

TOWN OF AMHERST  
Planning Board

February 21, 2024

**APPROVED**

In attendance at Town Hall: Arnie Rosenblatt, Tracie Adams, Tom Silvia, Tom Quinn, Cynthia Dokmo, Bill Stoughton – Board of Selectmen Ex-Officio, Rob Clemens (alternate), and Brian Cullen (alternate).

Staff present: Nic Strong (Community Development Director), Kristan Patenaude (Recording Secretary) (remote)

Arnie Rosenblatt called the meeting to order at 7:00pm.

*Rob Clemens sat for Chris Yates.*

**PUBLIC HEARING(S):**

1. **CASE #: PZ18271-120523 – Vonderosa Properties, LLC (Owners & Applicants); County & Upham Road, PIN #: 004-145-000.** Subdivision Application. To subdivide Tax Map 4 Lot 145 into five (5) residential lots. *Zoned Residential Rural. Continued from January 3, 2024*
2. **CASE #: PZ18272-120523 – Vonderosa Properties, LLC (Owners & Applicants); Cricket Corner & Upham Road, PIN #: 004-116-000.** Subdivision Application. To subdivide Tax Map 4 Lot 116 into nine (9) residential lots. *Zoned Residential Rural. Continued from January 3, 2024*
3. **CASE #: PZ18273-120523– Vonderosa Properties, LLC (Owners & Applicants); County, Upham & Spring Road, PIN #: 004-118-000, 004-119-000 & 004-121-000 & 006-102-000.** Subdivision Application. To subdivide Tax Map 4 Lots 118, 119 & 121, and Tax Map 6 Lot 102 into seven (7) conservation lots and thirty-seven (37) residential lots. *Zoned Residential Rural. Continued from January 3, 2024*

Arnie Rosenblatt read and opened the cases, then noted that there has been a request for continuance for each of these hearings. The Board discussed dates to continue these hearings to.

Tracie Adams moved to continue CASE #: PZ18271-120523, PZ18272-120523, & PZ18273-120523, Vonderosa Properties for County, Cricket Corner, Upham & Spring Roads to April 3, 2024, at 7pm at Town Hall. Seconded by Tom Quinn.  
Vote: 6-0-0 motion carried unanimously.

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

4. **CASE #: PZ18482-013024 – Nelson Realty Trust (Owner & Applicant); 66 Route 101A, PIN #: 002-083-000.** Non-Residential Site Plan Application. To depict a proposed 11, 250 SF warehouse with the associated site improvements. *Zoned Commercial Zone.*

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Arnie Rosenblatt read and opened the case.

Arnie Rosenblatt asked Nic Strong if there were any completeness issues for this application and she stated that there were not.

**Tracie Adams moved that the application is complete. Seconded by Tom Silvia.  
Vote: 6-0-0 motion carried unanimously.**

**Cynthia Dokmo moved that there is no regional impact. Seconded by Tom Quinn.  
Vote: 6-0-0 motion carried unanimously.**

Sam Foisie, Meridian Land Services, explained that the property is Zoned Industrial and is approximately 1.97 acres. The proposed expansion of the lot is a 11,250 +/- s.f. warehouse. The proposed development area is located at the rear of the lot. The existing front portion of the lot is developed with an existing warehouse building. The interior of the building will be used by Resin Systems and the external portion of the lot is also used by an auto wholesaler. The application is for a Non-Residential Site Plan and a Town of Amherst stormwater permit. The applicant also needs to update the driveway permit. The application requires a NH DOT permit for the connection to the utilities within the right of way. A construction approval for the proposed connection of the proposed warehouse to the adjacent septic system will also be required. Additionally, a Pennichuck Water connection approval is needed.

Sam Foisie stated that the applicant previously went before the Zoning Board of Adjustment and received a variance to allow for the building to be within 10' of the rear lot line. There are three proposed access points to this property, one from Route 101A and then two new access points, one to the west and one to the north. It should be noted that there was an additional existing access point that has since been removed in order to meet the impervious coverages thresholds. Previously, the site contained parallel parking spaces along the proposed building. Those have been removed as part of this application as they are no longer needed. There is no parking being added, but additional parking spaces could be added if needed.

Sam Foisie explained that the proposed building will be serviced by water, gas, an off-site sewer system for the adjacent lots, and underground electricity. The existing septic approval will need to be amended, as noted in the Staff Report. The applicant also needs to provide proof of contacting the Pennichuck and has requested a letter regarding the proposed use and to include landscaping. Once received, this will be provided to Staff to go along with the approvals. The applicant has also contacted Liberty Gas to coordinate the connection.

Sam Foisie stated that the site will be treated for stormwater using two infiltration systems located on the east and the west sides of the proposed warehouse. This will capture as much as possible of the proposed impervious areas and infiltrate for the entire storm events. The proposed stormwater system does comply with Amherst's Stormwater Regulations. A lighting plan has been presented which meets the new lighting ordinance by installing building mounted lights and no light poles in the landscape areas.

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Sam Foisie explained that there is not much landscaping proposed on the plan, due to the existing configuration of the site. There are three trees presented on the plan to provide a buffer from the new visual impacts to the public. There is not much room at the front of the site for landscaping, due to existing underground utilities. There are also overhead powerlines in this area, which do not allow much additional landscaping. A waiver was originally noted on the plan from the stormwater regulations, but it has been determined that the waiver is no longer needed. The applicant is requesting four waivers. The first is a waiver from Section 5.1 of the general landscaping requirements is for requiring a landscape architect for projects that have a value of more than \$500,000. Cynthia Boisvert, of Arago Land Consultants, LLC, has been a landscape architect prior to this requirement and has done several landscape plans in Town which have all been successes. The three other waivers are generally the same and have to do with the existing configuration of the site in the impervious areas and where landscaping could reasonably fit on the lot. These include the requirements in Section 5.5 B.1. and Section 5.5 D.1. and 2. There is not adequate room to fit landscaping in the areas of the site to provide a visual buffer. Due to the existing configuration of the lot, there is no change of visual impact to the public from the proposal. Also, Section 5.6, requires landscaping along frontage but there is no green area to fit landscaping between the parking and the right of way on the site. Regarding Section 5.7 there is an additional landscaping requirement for a 10' green space along the building that is within the public right of way. On this site, the existing pavement goes right up to the building and was needed for access around the site.

Sam Foisie addressed Staff comments. Regarding mention of the Aquifer Conservation District, no chemicals are proposed to be stored within the building, and a note can be added to the plan to demonstrate compliance.

Rob Clemens and Brian Cullen had no questions at this time.

Bill Stoughton asked if all of the proposed impervious area around the building is needed for access to the building. Sam Foisie stated that it is needed for access and is one of the reasons that the building was pushed back as far as possible with the variance request.

Bill Stoughton asked if the applicant has any concerns with the conditions in the Staff Report, specifically condition precedent #4. Sam Foisie stated that he has not reviewed them yet but would likely suggest similar language as has been used in the past.

Bill Stoughton asked if commencement of installation of stormwater BMPs would be acceptable, with respect to active and substantial development; also, if installation of the final course of asphalt paving would be acceptable for the substantial completion of improvements. Sam Foisie stated that both would be acceptable.

Cynthia Dokmo had no questions at this time.

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Tom Silvia asked about the waiver from Section 5.1. for a stamp by a landscape architect. Sam Foisie explained that this is a Town requirement, for projects with site improvement costs greater than \$500,000. The applicant does not believe a stamp of this type is necessary as only three trees are proposed on the landscaping plan, relative to the size of the project. Tom Silvia noted that this has come before the Board a number of times and waivers keep being requested from it. The Board should consider if this Section should be followed.

In response to a question from Tom Quinn, Sam Foisie explained that this is being considered as a standalone site and parking on an adjacent site was not accounted for as part of this plan. If this was ever sold off as a different use, this lot could not stand on its own. The lot could not be further subdivided, as it is below the minimum acreage requirement, but there could potentially be a lot line adjustment done to consider this further.

Tom Quinn asked if the building at the front of the lot would continue to be used as an auto wholesale business. Dan Prawdzik, the owner, stated that he owns the building and the wholesale car business. Most of the business is to rent parking space to nearby Champion Motors. The building will be kept as a licensed wholesale car dealership, though it does not do much business. He will likely not allow Champion Motors to keep as many cars on the lot. There are no retail auto sales done on this site.

Tom Quinn asked if the number of parking spaces proposed on both lots is adequate. Sam Foisie stated the number of spots is sufficient, as Resin Systems parks on the other site and there is no proposal to increase the number of employees based on this proposal. If the spaces were not found to be adequate, there is additional room for 15 more parallel parking spaces along the warehouse. Tom Quinn asked if there was sufficient parking if the business was ever sold off. Sam Foisie stated that, based on the parking calculations for the site, the proposed number is adequate.

Tracie Adams asked about adding the soil types and monitoring well location to the plans. Sam Foisie stated that he would include them on the existing conditions plan. Tracie Adams asked about the proposed building height. Sam Foisie stated that the proposed building will be the same as the existing Resin Systems building. The owner stated that the proposed building will be exactly the same, but 3' taller.

Arnie Rosenblatt asked for public comment. There was none at this time.

Brian Cullen noted that the area proposed for additional parallel parking spots is currently impervious area but is not currently being used for parking. He asked if this could instead be used for landscaping. Sam Foisie explained that there was concern if there would be enough parking if the site was ever sold off. A use change could require more parking, which is what that area is being set aside for. It also is more convenient for accessing the proposed warehouse bays.

**Bill Stoughton moved to grant the waivers requested to Sections 5.1, 5.5, 5.6, and 5.7. of the Non-Residential Site Plan Review Regulations as the Board has**

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determined that specific circumstances relative to the site plan or conditions of the land in such site plan, namely the presence of underground and aboveground utilities, stormwater best management practices, and required paving or building access, indicate the waiver will properly carry out the spirit intent of the regulations. Seconded by Tom Quinn.

**Discussion:**

Tom Quinn stated that the size of the proposed building seems to preclude the landscaping plan required under the regulations, as only three trees are proposed to be planted, and he would recommend denying that waiver.

**Roll Call Vote: Bill Stoughton - aye; Cynthia Dokmo - aye; Tracie Adams - aye; Tom Silvia - aye; Rob Clemens - aye; Tom Quinn - nay. 5-1-0 motion carried.**

Bill Stoughton asked if Sam Foisie had reviewed conditions precedent #4, which states that if construction inspections are required, there must be receipt of an estimate of the construction inspection and submission of that amount placed in escrow. Bill Stoughton stated that he believes there should be enforcement of the plans and conditions approved by the Board. He is in favor of including this condition precedent. Sam Foisie stated that, as the inspections are not yet clear, agreeing to this would be going in blindly for the applicant. While he agreed that a pre-construction meeting is a good idea, he noted that the Town does not require preconstruction meetings unless for a road being turned over to the Town.

Bill Stoughton stated that he believes this has to include compliance with the stormwater regulations but asked Nic Strong if anything else should be included. Nic Strong stated that for commercial site plans it would be the drainage infrastructure. Generally, Keach Nordstrom comes up with an estimate for major milestone inspections, this is discussed and agreed upon at the preconstruction meeting, and funds are put in place to allow for the inspections. This would deal with drainage and site work.

Bill Stoughton stated that he has concern that the Town has good regulations that may not be enforced, monitored, or inspected along the way of a project. The enforcement has a huge gap in the items the regulations intend to create. Typically, Nic Strong has made sure that Keach Nordstrom is set up to complete certain inspections, paid for by the applicant. Bill Stoughton stated that he would like to make sure regulation enforcement is also carried out for other projects that may not include a site plan or subdivision application approval. There are many circumstances in which enforcement could be better carried out, and one example is to get a level of consistency such as including conditions like the one being discussed.

Tom Silvia asked why the Planning Board is making this part of its approval, when it is being carried out by another entity in Town. He suggested fixing the enforcement issues. Bill Stoughton stated that, for a subdivision or non-residential site plan, the Board has a mechanism to make sure this is done. He is concerned with other areas in which the Planning Board is not

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involved and making sure the same process is carried out. The process should be carried out on both ends.

Arnie Rosenblatt stated that the Town's enforcement mechanisms are poor, and Bill Stoughton is trying to provide another means of enforcement with his comments and a way to give the enforcement more teeth. Bill Stoughton agreed and noted that this is a broader effort that he continues to work on.

**Bill Stoughton moved to approve CASE #: PZ18482-013024 for Nelson Realty Trust for the above cited Non-Residential Site Plan Review of Map 2 Lot 83, 66 Route 101A, for the construction of an 11,250 s.f. warehouse with associated site improvements, with the conditions set forth in the Staff Report including proposed condition precedent #4, with impact fees assessed at the Industrial rate, and with active and substantial development for building defined as the commencement of installation of stormwater best management practices, and with substantial completion of the improvements defined as installation of the final course of asphalt paving. Seconded by Tom Quinn.**

**Discussion:**

**Tom Quinn stated that this is a standalone lot, and he has a concern regarding the parking and lack of improving the visual impact of the proposed building. This could be an issue in the future, but he is still in favor of the motion.**

**Vote: 6-0-0 motion carried unanimously.**

The Board addressed the Findings of Fact.

**FINDINGS OF FACT:**

The following findings of fact support the Planning Board's approval of this application:

**Application Description**

Case # PZ18482-013024, PIN#: 002-083-000. Resin Systems prepared for Nelson Realty Trust, Non-Residential Site Plan, Tax Map 2 Lot 83 in the Commercial District with Aquifer Conservation & Wellhead Protection District Overlay. The application proposed construction of an 11,250 SF warehouse with associated site improvements.

The Staff Report's description and chronology is adopted by the Board as a portion of the Findings of Fact and can be referred to for further details.

**Application Completeness**

Per the Non-Residential Site Plan Review Regulations, Article III, the Planning Board was provided with application documents which were reviewed. It was determined that the application was sufficiently complete to proceed with consideration by the Board per RSA 676:4, I. (b).

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**Land Usage Requirements**

Per the Zoning Ordinance, Section 4.7, the proposed land use meets the existing land uses permitted in the Commercial Zoning District. The ZBA granted the application a variance to the rear setback requirement on December 19, 2023.

**Compliance with Regulations**

General Standards 2.1 requirements were achieved to the satisfaction of the Planning Board.

Section 8.1 Parking Space Requirements were deemed to comply with the regulation for commercial use.

Section 12.1 Architectural Design Standards' purpose is achieved to the satisfaction of the Planning Board.

**Environmental Requirements**

Per Section 2.1 A.7., environmental factors such as pollution, noise, odor, and protection of natural land features were evaluated, and it was determined that adequate provisions were made.

Per Section 2.1 A.8., the landscape plan was found to be in keeping with the general character of the area.

Per Section 5.1, the purpose of the Landscaping section, protecting, enhancing, and promoting economic, ecological, and aesthetically pleasing landscaping that improves safety and positively impacts stormwater quality and quantity, is achieved to the satisfaction of the Planning Board.

**Waivers**

The following 4 waiver(s) were requested by the applicant(s):

Article V, Section 5.1 Landscaping Standards, the applicant requested a waiver for relief from the requirement for the landscape plan to be provided and endorsed by a licensed landscape architect. The waiver was granted.

Article V, Section 5.5 B.1., and 5.5 D.1., & 2., Landscape Buffer Requirements on the periphery of the property and within a property. A waiver was requested to prevent loss of parking, loss of the ability to circulate traffic appropriately and access to overhead doors in the rear of the proposed building. The waiver was granted.

Article V, Section 5.6 Landscape Along Building Frontages where a minimum of one (1) shrub every five (5) feet of building frontage shall be provided. A waiver was requested due to strict compliance requiring the removal of pavement that would reduce the site's ability to circulate traffic appropriately. The waiver was granted.

Article V, Section 5.7 A., Landscaping Parking Lots and Access Ways. A waiver was requested from peripheral landscaping required along all sides of the parking lot or access way that abuts

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adjoining property or public right-of-way. Strict compliance would require removal of existing parking spaces and reduce the site's ability to circulate traffic appropriately. The waiver was granted.

**Stormwater Management**

General Standards 2.1 A.5., Stormwater drainage was addressed in the Stormwater Management Report. This report was reviewed, and it was determined that stormwater management and erosion and sediment control plans meet the Town's requirements.

**Conditions**

The applicant acknowledges the conditions precedent and conditions subsequent in the Staff Report as well as any additions from the Planning Board are required.

**Summary**

The Planning Board finds that with the conditions imposed in the approval, the application meets the spirit and intent of the Ordinances and Regulations.

**Cynthia Dokmo moved to approve the Findings of Fact as presented. Seconded by Tom Silvia.**

**Vote: 6-0-0 motion carried unanimously.**

**OTHER BUSINESS:**

**5. REGIONAL IMPACT:**

**a. CASE #: PZ18526-020624 – Christopher & Victoria Judson (Owners & Applicants); 12 Lakeview Street, PIN #: 024-046-000 – Conditional Use Permit. To raze the existing non-conforming primary structure and construct a more conforming primary structure with a legal ISDS, well, and storm water management techniques. Zoned Residential Rural.**

Arnie Rosenblatt read and opened the case.

**Tracie Adams moved that there is no regional impact. Seconded by Tom Quinn.**

**Vote: 6-0-0 motion carried unanimously.**

**6. Minutes: January 3, 2023**

**Tracie Adams moved to approve the minutes of January 3, 2023, as amended [Line 605: change "wat" to "way"; Line 605: change "subdivision" to "subdivisions"; Line 1: Add "Chair" title for Arnie Rosenblatt.] Seconded by Tom Silvia.**

**Vote: 5-0-1 motion carried [T. Quinn abstaining.]**



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348           **Tracie Adams moved to approve the site walk minutes of January 31, 2023, as**  
349           **amended [Line 57: change to “Upham Road to County Road”]. Seconded by Tom**  
350           **Quinn.**

351           **Vote: 5-0-1 motion carried [C. Dokmo abstaining.]**

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353           **OTHER BUSINESS:**

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355           7. Any other business that may come before the Board.

356           **Cynthia Dokmo moved to adjourn the meeting at 7:48pm. Seconded by Tom Quinn.**

357           **Vote: 6-0-0 motion carried unanimously.**

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359           Respectfully submitted,

360           Kristan Patenaude

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362           Minutes approved: March 6, 2024