

TOWN OF AMHERST
Planning Board

May 19, 2021

APPROVED

In attendance: Arnie Rosenblatt - Chair, Dwight Brew-Selectman Ex-Officio, Bill Stoughton, Mike Dell Orfano, Cynthia Dokmo, Brian Coogan, Tracie Adams (Alternate), Chris Yates (Alternate), and Christy Houpis (Alternate).

Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner; and Kristan Patenaude, Recording Secretary.

Arnie Rosenblatt called the meeting to order at 7:01 p.m., with the following statement. As Chair of the Amherst Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, as extended by various Executive Orders, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

We are utilizing Zoom for this electronic meeting.

All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #312-626-6799 and password 841 6492 1059, or by clicking on the following website address: <https://zoom.us/j/84164921059> that was included in the public notice of this meeting.

Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Planning Board at: www.amherstnh.gov.

Providing a mechanism for the public to alert the public body during the meeting if there are problems with access: If anybody has a problem, please call 603-341-5290.

Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to- Know law.

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Roll call attendance: Dwight Brew; Bill Stoughton; Mike Dell Orfano; Brian Coogan; Tracie Adams; Cynthia Dokmo; Christy Houpis; Chris Yates; and Arnie Rosenblatt; all alone and present.

Christy Houpis sat for Marilyn Peterman, in her absence.

COMPLETENESS REVIEW OF APPLICATION AND PUBLIC HEARING IF APPLICATION IS ACCEPTED AS COMPLETE:

- 1. CASE #: PZ14078-041921 – Peter & Christine Row (Applicants & Owners), 124 Baboosic Lake Road, PIN #: 006-011-000 – Submission of Application/Public Hearing/Conditional Use Permit – Addition of garage & new septic. Zoned Residential/Rural**

Arnie Rosenblatt read and opened the case.

Tom Carr, Meridian Land Services, joined the Board, along with Peter & Christine Row, owners and applicants.

**Bill Stoughton moved no regional impact. Dwight Brew seconded.
Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.**

Natasha Kypfer noted that the applicant has submitted all required items.

**Mike Dell Orfano moved to accept the application as complete. Christy Houpis seconded.
Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.**

Tom Carr explained that the applicant has previously been to the Zoning Board of Adjustment to receive a variance for the proposed garage. This variance was granted. The applicant has also met with the Amherst Conservation Commission (ACC) regarding the proposed CUP, and the ACC's comments are located in the Board's packet.

Tom Carr noted that the total existing impervious area on the property is currently 5,014 (46% of the lot), while the proposed impervious area is being reduced to 4,505 (41.4% of the lot). This is occurring through a reduction in some of the decking, as well as the driveway, even though the house is increasing in size.

Tom Carr presented the existing conditions and proposed conditions plans. The property currently consists of a two-bedroom residence with walkout decks, one high over one low. There

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are retaining walls on the property. There is an existing well and an existing septic system that runs under the driveway. Due to the proposed garage the applicant is proposing to replace the existing pipe and stone septic system that is not located 75 feet from the lake with a pretreatment process system. This system will pump to a chamber located along the driveway which will be compliant with state and local regulations and also be located the required 75 feet away from the lake. The applicant is proposing storm water infiltration trenches along the garage. The applicant is proposing to provide a stone infiltration trench along the existing house as well. The existing house has a two pitched roof and half of this roof will be infiltrated. The area is too complicated to have an infiltration trench on the other side, due to the slope and an existing retaining wall. Tom Carr noted that Doug Brodeur, PE, ran the drainage calculations and designed the stormwater management techniques to be in compliance with the Town's new Stormwater Regulations.

Cynthia Dokmo had no questions at this time.

Brian Coogan had no questions at this time.

Tracie Adams had no questions at this time.

Dwight Brew stated that everything being proposed by the applicant seems to be an improvement over the existing conditions.

In response to a question from Christy Houpis regarding the easement on abutting property for the septic system, Tom Carr stated that the lot is too small to support a 3-bedroom septic design and the house is currently a two-bedroom house. Abutter, Brett Vaughn, and the Amherst Land Trust are granting the Rows a septic loading easement on their property. The area has been calculated for this septic loading site, and that area will be taken away from the Vaughn property's septic loading capacity and given to the Rows. This easement is in draft form. This draft will be submitted with the septic plan next week. The applicant has also applied for a septic permit and is waiting on a shoreland permit. Tom Carr noted that if the application is approved he would expect these items to be conditions.

Bill Stoughton said that he is generally supportive of this application as it makes a number of improvements to existing conditions. He wanted to spend a moment talking about how applicants can show they meet the stormwater cleanup requirements of the regulations. He is speaking only for himself and not for the Board, but it may be helpful to applicants to know how at least one member is approaching this subject. Section 5.A.6 of the Stormwater Regulations requires that "Runoff from impervious surfaces shall be treated to achieve at least 90% removal of Total Suspended Solids (TSS) and at least 60% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Stormwater Manual, Volumes I and 2, December 2008, as amended or other equivalent means." The Stormwater Manual, in Volume 1 Appendix E and Volume 2, Appendix B, includes tables that list the removal percentages achieved by various stormwater Best Management Practices. See e.g., <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/wd-08-20b.pdf>.

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Bill Stoughton continued that some representatives have complained the NH Stormwater Manual efficiencies are out of date and do not reflect the best current science. The regulations also acknowledge the use of design standards and performance data published by the UNH Stormwater Center. On its MS4 Resources page, the UNH Stormwater Center includes BMP Performance Fact Sheets with updates as of January 2020. See <https://www.unh.edu/unhsc/ms4-resources>. Those fact sheets include graphs of cleanup efficiencies based on infiltration rate and the depth of runoff from the impervious area. An applicant using those graphs and demonstrating its infiltration rate and depth of runoff meet or exceed our requirement would very likely persuade this member.

Bill Stoughton stated that as a local board populated by volunteer residents, the ability to consider other justifications is more limited. Speaking for himself, he would want independent engineering review of other proposed justifications, which would increase the time and cost incurred by an applicant with uncertain results. He urged applicants, therefore, to consider using the Stormwater Manual efficiencies or the updated UNH Stormwater Center BMP Performance Fact Sheets. In this application, the Stormwater Manual tables show the drip edge design provides a total nitrogen reduction of 55% versus the 60% required. The applicant has not provided a calculation using the UNH Stormwater Center BMP Performance Fact Sheets. Instead, the applicant has provided a single page excerpt of a study, circling graphs for “MD Infiltration,” purportedly justifying acceptable nitrogen removal by the proposed drip edge. There are several problems with this justification. First, the full 14-page study states that “MD Infiltration” is a manufactured subsurface infiltration system, not a simple drip edge. The study states “[t]he manufactured subsurface infiltration unit is a treatment train comprising a pretreatment system followed by a large subsurface infiltration system made up of a series of perforated pipes.” Second, the nitrogen reduction efficiencies provided for the MD Infiltration are for NO₃, nitrate, not for total nitrogen, which is the requirement of our regulations. Third, the nitrate reduction efficiency circled is a negative 67 percent, presumably indicating that nitrate concentrations increased in the water moving through the manufactured infiltration system. This raises the question of whether total nitrogen was reduced adequately. Indeed, the study states, “[t]he subsurface infiltration device was a top performer for all but nitrogen removal, which is to be expected for a nonvegetated device.”

Bill Stoughton stated that he is not saying the proposed drip edge does not meet the nitrogen removal requirements in this instance. It might meet them, and it is certainly close using the NH Stormwater Manual. He is saying that it is the applicant’s responsibility to persuade the Board that the drip edge meets the requirements, to “connect the dots” for the Board. This application does not persuade this member that the proposed drip edge meets the total nitrogen reduction requirements. If the applicant insists on using this justification he will recommend that it be reviewed by an independent engineer at the applicant’s expense. If requested by the applicant, however, he would support a waiver in this instance for the following reasons. First, the proposed drip edge meets all of the cleanup requirements except total nitrogen reduction. On total nitrogen reduction, the drip edge comes close, achieving 55% versus the 60% required. In its favor, however, the applicant is proposing the use of drip edge to treat more than just

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the new impervious surface. The applicant also proposes using drip edge to treat stormwater coming off portions of the existing roof, which today receive no treatment at all. In these circumstances it is possible and perhaps even likely the total nitrogen burden of the stormwater entering the groundwater post-development is actually less than pre-development. In addition, the physical constraints of this site make the use of other, more effective stormwater BMPs impossible or impractical.

Mike Dell Orfano stated that nitrogen loading is an important issue but as it is an expensive bar to reach for the applicant. He agreed with asking the applicant to request a waiver for this item as proposed by Bill Stoughton.

Chris Yates had no questions at this time.

In response to a question from Arnie Rosenblatt, Bill Stoughton stated that if the applicant wants to use the existing justification given for the type of stormwater management feature chosen for this project, he believes that it needs an independent engineering review. Bill Stoughton stated that he is not swayed by this applicant's justification, as he was by the reason used in a similar previous application. Bill Stoughton stated that the type of justification provided by the applicant is inadequate for a citizen board to use as justification. He would be supportive of a waiver for this item or denial of the application.

Arnie Rosenblatt asked what the practical import of Bill Stoughton's suggestion is. Bill Stoughton stated that he does not want to deny the applicant construction of this garage and construction of a better septic system, but he does wish to set expectations for applicants to provide the Board with if applicants choose not to use the straight up stormwater efficiencies given.

Tom Carr stated that the applicant is not opposed to asking for a waiver due to the fact that it does not meet 5% of the required total nitrogen reduction limit, but he also asked that the Board consider the improvements being proposed over the existing conditions. He noted that if this was a new development being proposed with wetland crossings, buffer impacts, new sidewalks, all new buildings and associated improvements, and no forest, it would be a different matter. He suggested that the Board be prepared to look at two different types of applications: ones similar to this with existing structures versus raw development applications.

Doug Brodeur, Meridian Land Services, stated that he would like to formally request a waiver on the total nitrogen loading for this property, instead of putting the applicant through the independent review process. He noted that he believes independent reviewer, Keach-Nordstrom, would be supportive of this application, as it does meet the total nitrogen and phosphorus removal rates, but stated that he would prefer to request a formal waiver at this time.

There was no public comment at this time.

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Bill Stoughton agreed with Tom Carr that the application presented tonight proposed improvements to the current site and that was why he said he would be supportive of a waiver. He stated, however, that the nitrogen reduction standard is 60%, but the application on file does not tell him is this is the percentage being proposed. While this may well be the case, he would need to see information to convince him of such, or a waiver on this item.

Bill Stoughton moved, pursuant to section 3.H of the Town Stormwater regulations, to waive the total nitrogen reduction percentage of 60% and to allow the use of a drip edge providing 55% reduction on the basis (1) that granting the waiver will not impair achieving the spirit and intent of these regulations; (2) that compliance with these regulations is not reasonably possible given the conditions of the land in the CUP; and (3) that the proposed substitute solution is consistent with the goals of these regulations and is in the best interest of the Town. Mike Dell Orfano seconded.

Discussion:

In response to a question from Mike Dell Orfano, Bill Stoughton stated that the 60% requirement comes from the model Stormwater Regulations created by the NH Stormwater Coalition in order to meet the MS-4 stormwater requirements. Bill Stoughton noted that the Planning Board went to the Town's engineer during the drafting of the regulations to ask if this requirement should be used and were told that it should be. The ACC believes that the Town's watersheds are nitrogen-impaired and thus it is not unreasonable to require a 60% nitrogen reduction.

Dwight Brew stated that he appreciates this approach. There is a difference between a new development and an application to make existing properties better. This requirement allows the Town to make sure that the 60% reduction is unarguably met.

Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

Mike Dell Orfano moved to accept the application as presented with the inclusion of the easement document proposed. Christy Houpis seconded.

Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

- 2. CASE #: PZ14079-041921 – Wilene Knight (Applicant & Owner), Spring Road, PIN #: 004-154-000 – Submission of Application/Public Hearing/Subdivision Application – Subdivide Tax Map 4, Lot 154 into (4) single family house lots and creating (3) new lots. Zoned Residential/Rural.**

Arnie Rosenblatt read and opened the case.

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Chris Hickey, Keach-Nordstrom, joined the Board.

Mike Dell Orfano moved no regional impact. Bill Stoughton seconded.

Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

Nic Strong stated that the applicant had some missing items, but the Town has since received waiver requests for these items and also received the legal language for the easement.

Arnie Rosenblatt noted that the waiver requests were received yesterday for fiscal impact, environmental impact, traffic, water supply, drainage report, and hydrogeological.

Nic Strong noted that the Board should address these waiver requests before voting on completeness of the application. The Board can discuss the rationale as to why the waivers were submitted and why the applicant feels they should not submit those studies.

Chris Hickey stated that the waivers for these studies were submitted because this is a minor, 3 lot subdivision, and he believed that these studies were reserved for more major subdivision applications that might include the creation of roads, wetland buffer impacts, drainage items, etc. This request is only for the creation of single-family lots that will not cause much impact. He is okay with working on some of these as conditions of approval. He noted that stormwater design will be completed with the septic design.

Chris Yates stated that he would have liked to have the materials earlier and is still reviewing them.

Mike Dell Orfano stated that he would like some additional context in order to understand how this “minor” subdivision will impact abutters through items such as hydrogeological. He is not prepared to vote on this application yet.

Bill Stoughton asked why the applicant put in the waiver requests so late. Chris Hickey stated that he originally put in the application that these items were “N/A,” as he believed this to only be a minor subdivision. Bill Stoughton noted that the Community Development Office considers this a major subdivision.

Bill Stoughton stated that he shares Mike Dell Orfano’s concerns. He asked if it is possible for the Board to grant the waivers solely to discuss completeness of the application, with the possibility of revisiting the items if needed throughout the hearing process.

Christy Houpis stated that he is concerned because he is not convinced that this is a minor versus a major subdivision. He also has concerns regarding the potential drainage, hydrogeological, and

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environmental impacts. He would be concerned to waive these studies without knowing more. He agreed with granting the waivers to consider completeness only.

Dwight Brew suggested hearing the applicant's pitch in order to understand how the requested waivers fit in, then vote on the requested waivers, and then vote on the application.

Tracie Adams agreed with hearing the application materials in order to have context for the waivers.

Cynthia Dokmo suggested that the Board grant the waivers subject to the Board having the ability to require the same waivers once having reviewed the full application. She noted that the application is not before the Board for a public hearing until the Board accepts it as complete, which is why the Board needs to vote on the waivers before hearing the full application.

Brian Coogan stated that he is leaning towards Dwight Brew's suggestion.

Arnie Rosenblatt stated that the Board has, in the past, heard the applicant's waivers at the same time as hearing the full application. This was prior to being shown the proper procedure for applications.

In response to a question from Arnie Rosenblatt, Nic Strong stated that she would rather the Board accept the application as complete while reserving the right to require any of the proposed studies in the future, instead of hearing the full application along with the waivers and then making a decision.

Mike Dell Orfano noted that the Board has always, in the past, heard the full application along with any waiver requests at once. Arnie Rosenblatt agreed, but noted that what is being proposed is the proper procedure.

Bill Stoughton moved to approve the requested waivers for the purpose of determining completeness of the application only. The Board expressly reserves the right to require any or all of the studies in the context of reviewing and/or approving the application.

Christy Houpis seconded.

Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

Chris Hickey stated that the proposed is a 3-4 lot subdivision located along Spring Road. The parcels are currently vacant and consist of about 15.4 acres. The proposal is to create 4 total buildable lots, 3 of which would be new. These lots would range anywhere from 2 acres to 5.5 acres. He explained that the Knight family owns the land surrounding these parcels. The intent of Wilene Knight is to subdivide these lots and give them to her grandchildren.

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Chris Hickey stated that Lot 154 fronts on Upham and Spring Roads. A shared driveway is proposed for Lot 154 and Lot 154-2, along a 50' strip of land which is part of Lot 154-2. The lots would be gifted to Wilene Knight's granddaughters. Placing the driveway in this area moves it further away from the intersection of Upham and Spring Roads. Chris Hickey noted that Spring Road is a collector road that sees quite a bit of traffic. It is also a scenic road with a 100' building setback. Chris Hickey noted that he had seen the staff comment about driveways being required over the lot's own frontage and would request a waiver to that requirement. Proposed Lot 154-1 on Spring Road is 2 acres in size, all upland, with multiple possible locations to build. The final Lot, 154-3, located toward the east, is approximately 4 acres and has wetlands in the back. There are no proposed wetland buffer impacts at this time. At the time of driveway permits sight distance information will be provided, and stormwater management systems will be proposed as part of the septic design. Chris Hickey noted the proposed locations for the test pits and proposed wells on the site. He stated that there will be minimal impacts to abutters or wetlands.

In response to a question from Brian Coogan, Chris Hickey explained that the existing house lot, Map 4 Lot 153, is not part of the application. The 15 acres being discussed wraps around this existing lot.

Cynthia Dokmo asked about the deeds for these properties, in terms of the shared driveway. She noted that the deeds do not currently have a requirement for either owner to maintain the driveway. She believes this item should be spelled out in the deeds for future owners.

Chris Hickey stated that the standard easement language was used for the shared driveway, but more can be added regarding shared costs and maintenance.

Christy Houpis agreed that he would like to have the shared driveway language reviewed for the items mentioned by Cynthia Dokmo.

In response to a question from Bill Stoughton regarding a note in the Wetland Report that stated that Keach Nordstrom should return to the site in the spring of 2021 to check for vernal pools and whether or not that had been done, Chris Hickey stated that it had not been done and a wetlands scientist can still visit the property in order to check for vernal pools. Bill Stoughton stated that he would like this to be completed, because if there are vernal pools on the property it could alter the buffers and building lots.

Bill Stoughton questioned the road frontage for one of the proposed lots. He explained that one of the lots has 148 feet of frontage along one road, and also frontage along a separate road. These two amounts are being added together to get the required 200 feet minimum frontage. He stated that the subdivision regulations do not seem to be clear in terms of if a combination of roads can be used to achieve the required frontage. He noted that this may be an issue for the ZBA to take up.

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In response to a question from Bill Stoughton, Chris Hickey stated that there is enough area outside the wetland buffers on these lots for proposed buildings, driveways, septic systems, and stormwater management systems. Chris Hickey noted that the applicant would have no issue with the Board making the approval conditional on the fact that there will be no buffer encroachment from any of these items on any of these lots. Chris Hickey explained that all of these lots were laid out specifically to avoid the buffers.

In response to a question from Bill Stoughton regarding the requested waivers, Chris Hickey stated that he is unsure if there are any threatened or endangered species located in this area, as the subdivision was considered by him to be minor, so he did not go through the NH Natural Heritage Bureau (NHB) process.

In response to a question from Bill Stoughton regarding the requested waivers, Chris Hickey stated that he is unaware of any well issues within a ¼ mile of these lots. Chris Hickey noted that a hydrogeological study would need to be done in order to determine this. Chris Hickey stated that the neighbors in this area should not be impacted by the water flow on these properties, as the area is fairly flat and there should not be much runoff to the surrounding properties.

Bill Stoughton stated that he does have a concern regarding some of the waiver requests. He noted that there are currently zero houses on these lots, where four are now being proposed. There could be issues with water supply and the existing drainage is not well known. This could create drainage problems for the neighbors. These lots abut large lots that are currently undeveloped. These areas could be fertile with wildlife, but this is also unknown without the proper studies.

Mike Dell Orfano stated that he shares the concern regarding the vernal pools and would like them identified on the site. He would also like the shared driveway language to be fixed.

Tracie Adams echoed concerns regarding the vernal pools and shared driveway items. She also has concerns with assuming things regarding the water supply, drainage, and environment in these areas without studies being completed.

Dwight Brew explained that three of the lots have 200+ feet of frontage along Spring Road. One of the lots has less than 200' of frontage along Spring Road, but when combining that frontage with frontage for the lot along Upham Road, the required 200' minimum is achieved. He has a concern with how this is being done.

Chris Yates echoed concerns with the shared driveway. He asked if the applicant would end up needing a variance from the ZBA for this application. He also supported a hydrogeological study being done.

Public Comment:

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Chris Hickey noted that there are probably hundreds of corner lots, similar to this, that have been created in Town. He believes that the definition for this allows for the applicant to use frontage from both roads in order to achieve the 200' minimum.

Brad Knight (with his mother, Wilene Knight) explained that he put in the nearby Victoria Ridge subdivision and all of the wells on those lots are significantly producing wells. One well in that area has a production rate of 90+ gallons/minute, while most of the others have a rate of around 8-30 gallons/minute. The wells are also anywhere from 260 to the low 400's feet deep.

No other hands were raised from the public at this time.

Arnie Rosenblatt asked the Board its thoughts on requesting studies in the future, if the application is voted on as complete, and if it wants a site walk of the area.

Mike Dell Orfano noted that Brad Knight put in the nearby, larger Victoria Ridge subdivision and apparently had no issues with water or water resources in that area.

Bill Stoughton suggested that the Board not act on this application tonight. He would like to see information on the vernal pools in the area and a determination on the existing water supply. He noted that the latter item could be done informally through examining the well logs of the area to show the existing gallons per minute (GPM). He would also like to see the frontage issue resolved.

Arnie Rosenblatt stated that the fiscal impact and traffic studies are non-issues to him. He asked if the Board has interest in pursuing the environmental, water supply, drainage, and/or hydrogeological studies.

Mike Dell Orfano noted that he has concerns regarding possible vernal pools on the property.

In response to a question from Mike Dell Orfano, Nic Strong stated that the definition of frontage from the Zoning Ordinance is: "The continuous distance of any property line of a lot which abuts a legally accessible public street as classified by RSA 229:5, or a private road approved by the Planning Board." The definition of frontage from the Subdivision Regulations is: "The distance along the lot line dividing a lot from either: a public highway, excepting limited access highways as defined by RSA 230:44 and Class VI highways; or a road shown on an approved, recorded and bonded subdivision plat. "Frontage" on cul-de-sacs shall be measured along a line parallel to the front lot line, at the appropriate front yard building setback, between the points of intersection with the side lot lines." Neither of these definitions contemplate corner lots. Nic Strong stated that in her opinion the definitions are murky on this type of frontage.

Mike Dell Orfano noted that this is an item to be considered for future proposed changes to the regulations.

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Christy Houpis stated that he has concerns with making assumptions on any of the waiver items without first seeing reports on them, specifically in terms of the drainage and frontage items. He also noted that this proposal could have impacts on traffic.

Mike Dell Orfano moved to table this application to June 16, 2021, at 7pm via Zoom, and that the applicant return with vernal pool information, improved language on the shared driveway, and the informal well information requested.

Discussion:

In response to a question from Arnie Rosenblatt, Mike Dell Orfano stated that, as part of this motion, the Board could still request other studies for fiscal impact, environmental studies, etc.

Arnie Rosenblatt stated that, if the Board is going to want any of these studies done, he would like them to be included as part of the motion.

Mike Dell Orfano stated that he would suggest waiving traffic and fiscal studies.

In response to a question from Mike Dell Orfano regarding issues with drainage on site, Bill Stoughton stated that this applicant has not come before the ACC, as there is no CUP for this application and it is not, thus, required.

Mike Dell Orfano reiterated his motion that the fiscal impact, environmental, and traffic studies be waived, but that he would still like information on possible vernal pools and the potential to request a hydrogeological study in the future. His motion includes that the informal well information be provided and that there be improved language regarding the shared driveway.

In response to a question from Christy Houpis, Bill Stoughton noted that the language regarding placing the buildings on the sites away from the wetlands would come during the approval stages of this application.

Christy Houpis seconded the motion.

Discussion:

Bill Stoughton asked if Mike Dell Orfano would consider adding environmental impact studies to the motion. He explained that this application may never come before the ACC, and he would like this area to be looked at by NHB for the presence of wetlands and wildlife.

Mike Dell Orfano suggested that the environmental study be narrowed to only include wildlife on site. Bill Stoughton agreed to this suggestion.

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Mike Dell Orfano amended his motion to add an environmental impact study, relative to the application's impact on threatened/endangered species in this area. Christy Houpis seconded.

Discussion:

Dwight Brew noted that there is still a question about the frontage being adequate for one of the proposed lots across two roads. Mike Dell Orfano stated that this is due to ambiguity of the ordinance.

Arnie Rosenblatt stated that the Board needs to make a decision about this item as it is referenced in the ordinance and then decide if it's an item that Town Counsel needs to review. Ultimately, this is the Board's decision.

Chris Hickey noted that the Zoning Ordinance references a "continuous distance of any property line," which is what is being proposed for this Lot 154 across two roads.

Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

Arnie Rosenblatt polled the Board if it would like Town Counsel's opinion on the frontage issue.

Brian Coogan, Cynthia Dokmo, and Mike Dell Orfano all agreed that Town Counsel's opinion was not necessary for this item.

Bill Stoughton, Dwight Brew, and Christy Houpis agreed that Town Counsel's opinion was necessary for this item.

Arnie Rosenblatt stated that he believes clarity is needed in the ordinance for this item. He does not believe that Town Counsel's opinion is needed because it is ultimately the Board's decision. He will discuss the item with Town Counsel though, as a number of Board members found it important.

Mike Dell Orfano suggested that Arnie Rosenblatt also discuss with Town Counsel possible language for a Warrant Article to amend this part of the ordinance.

Dwight Brew stated that he is unclear as to how this type of frontage issue was resolved in the past. He noted that if these items are always handled consistently, he would find it easier to decide on. However, it appears that the Board is having to define the ordinance language, without past information.

Arnie Rosenblatt stated that he is unsure how each frontage item similar to this was handled in this past. In his view, it is the Board's job to look at the ordinance language and apply it to the

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facts of the application. He is okay with consulting Town Counsel on this item, but still feels it is the Board's job in the end.

Brian Coogan suggested that the discussion with Town Counsel center around interpretation of this ordinance and not on this specific application.

3. CASE #: PZ14080-041921 – Amherst Country Club (Owner) & Jamin Warren (Applicant): 70 Ponemah Road, PIN #: 004-029-000 – Submission of Application/Public Hearing/Non-Residential Site Plan Application – Proposed improvements for a solar field with parking and other associated site improvements. Zoned Residential/Rural

Arnie Rosenblatt read and opened the case.

Sam Foisie, Meridian Land Services, and Jamin Warren, applicant, joined the Board.

Cynthia Dokmo recused herself. Tracie Adams sat for Cynthia Dokmo.

Bill Stoughton moved no regional impact. Mike Dell Orfano seconded. Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Tracie Adams – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

Natasha Kypfer noted that all required items have been submitted as part of this application.

Mike Dell Orfano moved to accept the application as complete. Tracie Adams seconded. Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Tracie Adams – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

Sam Foisie explained that this property is zoned Residential/Rural, and this project consists of approximately 70 acres. The total combined acreage of the whole site is approximately 112. This proposal includes three projects: 1) to install 10 solar panels to help with the golf course's power consumption and to meet the yearly power supply needed; 2) to raise an existing building, the Old Pool House, to an elevation of 218' out of the flood plain; 3) to utilize the area within the solar field as overflow parking with a gravel lot.

Sam Foisie noted that he had reviewed the Staff Report and agreed with all the comments except for a couple of items - landscaping and drainage. He explained that it is not practical to plant landscape trees adjacent to the solar panels, due to maximizing their efficiency by not shading them. Thus, the request for the applicant to place trees within islands in this area is not reasonable. He noted that there are numerous trees already located around the property and that 5% of the impervious area is also landscaped. The parking area is proposed to be gravel, so there

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will be some amount of infiltration. Sam Foisie explained that the proposal is not precisely designed to the drainage regulations, but it is designed to not impact the existing drainage patterns. The proposal looks to reduce the amount of impervious surface because an existing paved parking lot will be removed and replaced with a gravel lot. The golf course is located adjacent to the Souhegan River. The peak flow times with the site and the river do not line up, so there will be no negative impact to the river from the flow volumes of the site.

Chris Yates stated that he had no questions at this time.

Dwight Brew asked for confirmation that the solar panel area was proposed to be used for overflow parking. Sam Foisie stated that was the case and that there would be 34' between each panel, in parallel, spaced to be 63' apart. The parking area will be spaced as follows: an 18' parking space, a 24' driving aisle, an 18' parking space, and a 3' panel base for the solar panels, for a total of a 63' parking area. There are bollards being proposed on all four corners of the panels to protect each solar panel base.

In response to a question from Dwight Brew regarding net metering and if any of the solar will be sold as commerce by the applicant, Sam Foisie stated that most of the electricity will be collected during the day and back-fed onto the grid. The applicant will be using most of the solar power at night, which will cancel out the amount and leave the applicant with no additional amounts for commerce.

In response to a question from Tracie Adams, Sam Foisie stated that he has prepared a letter in response to the Staff Report but wanted the Board's input on a couple of items (landscaping and drainage) before submitting it. The applicant is generally in agreement with the Staff Report.

Mike Dell Orfano stated that, if this proposal was for a windmill or turbine, he would question the amount of potential noise pollution. As this is a proposal for solar panels, he questioned the amount of reflective light to abutters and towards Route 101A.

Sam Foisie stated that he does not believe there will be any impact from reflective light, as these panels will be located within the center of about 100 acres of land.

Mike Dell Orfano asked how many panels will be on each of the proposed poles, as each pole typically handles 12 panels. He also asked how many kilowatts/hour these will produce. Sam Foisie stated that he did not know the answers to these questions. Mike Dell Orfano stated that the Board needs to know these answers and if the area of reflective surface for these panels will be visible to abutters.

In response to a question from Bill Stoughton, Sam Foisie stated that approximately 1.6 acres of land will be disturbed as part of this proposal. Bill Stoughton stated that this proposal is classified as redevelopment per the Stormwater Regulations. The applicant has not submitted a stormwater report and has not requested a waiver for this item. He noted that the applicant does not seem to want to complete the report or put in any type of stormwater management. Sam

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Foisie stated that the applicant is willing to either complete the report or request a waiver for this item.

Bill Stoughton stated that he would not support a waiver for this item. He believes this application needs to comply with the regulations. He would like to see a stormwater report that meets the regulations. He suggested that the Board table this item so that the applicant can submit a stormwater management report that complies with the regulations.

Christy Houpis stated that he agrees with the concerns of his fellow Board members, given the area and the proximity to the river. He would like the information to be provided prior to the next meeting.

Brian Coogan asked about the applicant's energy consumption in regard to selling extra energy back to the grid. He noted that the golf course is likely not open 12 months of the year but will probably be collecting energy during that whole time. He questioned if there will be a 1:1 ratio for harnessing energy and consumption by the applicant.

Sam Foisie stated that it was his understanding that the applicant will not be making money off the energy produced. The energy harnessed will be used by the applicant at night for irrigation. He will get more information on the exact ratio for the Board.

Public Comment:

Brad Knight stated that he is the largest abutter to the golf course on Stearns Road and generally supports the endeavor. He noted that he has a 26kW solar array with 108 panels to power his single-family house and uses all of the energy harnessed. He would like to know the proposed kW and number of panels being proposed for this project. He noted that the net metering allowed any surplus energy to roll over from year to year, but things have changed in NH over the years and he thought that new systems were required to receive a quarterly check for any overage. He stated that the proposed panels will have to be a certain height off the ground in order to park cars under them. He noted that it will probably be possible to change the reflective nature of these panels via their direction and that this might cause the reflective light to be visible from Route 122 and the surrounding area.

There were no other public comments at this time.

Mike Dell Orfano stated that he would like more information about the potential commercial aspect of this proposal. He noted that Eversource has different categories for production, and that production rates under 25kW are not considered commercial. Production amounts over 24 kW may require permits to connect to the grid. Eversource will track how much energy is produced using a meter and will issue a bill for the net usage. He noted that there is also the possibility of the applicant getting Renewable Energy Credits, which can be sold to other companies via brokers for additional cash flow. Mike Dell Orfano does not believe this proposal rises to the level to be considered commercial. He also noted that the angle of the panels can probably be adjusted depending on the season of the year. He went on to say that it was possible to estimate

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the angle of reflection based on what angle the panels would be at for maximum power production.

Chris Yates stated that he has concerns regarding light reflection and the proposal's net production of energy. He does not think there will be much reflection based on the plans which showed the masts to be 10 - 12' above grade with a 35-degree tilt but would like to hear from an engineer and noted that the solar designer should have that plan already built.

Mike Dell Orfano noted that Hollis does not allow ground mounts for solar panels.

Christy Houpis moved to table this application to July 7, 2021, at 7pm via Zoom, with the request for additional information regarding the specific array type, size, power output, items addressed in the Staff Report, and items highlighted during this discussion, including a stormwater management plan in compliance with the regulations. Bill Stoughton seconded.

Discussion:

Jamin Warren stated that he has already received a building permit for the solar panels. The engineering is already complete. This application is before the Board due to the parking lot issue and the raising of the existing building. The solar system has been sized to the business' power consumption and matches its seasonal consumption. He noted that the golf course has simulators that are open all winter. He noted that some amount of energy will be sold back to the grid, as it's hard to make it a perfect wash, but there will be dry years and wet years in terms of irrigation amounts needed. He stated that the system proposed is 200kW.

Jamin Warren stated the high end of the arrays will be approximately 14' off the ground.

In response to a question from Arnie Rosenblatt, Nic Strong stated that the Town does not have a solar ordinance, so the applicant must have gone through the regular building permit process for these panels. This is being submitted as a non-residential site plan application, and so the Board must still review it in terms of views, safety, access, etc.

Mike Dell Orfano noted that 200 kW probably borders on being a commercial installation.

Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye; Tracie Adams – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

- 4. CASE #: PZ14162-043021 – S&E Amherst, LLC & Donzi Realty LLC (Owners) & S&E Realty LLC c/o Sheree Kaplan-Allen (Applicant) – 96 & 98 Amherst**

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735 **Street (NH Route 101A), PIN #s: 002-049-000 & 002-053-000 – Submission**
736 **of Application/Public Hearing/Non-Residential Site Plan Amendment - To show the**
737 **plan changes necessary to meet AoT drainage requirements to construct an**
738 **automobile dealership with ancillary auto repair and storage. Zoned Commercial.**

739 Arnie Rosenblatt read and opened the case.

740
741 *Cynthia Dokmo retook her seat on the Board.*

742
743 Doug Brodeur, Meridian Land Services, joined the Board.

744
745 Nic Strong stated that all required items have been submitted for this application.

746
747 **Bill Stoughton moved to accept the application as complete. Christy Houpis**
748 **seconded.**
749 **Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye;**
750 **Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion**
751 **carried unanimously.**

752
753 Doug Brodeur explained that there have been revisions made to the plan originally approved by
754 the Board and this application to amend the site plan was submitted based on their discussion at
755 the meeting of on April 21, 2021, due to PFAS contamination onsite and drainage revisions
756 required by AoT. NH DES has requirements that all ambient groundwater in this case is exempt
757 from infiltration. The previously approved application proposed to infiltrate 100% of the
758 stormwater. The revisions to this plan include removal of the three subsurface infiltration
759 systems, conversion of the surface infiltration basins into Bio-Retention Internal Reservoir
760 Systems and enlargement of same, and that the entirety of the drainage system outlets will now
761 flow to the Route 101A corridor system. All other items from the plan are intact. The proposed
762 liner is still planned to be placed under the building.

763
764 Cynthia Dokmo stated that she had no questions at this time.

765
766 Christy Houpis stated that he had no questions at this time.

767
768 In response to a question from Bill Stoughton, Doug Brodeur stated that there was no PFAS
769 testing done directly on this site, but that it was determined that PFAS propensity on the site is
770 100%. Doug Brodeur explained that testing was done across the street and a sample found
771 28,000 parts per billion; the threshold is 3,000 parts per billion.

772
773 Bill Stoughton clarified that this was ordered by DES because of the likelihood of PFAS being
774 located on this site.

775
776 In response to a question from Bill Stoughton regarding the vertical height of the outlet and the
777 base of the medium, Doug Brodeur explained that the proposed Internal Reservoir System

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includes a permanent pool underground that is maintained by liners. A certain percentage of the rainfall amount, 1" of total rainfall, goes into this pool. On the surface is a biofiltration medium that helps with the removal of nitrogen and phosphorus, as well as some other materials like metals, herbicides and pesticides. The liner forces the stormwater to enter the system underground at one location. The pool stays until it rains again. This forces an anaerobic condition, significantly reducing nitrogen amounts. This system also meets the requirements for the peak flow reduction. Doug Brodeur noted that in a heavy rainfall, over 1", the volume in the basin would increase and would be metered through the outlet into the 101A drainage system.

In response to a question from Bill Stoughton, Doug Brodeur stated that he has no issues with the conditions in the Staff Report. Doug Brodeur noted that he has submitted additional information including the Spill Prevention Counter Measures and the Above Ground Storage Tank Plans.

Bill Stoughton noted that the original approval specified that active and substantial development and building would be met by "commencement of ground preparation for stormwater infiltration structures". He asked if the applicant would be okay with changing that to "construction of Stormwater Bio-Retention Systems". Doug Brodeur stated that he has no issue with changing the definition of active and substantial development to construction of Stormwater Bio-Retention Systems.

Bill Stoughton thanked Doug Brodeur for coming in. He noted that the revisions were mandated by the State but the issue of PFAS contamination was one of great concern to the townspeople and it was important to keep everyone informed on how it was being handled. Doug Brodeur noted that these revisions were done at no fault of the Town or applicant.

Tracie Adams, Brian Coogan, Mike Dell Orfano, and Dwight Brew had no questions or comments at this time.

There were no hands up from the public at this time.

Bill Stoughton moved to approve Case # PZ14162-043021 for S&E Realty, LLC, and Donzi Realty, LLC, for an amended Non-Residential Site Plan, with the conditions listed in the Staff Report and with active and substantial development to be defined as construction of Stormwater Bio-Retention Systems, to show the plan changes necessary to meet AoT drainage requirements for an automobile dealership with ancillary auto repair and storage, at 96 & 98 N.H. Route 101A, Map 2 Lots 49 & 53. Christy Houppis seconded.

Roll call: Mike Dell Orfano – aye; Christy Houppis – aye; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion carried unanimously.

OTHER BUSINESS:

1. Discussion regarding plans for a new school on Wilkins School site and RSA 674:54

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822 This will be discussed by the Board at a future meeting.

823

824 **2. Minutes: 4/21/21**

825 **Christy Houpis moved to approve the minutes of April 21, 2021, as submitted. Bill**
826 **Stoughton seconded.**

827 **Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye;**
828 **Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion**
829 **carried unanimously.**

830

831 **Cynthia Dokmo moved to adjourn the meeting at 9:33pm. Christy Houpis seconded.**
832 **Roll call: Mike Dell Orfano – aye; Christy Houpis – aye; Brian Coogan – aye;**
833 **Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion**
834 **carried unanimously.**

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838

839 Respectfully submitted,

840 Kristan Patenaude

841

842 Minutes approved: June 2, 2021