2021, the Planning Board granted conditional approval of the above-referenced subdivision plan. After the meeting, Staff became aware that the certified abutter notification sent to the Schoolhouse Square Condominium Association was incorrectly delivered by the Post Office. In consultation with the Town Attorney, Staff recommends that, though the abutter list and notification was completed in accordance with statutory requirements for abutter notification, the best practice would be to reconsider the previous approval and advertise and hold a new public hearing. If the Board grants the motion for reconsideration, the decision of April 7, 2021 will be vacated and a new hearing will be held on May 5, 2021, with proper legal and abutter notification.

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**Board Action Required: Motion to reconsider the April 7, 2021 conditional approval of the subdivision plan to subdivide one residential lot into eight lots, Map 12 Lot 39, 40 Kelley Road & Hazelnut Lane, Zoned AR-1, Jean Gagnon (Owner & Applicant).**