

TOWN OF AMHERST  
Planning Board

May 18, 2022

**APPROVED**

In attendance at Amherst Town Hall: Arnie Rosenblatt, Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates, Tom Silvia, Cynthia Dokmo, Tracie Adams, Tom Quinn, and Daniel LeClerc (alternate).

Staff present: Nic Strong, Community Development Director (in attendance at Amherst Town Hall); Nicole Stevens, Town Planner; and Kristan Patenaude, Recording Secretary (via Zoom)

Arnie Rosenblatt, Chair, called the meeting to order at 7:00 pm at Town Hall.

**PUBLIC HEARING:**

**1. CASE #: PZ15622-040822 – Brian Scanlan (Owner & Applicant); 17 Thornton Ferry Road I, PIN #: 005-006-000 – Conditional Use Permit. To delineate the proposed pool & patio installation with associated drainage improvements. Zoned Residential/Rural. Continued from May 4, 2022.**

**Tracie Adams moved to continue CASE #: PZ15622-040822 to June 15, 2022, at Town Hall at 7pm, as requested by the applicant. Seconded by Tom Silvia. Voting: 6-0-0 motion carried unanimously.**

**OTHER BUSINESS:**

**2. Driveway discussion Map 8 Lots 83-14 & 83-15, 32-36 Old Manchester Road**  
Trevor Yandow, Meridian Land Services, addressed the Board. He explained that these lots were part of the Lincoln Woods subdivision approved in 1975 and are provided access to Old Manchester Road via a 40' wide private way that slopes down to the lots. The existing topography is around 18-20%. The lots are accessed via the northerly private way, and there are two lots to the south that are accessed in a similar way. There is a home on Lot 83-16 that is accessed via a driveway along the private way with a similar topography. The driveway plan proposal was discussed with the DPW. A hammerhead turnaround is proposed for emergency vehicles. To comply with the Town's 8% requirement, a fill of almost 50' at the base of the private way would be needed. Edge protection and retaining walls would also be needed. This would require significant disturbance to these lots and surrounding lots. The request is for a driveway built at 18% to minimize the amount of disturbance. Some neighboring towns have provisions to allow driveways at 18%. DPW expressed concerns regarding adequate access for emergency vehicles, especially during poor weather. While this is a reasonable concern, there are similar driveways located along Old Manchester Road that have similar conditions.

Arnie Rosenblatt asked what the decision is the applicant is appealing. Also, he asked what the standard for review of the Board is in regard to the decision.

Trevor Yandow stated that the applicant requested a waiver from DPW regarding the driveway plan. This was denied, per DPW Director Slosek, regarding emergency access during inclement weather. The Director asked for the Planning Board's approval of such a waiver.

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Arnie Rosenblatt stated that DPW denied the waiver and the applicant is asking the Board to reverse this. He asked if this is a *de novo* ("from scratch") appeal or if there should be some deference given to the DPW's decision.

The applicant's counsel stated that he believes the Board can take up this discussion *de novo* regarding the order provided. The Board can look at this as to what the standards state.

Tracie Adams stated that Section 3.10.H.7 states "All new driveways established to serve structures intended for human occupancy shall have a maximum grade of eight percent (8%). The purpose of the maximum grade requirement is to ensure public safety and accessibility for emergency vehicles." She asked how the public safety can be assured.

Trevor Yandow stated that a driveway sloping toward the road has the potential for safety issues for stopping. This proposed driveway slopes away from the road to the lots. The grade restriction can be set by each municipality. Some towns have an 18-19% grade provision for extenuating circumstances, such as this. Even if the 8% grade was adhered to, there would still need to be a way to get down to these lots at the end of the common driveway. This would require another steep section to the buildable area. The proposal will allow for a less steep transition. He believes this transition section will try to meet the 8% requirement, but this is yet undetermined.

Tom Silvia stated that the original 1974 plans show an access point approved as a driveway. He asked when the new 8% ordinance was put in place. Trevor Yandow stated that he is unsure when that was enacted, and he is unclear if there were driveway standards at that time. Meeting minutes from October 23, 1973, spoke to driveway access and fire protection. It was discussed that driveways would provide suitable access to the lots at that time.

Tom Silvia asked if options were explored with DPW. Trevor Yandow stated that shallower grades would still require a substantial amount of fill and would still not allow for driveways created to Town standards to be built at the end of the shared driveway area into the lots. At 12%, 30' of fill would likely still be needed at the base. Tom Silvia asked if this was the only reasonable proposal for this site. Trevor Yandow stated that it was.

Cynthia Dokmo asked about a southern entrance point to these sites. Trevor Yandow stated that he was unable to access the sites using this entrance point. This entrance point, using topographical data, seems to have a 15-16% grade. Cynthia Dokmo asked if there is any other access point to these lots other than the private way. Trevor Yandow stated that the southern entrance way point access request was denied. These lots are essentially landlocked without the proposed access way.

Bill Stoughton asked what the Fire Chief's position is. Trevor Yandow stated that the Chief also has concerns and mirrored the opinion of the DPW Director. Driveways have previously been approved within the 10-12% range.

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Bill Stoughton stated that the 8% grade regulations went into place in 2014. He asked if the other driveways with steep slopes in the area were constructed after this date. Trevor Yandow stated that he is unsure, but he believes the lots are all older. Bill Stoughton stated that he believes these lots predate these regulations.

Bill Stoughton asked if the applicant is not proposing anything other than the 18% grade. Trevor Yandow stated that he believes it is unfeasible to do less than that on these sites. The topography of the site needs to be followed, or there will need to be enough fill brought in to essentially fill these lots.

In response to a question from Bill Stoughton, Trevor Yandow stated that the two lots are owned by one owner.

Bill Stoughton stated that the 8% grade regulations apply in cases where there is human occupancy. There could be other uses for these lots, though maybe not as desirable, which could lead to the regulations not applying. He stated that he has trouble supporting this waiver request.

Chris Yates asked if the base grade can be brought up at all. Trevor Yandow stated that this would require so much fill and disturbance area that the buildable area would be greatly reduced. Chris Yates stated that the bend of the driveway has an approximate 25' drop. This is significant and could be dangerous.

Trevor Yandow stated that a driveway following grade would likely be in excess of 20%. The area is 7% above grade in terms of fill at the site.

In response to a question from Chris Yates, Trevor Yandow stated that there is not currently a proposed layout for units on these lots.

Tom Quinn stated that his concern is regarding emergency vehicle access to the sites in inclement weather. He would hate to see an emergency vehicle slide down this road during an ice storm. An 18% grade is a very steep slope.

Trevor Yandow stated that it is twice the allowable Town maximum, but it is not unheard of. The people who own these units would be knowledgeable of it and would have to work to maintain the road. During ice storms, drivers seem to slide no matter what. There is nothing guaranteed for emergency services. They will work their best to get to people in need, but there is no guarantee they will be able to.

In response to a question from Tom Quinn, Trevor Yandow stated that there were no road designs as part of the approved original plan for this subdivision.

Dan LeClerc stated that both roads are in excess of 300'. Trevor Yandow stated that the existing height at Old Manchester Road is approximately 175'. The existing height of the site is

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approximately 93', with the proposed height being approximately 100. The grade will increase 18' in 100', and 9' in 50'. He showed the Board an 18% grade using a digital level.

Dan LeClerc asked if guardrails are proposed for safety assurance. Trevor Yandow stated that the plan has not yet come that far, but some edge protection can likely be discussed.

There was no public comment at this time.

Bill Stoughton stated that he will not support the waiver request. The applicant's position that the safety issue is primarily to the residents of these lots does not take into account the Town's emergency personnel. These regulations are in place for the safety of residents and emergency personnel. The proposed deviations are substantial deviations from the regulations.

**Bill Stoughton moved to deny the driveway waiver request. Seconded by Tom Quinn.**

**Discussion:**

**Tom Silvia stated that the Planning Board made a decision in 1974 that this is a buildable lot with adequate access. In 2014 the ordinance was changed, and now there is a process in place for the waiver. He agrees with the safety issues brought up but believes that the decision on these lots was already made. He would approve the waiver.**

**Bill Stoughton stated that it was nearly 50 years ago that approval took place. The Board cannot look at everything frozen in time and not consider changes that have occurred. This would lead to asbestos and lead paint being okay as well. When this development was approved, there was a certain amount of time to start building and lock in the standards of that time. If they did not build within that time, they were subject to any updates in the regulations moving forward. This is how things improve in Town. Maybe this was okay 50 years ago, but the Board is not bound to a decision from 50 years ago.**

**Cynthia Dokmo stated that the Planning Board did approve this 50 years ago. Almost every driveway along Old Manchester Road has driveways like this already. These are two approved lots with no other access. Unless the Board wants large retaining walls and fill, it should support this. She can support this request.**

**Chris Yates asked if he could address an additional question to the applicant. Arnie Rosenblatt stated that he would like to keep the discussion amongst the Board at this time.**

**Tom Quinn stated that it is not often that the Board receives feedback from the DPW and Fire Chief against a proposed waiver. He understands that this could be a**

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potentially dangerous situation. Due largely to that, and the fact that there was no driveway design or engineering completed in 1974, he is opposed to this waiver.

Arnie Rosenblatt noted that Chris Yates could ask his question.

In response to a question from Chris Yates regarding if there has ever been any attempt to engineer a driveway to these properties in the past, Trevor Yandow stated that this has not been done to his knowledge.

Voting: 4-2-0 motion carried [C. Dokmo and Tom Silvia against].

3. Master Plan update – *This item was tabled to later in the meeting.*

**4. REGIONAL IMPACT:**

a. CASE #: PZ15747-050522 – Thomas R. & Polly J. Culver (Owners & Applicants); 10 Clark Island Road, PIN #: 008-107-001–Wetland & Watershed Conservation District – Conditional Use Permit. To construct a 157 square foot addition with proposed drip edges within 100' wetland buffer from Baboosic Lake. *Zoned Residential Rural.*

Arnie Rosenblatt noted that the regional impact items are only in regard to that, and not in response to the applications themselves.

*Tom Silvia recused himself.*

Tom Quinn moved that the application has no regional impact. Seconded by Tracie Adams.

Voting: 5-0-0 motion carried unanimously.

*Tom Silvia retook his seat.*

b. CASE #: PZ15748-050522 – Vonderosa Properties LLC (Owner & Applicant); Cricket Corner & County Roads, PIN #: 004-122-000 – Subdivision Application. Proposed 6-lot conventional subdivision. *Zoned Residential Rural.*

Bill Stoughton stated that this is apparently one of a number of proposals in regard to the Hazen property. He believes it is important, when looking at impacts, to recognize that, though this is one subdivision of one lot, it is part of a larger development area. Due to the scope, he believes there may be impact to Mont Vernon, due to potential additions to the schools.

Tracie Adams stated that there may also be impact to Merrimack, due to impacts to the nearby roads.

Bill Stoughton moved that the application has regional impact with respect to Merrimack and Mont Vernon. Seconded by Tom Quinn.

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**Discussion:**

**Tom Quinn noted that this application is only roughly 10% of the proposed development on the entire Hazen parcel. Any application the Board receives is part of that larger subdivision that totals approximately 50 units. Any smaller part should be considered as part of the whole.**

**Tom Silvia noted that it is a dangerous slope to go down to consider this as part of a whole. The Board would only be guessing as to what will happen on adjacent properties.**

**Tom Quinn stated that the applicant has put out a YouTube marketing video discussing the entire property, not as six separate lots. The Board should consider it as one in regard to regional impact.**

**Voting: 5-1-0 motion carried [T. Silvia against].**

Arnie Rosenblatt stated that appropriate notification will be sent to the towns, as discussed.

**5. Minutes: May 4, 2022**

**Tracie Adams moved to approve the meeting minutes of May 4, 2022, as amended [Line 342: change “Cynthia Dokmo,” to “A Board member...”] Seconded Tom Quinn.**

**Voting: 6-0-0 motion carried.**

**3. Master Plan update – *the Board took up this item at this time.***

Arnie Rosenblatt explained that the Master Plan Steering Committee has public meetings and accepts public input at those meetings. This discussion is not to hear public comment, but simply to update the Board on the proceedings thus far.

Tracie Adams explained that there was a special meeting of the Committee held on February 22, 2022, with the Planning Board to update and receive approval to continue forward. This approval was received. The group would like to update the Board each month moving forward at its second meeting of each month. She noted that the Committee works as a team, and so updates this evening will also be given by Chris Yates, member of the Committee, and Nic Strong.

Tracie Adams stated that there is a call for public photos of the Town. There is a Google Drive folder that can be used to submit photos. Credit will be given for photos, if requested.

Chris Yates stated that Resilience Planning & Design has been working on writing the existing conditions and analyzing the results of the Master Plan survey completed over a year ago. Updates are placed on the Town website. As sections are written and the Committee provides feedback, these will also be available for public comment and feedback. The timeline for a completion date is approximately September at this point. All documents used for the update are available on the website.

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Tracie Adams stated that the way to access these documents is via the Amherst, NH website < Board and Committees < Master Plan < Envision Amherst tab < documents (Existing Conditions profiles, survey results, etc.).

Tracie Adams stated that there was a Zoom meeting on April 14, 2022, with NRPC regarding the buildout analysis. This call also included herself, Steve Whitman, of Resilience, and Nic Strong. NRPC was requesting feedback on the process. Sara Siskavich, NRPC, met with the Committee on April 26, 2022, to review the Amherst buildout analysis and two potential alternative buildout scenarios. The Committee also welcomed Danielle Pray as the Board of Selectmen Ex-Officio.

Nic Strong stated that a buildout analysis is not a predictive tool. It is a demonstration of an estimate of what may happen with existing zoning regulations and development rates continuing as is. Looking out 20 years, this analysis indicated 600 new buildings could be added throughout Town. These are placed randomly on the map using the software. A potential complete buildout of the Town indicates 2,500 more buildings over 100 years at the base rate of development. There are two additional buildout analyses scenarios that can be run through NRPC's contract. The trend for these scenarios by the Committee has been toward natural resource preservation. The Committee discussed with NRPC one scenario regarding water resources and open space land. On May 24, 2022, the Committee will be able to review that scenario. The third scenario has not yet been decided on by the Committee. This does not need to be completed by NRPC immediately.

Tracie Adams stated that Resilience wanted to see the buildout analyses completed, so the timeline was slowed to accommodate that. The new timeline shows a Master Plan draft to the Committee in June. It will be important to receive public input during this review process. It is estimated that this draft will be brought before the Board in August. If everything continues to go well, there could be potential to adopt the document in September/October, as the Board sees fit.

Arnie Rosenblatt thanked all those involved with the process.

Tracie Adams stated that there will be a public comment time on the document, though it is unclear exactly where this will fall. This is a priority item. As this is a draft document, public input and feedback is desired. She hopes that the public will attend Committee meetings to have a say on this guiding document.

**6. Any other business to come before the Board**

**Chris Yates moved to adjourn at 7:58pm. Seconded by Tom Silvia.  
Voting: 6-0-0 motion carried unanimously.**

Respectfully submitted,  
Kristan Patenaude  
Minutes approved: June 1, 2022