

TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

In attendance: Arnie Rosenblatt - Chair, Dwight Brew-Selectman Ex-Officio, Bill Stoughton, Mike Dell Orfano, Marilyn Peterman, 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 812 6949 2714, or by clicking on the following website address: <https://zoom.us/j/81269492714> 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](http://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.

June 02, 2021

APPROVED

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

**PUBLIC HEARING(S):**

- 1. CASE #: PZ13107-090920 – JEP Realty Trust & Robert H. Prew Revocable Trust (Owners) & Clearview Development Group (Applicant) – 38 New Boston Road, PIN #: 007-072-000 & 005-159-001 – Public Hearing/Conditional Use Permit – To answer the questions raised by Ken Clinton, LLS, regarding the Notice of Decision, consistent with the record**

Arnie Rosenblatt explained that, after the Board provided the notice of decision for this hearing to the applicant, Ken Clinton, of Meridian Land Services, sent a list of identified questions to Nic Strong. Many of the questions could have been answered administratively by Nic Strong but there were so many that Arnie Rosenblatt determined it was perhaps better to have the Board provide explanations. Town Counsel confirmed this suggestion that the Board could discuss this item in order to address any outstanding questions out of an abundance of caution. Arnie Rosenblatt stated that discussion on any questions by the Board does not mean that the notice of decision and subsequent conditions are being revisited. This discussion is only to clarify any questions as the Board sees fit. It was agreed with Town Counsel that abutters should be noticed regarding this discussion, in order to be as transparent as possible. Arnie Rosenblatt stated that he is unsure if discussion needs to be had directly with the public or abutters as part of these questions. He noted that virtually all of the questions were answered by Nic Strong as part of the Staff Report dated June 2, 2021, but there are some that the Board could answer. Arnie Rosenblatt further stated that he had never dealt with a situation like this before.

Arnie Rosenblatt stated that he believes the only questions that may require further explanation or discussion by Board members are #3, #6, and #2. He explained any Board members may comment on any of the other questions raised that they believe need to be addressed. He noted that the conditions in question were voiced originally by Bill Stoughton during the meeting and moved by Mike Dell Orfano.

Arnie Rosenblatt read the subsequent condition and attached question #3 from Ken Clinton/applicant, and the response from staff: *The mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit shall be determined at the Final Review and be noted on the Final Plat.* “These criteria need to be determined before final design can occur, which precedes final application & review...”

Staff response: “There are several requirements in the Zoning Ordinance and IIHO Regulations that are included at the CUP stage through the IIHO Ordinance and Regulations or PRD Ordinance but not fleshed out or acted upon until the final subdivision application stage. To ensure that these do not get lost in the shuffle they should be noted on the CUP plans. The

TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

language of Condition Precedent #3 could be added as a note to the CUP Plans or reference to the Notice of Decision and its conditions added to the plans.”

Bill Stoughton explained that this condition was present in the Staff Report from that hearing and not crafted by him. He believes that Nic Strong’s response to this question is clear and makes sense.

There were no other comments from Board members.

Arnie Rosenblatt read the subsequent condition and question #6 from Ken Clinton/applicant, and the response from staff:

*The Board may require a downward reduction in the number of units at the time of future Conditional Use Permit or Subdivision/Site Plan Reviews for any of the following reasons: 1. If the bases for bonus requests or the proposals or representations of the applicant in its written materials and discussion before this Board are changed.* “The boards downward reduction from the 18 bonus units requested to the max 13 conditionally approved dictates changes to the basis of bonus requests.... What bonus category reductions did the Board intend?”

Staff response: “As indicated at the February 17, 2021, meeting (see minutes lines 472 to 497) and the March 17, 2021, meeting (see minutes lines 550 to 584) and as amended at the March 17, 2021, meeting (see minutes lines 1084 to 1086) the bonus units were granted as follows:

Senior 55+ = 2.7

Attached housing = 1.4

Single floor, handicap accessible, 2 bedrooms in condos = 0

One-bedroom in ADUs = 0

Walkability, community space open to the public, open space restrictive covenant = 11

Reduction due to traffic and groundwater concerns = -2

Total bonus units = 13.1

Baseline units 31.25 + bonus units 13.1 = 44.35, rounded down to 44.

The above list includes the bonus category reductions approved by the Board. Future reductions would be up to the Planning Board at the time of any future application.”

Bill Stoughton stated that, during the original meeting, he crafted some conditions and made a motion that included them that ultimately failed. He noted that following lengthy discussion Mike Dell Orfano then crafted a separate motion that included the conditions as currently seen. While he is agreeable to speaking to his intentions as he crafted his motion, he stated that he ultimately voted against the motion that was approved.

Bill Stoughton explained that, in his view, the applicant proposed to the Board a project with a number of base units in a certain configuration and with bonuses requested. He believes this question references whether the applicant is now asking if he is obligated to proceed with the original types of units in that certain configuration due to the fact that some of those proposed bonuses were not awarded. For example, the applicant requested and was awarded 2.7 bonus

TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

units for the 55+ housing category. Bill Stoughton stated that he would consequently expect the applicant to present a final plan with all of the proposed 55+ housing as originally stated. As a further example, the applicant was granted no bonus units for the 1-bedroom and ADU (accessory dwelling unit) units. Bill Stoughton would thus expect that the applicant is under no obligation to deliver 1-bedroom or ADU units because no bonus was granted for them. Bill Stoughton stated that this was the intention of his condition.

Mike Dell Orfano questioned if there was a condition regarding which specific units were to be eliminated.

Bill Stoughton stated that the Board did not eliminate specific units as part of the application but did grant a number of bonus units per the offers made in the application and the evaluation of the Board. The applicant must next come before the Board with a final site plan that reconciles that.

Mike Dell Orfano stated that all along the Board has looked to the number of foundations in the ground for projects. He questioned how many foundations in the ground that the Board approved for this application, due to the fact that ADUs do not have a foundation.

Bill Stoughton stated that the Board approved a number of dwelling units and did not specify a number of foundations in the ground.

Mike Dell Orfano stated that he believes there is ambiguity in the decision and the applicant is justified in asking these questions.

Arnie Rosenblatt asked Mike Dell Orfano what his intention was in making his original motion on this item.

Mike Dell Orfano stated that he believed the application was going to fail. Thus, he made the motion in hopes of having discussion on it but believes that the discussion then went even further downhill for the application. He stated that he believes the applicant is within his right to consider the proposed ADUs as part of the possible reduction in housing units.

Arnie Rosenblatt asked Bill Stoughton what his intention was as the proposer of the original motion of this item.

Bill Stoughton stated that he believes the applicant would be within his right to come back to the Board with a final site plan that includes no ADUs, no single-floor units, and no handicap accessible units, as part of the final 44 units approved.

Chris Yates explained that for the 55+ housing, there were 18 units in total proposed. He noted that the proposal was for 25 single homes with 6 ADU units in one of the villages, so if the applicant moved forward with the proposed 55+ housing units, there would be 26 total units on that village side. He asked Bill Stoughton if that math is correct based on his intention. Bill

TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

Stoughton stated that he believes the applicant could move forward with a combination of housing units and ADUs or could also not include any ADU units.

Dwight Brew stated that he voted in favor of the motion. He did so because he believed the application was proposing items that would be a benefit to the Town, such as smaller houses, handicap accessible units, ADUs, etc. In voting in favor of the motion, he believed that the developer would continue to provide the Town with all the benefits proposed. He believed that the ADU and 1-bedroom units would still be included in the plan. He explained that this was his understanding in voting in favor of the motion.

Christy Houpis stated that the Board questioned the bonuses requested by the applicant and approved a total number of 44 units. He believes that Bill Stoughton gave adequate justifications for each bonus granted, and for the denial of any bonuses based on there not being value to the Town, per Section 3.18 of the regulations, and subsequent reduction in the bonuses sought for these items. He assumed, if using Bill Stoughton's math, that the applicant would stay within the number of up-to units approved using the spreadsheet and calculations.

Tracie Adams did not have anything to add.

Marilyn Peterman stated that she does not agree with the configuration of the proposed site or the up-to number approved at all. She does not believe that what was approved by the Board takes into consideration the needs of the Town.

Arnie Rosenblatt stated that this is not being discussed by the Board at this time.

Brian Coogan stated that he has no questions or comments at this time.

Cynthia Dokmo stated that she agrees with Bill Stoughton's comments. She believes that these questions point out issues within the ordinances. She believes that it takes a couple of years to work the kinks out of any big piece of legislation. She hopes the developer echoes Dwight Brew's comments and presents the Board with a final site plan that includes the alternate, unusual types of housing as originally proposed.

**Bill Stoughton moved that, for the purposes of clarification only and for Condition Precedent 6.1. that if zero bonus units were awarded for a particular category, then the applicant is not under any obligation to propose a design that includes elements of those categories. Conversely, if the applicant was awarded any number of bonus units for a category, then the applicant must deliver what it proposed to deliver in that category. Cynthia Dokmo seconded.**

**Discussion:**

**In response to a question from Dwight Brew, Bill Stoughton stated that he believes the minutes of that meeting document the calculations used to get to the up-to number. Bill Stoughton stated that he originally suggested an up-to number of 39**

June 02, 2021

APPROVED

units and that Cynthia Dokmo then suggested that the up-to number be increased to 44 units with additional units in the open space categories.

**Roll call: Bill Stoughton – aye; Mike Dell Orfano – nay; Marilyn Peterman – abstain; Brian Coogan – aye; Cynthia Dokmo – aye; and Dwight Brew – aye. 4-1-1; motion carried.**

Arnie Rosenblatt stated that this information would be provided to the applicant.

Arnie Rosenblatt read the subsequent condition and question #9 from Ken Clinton/applicant, and the staff response:

*At the time of Subdivision Application and following due consultation with the Town Department of Public Works, the applicant shall address potential offsite improvements to alleviate traffic delay, capacity, and queuing issues at the intersections of Boston Post Road and Foundry and Main Streets. “Satisfaction of this item is dependent upon the DPW Director providing specific measures for consideration.”*

Staff response: “I cannot comment on how the Director of the DPW would act on a request for consultation on these issues. At their meeting of April 21, 2021, the Planning Board voted unanimously to request that the Board of Selectmen examine Town of Amherst road intersections that have been projected to fail based on anticipated future traffic and to assess potential improvements to improve traffic performance in those intersections. This process may also inform this condition of approval.”

Bill Stoughton stated that his intention with this condition was related to various intersections in the Village that have been shown that they will fail over time with or without additional development in the area. The condition requires, in his mind, that the applicant during the subdivision application come to the Board and address potential measures to alleviate problems at these intersections. He used the word “address” because he does not believe it is up to the applicant alone to solve these problems or be responsible for fixing them. He does believe the applicant should have a discussion with the Board about this in the future. In the interim, the Planning Board has asked the Board of Selectmen to have the Town look at these intersections, and others around Town projected to fail, to hopefully make corrections before they do fail.

Mike Dell Orfano stated that he recalls a conversation from that meeting about the purpose and use of impact fees to address these issues. He concurs with Bill Stoughton’s thoughts, that the intent of this condition was for the applicant to see if anything can be done to mitigate these issues, but that it is not the applicant’s responsibility to cure them. He believes that the applicant could speak with DPW regarding this issue.

Chris Yates had no questions or comments at this time.

TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

Christy Houpis stated that he believes Bill Stoughton did a good job explaining that the applicant is not expected to solve these issues but can provide support to the Town as part of a holistic solution.

Dwight Brew stated that he believes the applicant might have a hard time understanding what the Board wants him to do, as no solution has been identified for the applicant to take part in yet.

Brian Coogan had no questions or comments at this time.

Marilyn Peterman questioned if the Board of Selectmen has any sort of timeframe for this issue. She noted that, in the past, if the Board asked for mitigation by an applicant, the applicant would know what was required of him/her. If these intersections are failing, she believes this is a larger fix than the applicant can do alone. She also does not believe that impact fees could be used on this issue, as these intersections are existing conditions.

Tracie Adams had no questions or comments at this time.

Cynthia Dokmo had no questions or comments at this time.

Arnie Rosenblatt stated that, based on Mike Dell Orfanos's and Bill Stoughton's comments, he believes he has a sense of the Board for this question.

In response to a question from Arnie Rosenblatt, Nic Strong stated that she believes this discussion should be satisfactory to answer Ken Clinton's question.

The Board did not raise any other discussion about these or other questions.

Arnie Rosenblatt stated that the applicant/Ken Clinton can rely on the other answers given by Nic Strong in the Staff Report, for items not addressed by the Board.

In response to a question from Arnie Rosenblatt, Nic Strong stated that she does not need anything else from the Board in regard to this topic. She explained that her answers to the applicant's questions were based on the record, so any additional discussion on the Board's intent would need to be provided by the Board.

Arnie Rosenblatt stated that, between Nic Strong's answers and the Board's discussion tonight, he believes this should answer the questions addressed by the applicant. He noted that any applicant is welcome to come to the Board or Community Development Office with any questions, as he would like to offer as much guidance as possible.

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

June 02, 2021

APPROVED

- 301       **1. CASE #: PZ14221-051221 – Kathryn A. Worden-Buckner (Owner & Applicant),**  
302       **3 Shadow Lane, PIN #: 005-002-013 & Walter Swanbon (Owner &**  
303       **Applicant), 35 Mack Hill Road, PIN #: 022-011-000 – Submission of**  
304       **Application/Public Hearing/Subdivision Application – To depict a lot line**  
305       **adjustment with equal area land swap for Tax Maps 005-002-013 & 022-011-000.**  
306       ***Zoned Residential/Rural***

307       Arnie Rosenblatt read and opened the case.

308  
309       Kathryn Worden-Buckner and her dad, Kent, joined the Board.

310  
311       **Bill Stoughton moved no regional impact. Cynthia Dokmo seconded.**

312       **Roll call: Mike Dell Orfano – aye; Marilyn Peterman – aye; Brian Coogan – aye;**  
313       **Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion**  
314       **carried unanimously.**

315  
316       **Bill Stoughton moved to accept the application as complete. Cynthia Dokmo**  
317       **seconded.**

318       **Roll call: Mike Dell Orfano – aye; Marilyn Peterman – aye; Brian Coogan – aye;**  
319       **Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 6-0-0; motion**  
320       **carried unanimously.**

321  
322       Kathryn Worden-Buckner stated that one corner of her lot jogs down at an angle to about 30' of  
323       the lot line. This is the side of her property that she would like to use to add onto her house  
324       eventually. The intention of this application is to shift the lot line back uphill of the corner of the  
325       lot. This proposal will not change the size of either her property or the 35 Mack Hill Road  
326       property which are both 1.5 acres and therefore under the current required size of two acres. She  
327       explained that Meridian Land Services has completed a survey in order to create this plan.  
328       Natasha Kypfer shared the plans on the screen and Kathryn Worden-Buckner described how the  
329       lot line adjustment would square both lots off better than their current layout.

330  
331       Marilyn Peterman stated that she believes the proposal was cut and dried to her.

332  
333       In response to a question from Mike Dell Orfano, Kathryn Worden-Buckner stated that the  
334       proposal will not make either non-conforming lot any more non-conforming because the sizes of  
335       the lots will not change.

336  
337       Natasha Kypfer stated that the Staff Report explains that the applicant's lot is in the  
338       Residential/Rural District. This District has a minimum lot size of 2 acres, but the zoning at the  
339       time this lot was created had a minimum lot size of 1.5 acres. The Mack Hill lot in question also  
340       predates the current zoning. Thus, both lots are preexisting, non-conforming lots.

341  
342       Brian Coogan, Cynthia Dokmo, Tracie Adams, and Dwight Brew had no questions or comments.



TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

In response to a question from Bill Stoughton regarding a note on the plan about inaccurate monuments, Kathryn Worden-Buckner explained that the survey did not find all of the monument posts of the property. As part of the proposed lot line adjustment, steel pins and granite markers will be added in the appropriate places.

In response to a question from Bill Stoughton, Kathryn Worden-Buckner stated that most of the items in the Staff Report have been addressed and she will address the others. She noted that she understood the proposed conditions and had no objections to them.

Bill Stoughton stated that he supports the application and thanked the applicant for a thorough proposal presentation.

Dwight Brew, Tracie Adams, Christy Houpis, and Chris Yates had no questions or comments.

There were no hands raised from the public for comment.

**Mike Dell Orfano moved to approve the application as presented, subject to the conditions in the Staff Report. Bill Stoughton seconded.**

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

**OTHER BUSINESS:**

**2. Minutes: May 19, 2021**

**Dwight Brew moved to approve the minutes of May 19, 2021, as submitted. Bill Stoughton seconded.**

**Roll call: Mike Dell Orfano – abstain; Marilyn Peterman – abstain; Brian Coogan – aye; Cynthia Dokmo – aye; Dwight Brew – aye; and Bill Stoughton – aye. 4-0-2; motion carried.**

**3. Any other business that comes before the Board**

Chairman of the Board of Selectmen, Peter Lyon, thanked Marilyn Peterman, Cynthia Dokmo, Mike Dell Orfano, and Brian Coogan for their service to the Town. He expressed his gratitude on behalf of the Board of Selectmen. He explained that Cynthia Dokmo and Brian Coogan stepped up at a time of need for the Town a couple of years ago. Mike Dell Orfano and Marilyn Peterman have served the Town for many tireless years. Marilyn Peterman first served on the Planning Board in 1978 as a Board of Selectmen representative. Mike Dell Orfano has served on the Planning Board for at least 20 years. Peter Lyon stated that Marilyn Peterman and Mike Dell Orfano have spent countless hours in meetings, crafting ordinances, and discussing plans. These are volunteer positions; thankless jobs that most residents do not fully understand.

TOWN OF AMHERST  
Planning Board

June 02, 2021

**APPROVED**

Arnie Rosenblatt thanked Cynthia Dokmo and Brian Coogan for their service. He stated that he has served on the Planning Board with Marilyn Peterman and Mike Dell Orfano for a long time. He has agreed and disagreed with them on numerous occasions and has always had a lot of respect for them.

Cynthia Dokmo thanked Mike Dell Orfano for his years for service. She noted that Marilyn Peterman was the first woman chair elected for the Planning Board. She explained that Marilyn Peterman has served the Town in countless ways and does not know one other person who has put more effort into the Town. She stated that Marilyn Peterman has no personal agenda, but simply works to do what is best for the Town. She stated that Marilyn Peterman is an asset to the Town and thanked her.

Marilyn Peterman stated that she appreciates the number of years she has spent on the Planning Board and believes these have been some of the most valuable learning experiences of her life. She owes those who have served a debt of gratitude.

**Marilyn Peterman moved to adjourn the meeting at 7:58pm. Mike Dell Orfano seconded.**

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

Respectfully submitted,  
Kristan Patenaude

Minutes approved as amended: July 7, 2021