

**Newfields Planning Board Meeting Minutes**  
**April 11, 2019**

**Attendance:** Chairman John Hayden, Bill Meserve, Town Planner Glenn Greenwood, Jamie Thompson, and Jeff Feenstra. Absent from the meeting was Mike Todd and Mike Price.

**Chairman Hayden called the meeting to order at 7pm.**

**Preliminary Discussion-Ray & Scott Buxton- Map 208 Lot 10.1 and 10.2**

Ray and Scott Buxton discussed their plan for a lot line adjustment to straighten out the boundary line between lots 10.1 and 10.2. When the subdivision was originally recorded this was the last lot on the road and in order to obtain 200 feet of frontage for lot 10.1, the boundary along Old Lee Rd needed to be extended at an angle. The Board did not see any issues with the plan. A formal lot line adjustment application needs to be filed and abutters need to be notified. The applicant asked if the entire parcel needed to be surveyed to get the lot line adjustment approved. The Board informed the applicant that they need to submit a waiver request for a partial survey when they submit the formal application.

**Old Lee Rd Subdivision-11-lot Conservation Subdivision-Map 208 Lots 14 & 15**

Glenn stated that the statutory requirement is for the Board to accept the application within the first 30 days for the purpose of being able to discuss and review it within a 65-day period. The acceptance does not constitute approval. The application was presented at the March meeting but was unable to be accepted due to the lack of a quorum.

A motion was made by Bill and seconded by Jamie to accept the application for subdivision. All were in favor and the motion carried.

Civil Engineer Dan MacRitchie and owner Robert Peterson of Pawtucket Road Land Holdings, LLC were in attendance. Gove Environmental Services prepared the soil survey and wetland delineation and alteration of terrain permit. Dave Heslop from Knight Hill Land Surveying Services prepared the survey of the 29-acre parcel at 134 Old Lee Rd. This is a continuation of a preliminary discussion held several months ago with the Planning Board.

Dan stated there is currently a 50- foot strip of land that connects the parcel to Old Lee Rd. There is a covenant in place that states the access will be moved to the further end of the lot to the north. There is a large wetland that runs through the center of the property and couple of smaller ones on the northwest corner and northeast corner of the lot. There are 16.7 acres proposed to be open space, which meets the requirement of having a minimum of 50% of the 29 acres. This is a conservation subdivision with 11-lots on two cul-de-sacs; 6 lots on one cul-de-sac and 5 lots on the other.

The only wetland impact is a crossing impacting 6,600 sq. feet. They are meeting the offset requirements for the buffer zone for the wetlands.

The Conservation Subdivision has a 75-foot buffer requirement and they do not have enough room for a buffer at the front of the lot. In Dan's opinion, a conservation subdivision is a better solution than a traditional subdivision and there is significantly less impact area with this design. They do not have a geometric way to make it work otherwise.

Dan reviewed the yield plan which showed 10 lots on two roads. This is not a layout they would want but it was necessary to provide this plan to prove out how many lots are possible. They are starting with 10 lots and looking for an additional lot as provided under the bonus provisions of a conservation subdivision. In Dan's opinion there are two sections of bonus provisions of which a couple may be applicable to give the applicant one extra lot.

Test pits were done on the north side of the wetlands but not on the southern side. The north side of the parcel has the best soils. If the Board feels strongly about test pits being done for the two southern lots on the yield plan it can be done. It would mean another wetland crossing to get to those two lots.

Dan went on to talk about the road length. There is 280 feet of 50-foot wide access and then several hundred feet to get through the buffer zone and wetlands. By the time the road is on the other side of the wetlands it is 700 feet. In order to have any use of the property he must go past the 700 feet. In Dan's opinion, a cul-de-sac is defined as a road connected to another road with multiple points of access. If the board disagrees with Dan's interpretation, he will ask for a waiver for the road length.

Bill said the yield plan is showing a cul-de-sac on a cul-de-sac and he has a problem with that. He noted we have a sidewalk requirement; a cistern needs to be shown on the plan and he does not see a drainage system on the conventional yield plan.

Dan felt that guidance for the yield plan in the regulations did not go beyond presenting a general layout. This is a flat area and there are a number of options for managing stormwater.

Bill added that the plan must show runoff and there is also a runoff treatment requirement.

Dan said he did not interpret the regulations to say no runoff. He thought it meant no additional runoff. Similar to the NH alteration of terrain permit; there can be no additional runoff.

Bill asked about lot 3 and 4 and where the houses and driveways would be located due to the extensive wetlands on those lots. Lot 5 and 7 are also questionable.

Dan felt there was plenty of room for a driveway and house on Lot 3. Perhaps he could shift the lots a bit and place an easement on lot 5 to get to lot 4.

The wetlands permit is currently pending. Bill noted that there are several concerns that the Local River Advisory Committee and the Newfields Conservation Commission have that need to be addressed. One of the items was getting the notarized signature of an abutter for the setback.

Dan stated he only needs a notarized signature from the abutter if the impact of the road is within 20 feet of the boundary and it no longer is. Glenn confirmed that the original plan had the road closer to the abutter's boundary; this plan does not have the road within the 20 feet.

Bill asked why Dan didn't apply for the second wetland crossing showed on the yield plan. Dan stated he didn't need to because it is just a theoretical yield plan.

Glenn has concerns with the yield plan. It is supposed to mimic the requirements of the subdivision and it doesn't; especially in the road layout and the excessive length of cul-de-sac and number of lots served. Glenn agrees that the purpose of the yield plan is not to formally present a regulatory approved subdivision, but the premise is that you are using the yield plan to determine the number of lots for the conservation subdivision plan. The impact of the road layout has a great impact on the number of lots and he is not comfortable with the excessive length of the roadway under a standard subdivision.

Bill reminded the applicant that the whole project must go before the Lamprey River Advisory Committee for review. They look at culvert crossings, habitat, conservation easements, etc.

Dan will send LRAC the entire application. They get to review it again once they are ready to apply for the alteration of terrain permit.

Jeff asked where the fire cistern would be located and suggested that it be on the left side of the road because of the way the fire engine is set up. Dan is aware that the fire cistern needs to be added to the plan and suggested it be placed on the left side of the road in the no build zone.

Jamie asked what the qualification was for getting a bonus lot. Dan said under Section 11.14 of the zoning there are 4 options; 75% open space, public access or pedestrian access, view shed protection bonus or agricultural land use bonus. Under Section 11.8 he is entitled to a density bonus of up to 10% for meeting the conservation subdivision requirement.

John clarified for the applicant that Section 11.8 allows for the bonus and Section 11.14 is what you need to meet to get the additional bonus. He interprets that section as meaning if the planning board felt the required criteria was met that the development may have an additional bonus under Section 11.14. John noted that the conservation subdivision ordinance is difficult to read and portions of it may be in conflict, but it is clear as to the intent of the ordinance and there being one bonus.

Dan interpreted the ordinance as Section 11.14 are the specific items required and 11.8 allows an additional bonus of 10%. He assumed 11.14 was the base bonus and 11.8 was an additional bonus.

John stated the yield plan comes first before bonuses are discussed. It was talked about repeatedly in the preliminary discussions with the applicant that the yield plan is step one in this process. The yield plan must be approved in order to move forward with the conservation subdivision.

Dan asked if the planning board would have a separate vote on the yield plan. John said the board needs to approve the yield plan to get to the conservation subdivision plan. John would like feedback from an engineer on behalf of the town regarding the yield plan to determine whether we are at a number of lots that allow us to move forward.

Dan said he would be asking for a waiver for the roadway lengths for the requirements of the cul-de-sac. John said a waiver is not allowed. A yield plan is to be submitted without waiver or variance.

Bill added that Old Lee Road is not a super highway. He is concerned with the number of cars traveling on the road with the addition of 11 lots; 110-120 trips per day. It is not a wise idea in his opinion to maximize and try to get as many lots as you can.

Glenn said the open space allowance is a difficult section to look at. He does believe there is some sort of conflict as it is written. He does not believe the intent of the ordinance was to grant a 30% bonus. He does believe the bonus not to exceed 20% is correct. As he looked at the bonus criteria and tried to apply it he did not see the requirements being met as the applicant's engineer does. Glenn does not believe we will get a very informed additional opinion from an engineer reviewing this plan. We don't require enough technical information on the plan for their expertise. Glenn's perspective is that the yield plan is suspect, and the applicant may be able to improve it. Two of the lots have upland soils but we have no information about those soils at all. Without that information he does not see them as being viable lots. The second longer cul-de-sac is extremely longer than we would approve and almost disqualifying. This is an odd piece of land and the conservation subdivision may not be the best option for this land. He very strongly has a problem with the access way which doesn't meet the requirements of the conservation subdivision. The ordinance is very clear and the access across that perimeter buffer runs in the perimeter buffer for a long distance. The goal of the ordinance was to minimize impact to abutters with the allowance of the conservation subdivision. Access way does not meet the requirements.

Jamie mentioned the Cheney subdivision from a couple of years ago where the applicant eliminated the use of 14 acres on the other side of a wetland for the yield plan because he didn't want to get the additional crossing. Does the additional crossing on this yield plan eliminate those two lots to the south of the wetland.?

Glenn said the applicant would have to prove that they could get to them with a river crossing. A river crossing is different than a dredge and fill permit. Glenn said it is important for the board to know that this is a major wetland crossing for the two lots 7 and 8.

Adrian Fieldhouse commented that it appears there isn't enough information to go on to make decisions.

Robert LaBranche asked about the DES correspondence and their concerns. He was informed that those questions are directed to the applicant not the Planning Board.

Julie LaBranche noted that in the DES correspondence the applicant must respond by April 20<sup>th</sup> or the application will be denied. Dan said they are working on the wetland permit now.

Bill noted that there may not be enough time for the applicant to get the LRAC review prior to submitting the wetlands permit. Dan was not concerned.

Conservation Commission Member Steve Shope said their role is to protect the natural resources of the town. He had the opportunity to review the plan and correspondence from the LRAC and DES. One of the resources that they look at is the wetlands. It is the opinion of the conservation commission that the impact of that entrance crossing is unacceptable. The Conservation Commission is an Advisory committee to the Selectmen and the Planning Board. Not only do they have concerns with access impacts but the impacts that DES has noted. Steve plans on contacting DES to find out if the second dredge and fill will need to be applied for prior to the yield plan approval.

Conservation Commission Member Andrew Walker addressed his concerns on behalf of the Conservation Commission. A culvert may change the hydrology of the wetland community. He would like to review the calculations of the design of the culverts. What NH stream crossing standards were

used in the design? Dan replied that it is not a stream. Andrew also said they have concerns with nutrient loading due to septic systems and lawn fertilizer. Also, concerned with foot traffic along the edges of the wetlands.

Conservation Commission Member Jeff Couture stated that this wetland is an exemplary natural beauty according to the NH Heritage Bureau. Increased foot traffic near wetlands may impact the natural community.

Abutter Gayle Davis spoke of when she built her home on Old Lee Rd. The Town vehemently denied her from building within the wetland setback. The Building Inspector visited the site often to make sure she the home was built outside of the wetland setback. She is absolutely opposed to allowing the disturbance of wetlands. She suggests the developer build a bridge.

Bob LaBranche asked who would be paying for repairs to Old Lee Rd after eleven new homes are built.

John said the developer would be required to build the road to town standards and then the road would be accepted by the Town at which time the Town would maintain it as they do Old Lee Rd now. The tax payers would most likely have to pay for any improvements to Old Lee Rd.

Bill added that Old Lee Rd is not the safest road in town.

Abutter Ju Chen said once the application is accepted the Board has 65 days to approve or deny the application. The Board is asking for additional information and she did not hear a commitment from the developer to provide that information. Her question was whether the Board had enough information to decide within the next 65 days.

John says they anticipate that additional information will be submitted quickly. He is not concerned with the 65-day period because quite often these types of plans go well beyond 65 day period before a decision is made.

Bob LaBranche mentioned that Old Lee Rd residents submitted a letter of concerns with the Board. John said the letter will be entered into the record.

Abutter Larry Averill asked if all the issues of concern were addressed.

Glenn stated that we have not reviewed all the concerns. He did say that the engineer's definition of cul-de-sac is quite interesting. A cul-de-sac is still considered a spur road and the intent is that the cul-de-sac would be measured from Old Lee Rd. He read his comments and concerns into the record.

### **Yield Plan**

The proposal is for a conservation subdivision so a yield plan is required and has been prepared to establish the density for the site. The yield plan offers a conventional subdivision of 10 lots with 2000 feet of roadway. The zoning ordinance states that passing test pits should be located in 20% of the proposed lots. This has been accomplished. However in the random selection of test pits no information is offered for yield plan lots 7 and 8 which are located beneath the wetland complex that divides the parcel. Some information proving the viability of this area should be provided.

The yield plan is supposed to represent a plan approvable by the Town's standard subdivision requirements. The Yield plan offers a road network that far exceeds the cul-de-sac standards found in the subdivision regulations in both length and number of lots served.

Yield Plan lot 2 locates the septic system reserve area within the protective well radius, this is not permitted. It appears the well could be relocated on the lot.

There are extensive wetlands on yield plan lot 4 resulting in small areas deemed appropriate for building. I am unconvinced that this lot would be permitted under the conventional subdivision regulations.

### **Conservation Subdivision Plan**

**The plan needs to be reviewed by a consulting engineer. The Planning Board needs to determine who that engineer will be for this proposal.**

1. The yield plan indicates 10 lots are possible under conventional subdivision. (This lot configuration requires planning board approval before the final lot number is established) The Conservation subdivision plan proposes 11 lots. How does the applicant justify the additional lot proposed. Which density bonus allowance is the applicant requesting?
2. The zoning ordinance requires a 75 foot perimeter buffer around conservation subdivision proposals. This proposal does not comply with this requirement in that the access road for the development runs within the perimeter buffer and parallel to the subject parcel property line for 750 feet. The ordinance is clear regarding this issue. It states "Primary access roads shall be allowed to cross the perimeter buffer for entry to the site, but shall not be allowed to run within the buffer parallel to the perimeter property line." The applicant is of course aware of this and has a plan note 7 on sheet 2 of 11, indicating the Planning Board waiving this requirement if the proposal is approved. As I read the ordinance the Planning Board has authority to act on this issue.
3. An open space plan suitable for recording is required for the open space proposed by the development. Sheet 7 of 11 could easily be drawn to comply with this requirement. Information detailing the breakdown of upland and wetland areas would need to be added to this sheet to meet town requirements.
4. Sheets 5 and 6 should be amended to display required setback standards from the edge of roadways and from property boundaries. In addition proposed dwellings should be indicated on these sheets so that the required building separations from one another and from property lines can be verified.
5. Proposed conservation subdivision lots 3 and 4 have overlapping protective well radii. Legal instruments allowing this overlap need be created and reviewed by Town Counsel.
6. When setbacks are applied to proposed conservation subdivision lot 5 I question whether it is a viable lot.
7. On sheet 4 no lot information is provided for proposed conservation subdivision lot 9.
8. The zoning ordinance requires that "All lots shall be delineated by metes and bounds description under fee-simple ownership." This information is not reflected on the plan set.

9. This proposal will have a home owners association. The legal instruments for this association need be developed and reviewed by Town Counsel.
10. Safe and convenient pedestrian access is required from all lots not adjoining the required open space. How is this achieved with the proposed plan?
11. Section 11.12.4 requires dedicated recreational facilities within the open space. How is this requirement being accomplished with this proposal?
12. The proposal borders the Town of Newmarket. The Planning Board should consider if the proposal meets the standards for a development of regional impact.
13. The proposal requires a state – issued wetlands permit for the construction of the access roadway.
14. A Town –issued conditional use permit is required for the construction of the access roadway. This permit requires a performance bond to insure proper construction.
15. The roadway will require establishment of a bond in coordination with the Town’s consulting engineer.
16. The Planning Board will need to determine what constitutes substantial improvement in order to vest the project from future regulatory changes.

Abutter Larry Averill is concerned with the road and the endangered species. The ecology on the site is wonderful. When he built his home on Old Lee Rd he had to move his house 1,200 feet forward due to the wetlands.

John explained that there will not be any further notification to abutters. This application will be discussed every second Thursday of the month at the regularly scheduled Planning Board meeting. As new information comes in, it will be on file at the Town Office. Any questions should be directed to the Town Office.

Abutter Debbie Chick asked if it was the Planning Board that allows an access road without the 75 foot buffer. Bill said the developer only needs a 50 foot right of way for a conservation subdivision.

Julie LaBranche noted that on page 55, Section 11.61 of the zoning ordinances it states it is mandatory for all subdivisions to be conservation and they will be based on a conventional yield plan and it does not excuse the yield plan.

John stated that the intent of the conservation subdivision ordinance is to encourage people to conserve open space and build on smaller portions of the property.

Jamie said his preference is to use the conservation footprint but noted Glenn said he wasn’t sure this was a good parcel to utilize under the conservation ordinance.

Glenn clarified that the way the ordinance applies to this particular parcel creates some conflicts which were not anticipated by the developer.

Dan feels the intent of the ordinance is to maintain open space and disrupt as little as possible. If there was a buffer on both the conservation and conventional plan it would make sense. In every respect the conservation layout is better. There is no buffer required for a conventional subdivision. Dan hopes the Board considers the waiver on the buffer zone for the conservation subdivision otherwise they are back

to a convention subdivision. Dan said there is no incentive to do the conservation subdivision if you take away the bonus lot.

Bill would like to see how many lots could be obtained with a conventional plan. Numerous lots have no access and the environmental impact of those lots is great. The town allows 650 feet on a cul-de-sac and the developer is talking about 2,100 feet.

Dan would like a consensus of the board as to what they are looking for. There seems to be significant concerns.

Bill reminded Dan that in previous discussions it was made clear that the length of a cul-de-sac cannot be more than 650 feet and the yield plan would determine the number of lots. Bill suggested showing how many lots can be built off of a 1,000-foot road.

Glenn recommended that the Board have Rockingham County Conservation District review the plan and to have a site walk. Stormwater drainage will be part of the review. A motion was made by Jamie and seconded by Jeff to have the RCCD review this application. All were in favor and the motion carried.

Glenn added that Dan needs to establish an escrow account with the Town for payment to RCCD.

Dan will take the comments received and update the plan to get it to RCCD in the next two weeks.

The Board would like to have a site walk and to have the roadway staked out for viewing.

A motion was made by Jeff and seconded by Bill to conduct a site walk on Friday May 3, 2019 at 5:30pm on Old Lee Road at the proposed entrance to the subdivision. All were in favor and the motion carried.

A motion was made by Jeff and seconded by Bill to continue the hearing until next month's meeting on May 9, 2019. All were in favor and the motion carried.

#### **Subdivision and Site Plan Review Amendments**

The amendment to the site plan and subdivision regulations, Section 9, Fees; subsection 4, Other associated costs was discussed.

The amendment would require applicants to pay for any more than two hours of review by the Planner. The following new line 5 to read: The first two hours the Town Planner spends reviewing an application are covered by the application fee; time spent reviewing beyond two hours will be billed to the applicant on an hourly basis. A motion was made by Jeff and seconded by Bill to approve the amendments. All were in favor and the motion carried.

#### **Zoning Map Update**

The zoning map needs to be updated with current streets, extension of the water and sewer district, and well radius for the new town well. Glenn mentioned that Rockingham Planning Commission has road maps on their website and we probably could get an updated map from them for a small fee.

#### **Eversource Request to Trim Trees on Halls Mill Rd**

Eversource is requesting permission from the Planning Board to trim trees on Halls Mill Rd which is designated as a scenic road. Glenn said that a notice will need to be published in the newspaper two times before a public hearing can be held. The public hearing will be scheduled for the May 9 Planning Board Meeting.



The Board reviewed Glenn Greenwood's contract for one year. The price is the same as last year. A motion was made by Jeff and seconded by Bill to approve the contract from January 1, 2019 to December 31, 2019. All were in favor and the motion carried.

A motion was made by Bill and seconded by Jeff to approve the February 2019 minutes. All were in favor and the motion carried.

A motion was made by Jeff and seconded by Bill to recommend the appointment of Jeff Couture to the Planning Board. All were in favor and the motion carried. The appointment will be forwarded to the Selectmen for approval.

Bill talked about his concern on the regional impact of traffic. Glenn suggested having a meeting with the Board of Selectmen along with David Walker from Rockingham Planning Commission and the Planning Board to discuss the regional impact of traffic and transportation issues in Newfields.

A motion was made and seconded to adjourn at 9:10pm

Respectfully submitted,

Sue McKinnon