

**AMHERST PLANNING BOARD**  
**Wednesday, November 4, 2015**

In attendance: A. Rosenblatt- Chair, J. D'Angelo- Selectman Ex-Officio, S. Wilkins, R. Hart, E. Hahn, G. Leedy, M. Dell Orfano, C. Harris and C. Mailloux- Community Development Director.

A. Rosenblatt called the meeting to order at 7:33pm.

**OLD BUSINESS**

**1. Case #: PZ6584-090815 – 12 Broadway Realty Trust (Owner), William Wenzel, Trustee (Applicant) – 12 Broadway, PIN #: 006-092-000 – Request for approval of a subdivision of one residential lot into four and request for approval of a Conditional Use Permit for 3,205 square feet of wetland impact to construct a common driveway to serve the proposed lots. Zoned Residential Rural.**

Tabled from October 7, 2015

S. Wilkins suggested deferring the waivers until after the presentation.

C. Guida, wetlands and soil scientist for Fieldstone Land Consultants and representative for Mr. Wenzel presented the case. The Wenzel family has owned this property for a long period of time and Mr. Wenzel wants to keep it in the family as well as develop it responsibly.

The applicant is before the Board seeking approval for the subdivision of one residential lot into four, and for a Conditional Use Permit to allow construction of a shared driveway within the Wetland and Watershed Conservation District.

The parcel is an existing 20.202 acre lot with approximately 1,100 feet of frontage on Broadway. There is one lot about 7.5 acres that is the parcel that goes around the property in a horseshoe shape. The purpose of that is to maintain current use acreage with the abutting lot as well as create an undeveloped buffer around the whole parcel. The other lots are about four acres each. The lot is bisected by an intermittent stream and associated wetlands, leaving the parcel with a net tract area of 9.924 acres. In order to reach the lot on the far side, the stream will have to be crossed by the shared driveway. The property is largely wooded, with an existing residence, garage and sheds in the south-east corner of the parcel. The northeast corner of the property is located within the 250' shore land protection Zone of Baboosic Lake.

The proposed plan calls for the subdivision of Lot 6-92 into four residential lots, to create three new building lots. The proposed lots are in the rural residential district and require a minimum of 2 acres of net tract area and 200 feet of frontage. The parcel is surrounded by residential lots. Most of these range from ¼ acre to two acres. After the subdivision, all four lots will exceed the minimum dimensional requirements of the zone. The proposed lots will be served by onsite wells and individual septic systems. The first lot will be 500ft. away from the lake and the furthest lot will be 1000ft. away. There will be a large natural buffer to the lake.

Two of the lots have existing access points. Lots 6-92-4 and 6-92-5 will be accessed via a common driveway in order to minimize curb cuts and wetland impacts. A common driveway easement for the benefit of Lot 6-92-4 will be provided over Lot 6-92-5. As shown on the project plans, the Applicant proposes to construct a common driveway through the Wetland and Watershed Conservation District. This is the best location for the driveway because it has the least amount of slope and will be the safest.

The total area to be disturbed is 3,205 square feet of forested wetland, which includes the installation of a 24" culvert. This leaves 3,611 square feet of buffer. The culvert is made of reinforced concrete pipe which allows for moss which is better for amphibian and wildlife habitat and the 24" are more than adequate to provide passage for wildlife. One of the criteria for filing a conditional use permit is to notify NHB- the National Heritage Bureau for endangered species. A fish and game specialist reviewed the permits and there were some species indicated: species of turtles and a snake. The Conservation Commission did a site walk on the property.

The applicant has requested the following waivers from Section 4.5.D of the Subdivision Regulations:

i. Fiscal Impact- There is minimal impact as there are only three residential lots being created and no new roads.

ii. Environmental Impact- The Crossing areas have been minimized. There will be a common driveway for two of the lots to share. The homes will be set back on the parcels so they won't be visible from the road.

iii. Traffic Impact- There will be very minor impact with only three new single family homes and one new driveway.

v. Water Supply Impact- Each home will have its own well. It is unlikely that the town's water will be impacted.

vi. Hydrogeological Impact- There will be no new roads or blasting. The parcels are 500ft. to 1000ft. from the lake.

R. Hart stated the Conservation Commission suggested increasing the slope of the driveway so the crossing could be done at a lower level therefore reducing the width of the wetland impact.

M. Dell Orfano asked if the Fire department gave an opinion of that. C. Mailloux stated the fire department hasn't heard that suggestion yet as it was suggested at an ACC meeting. Their concern would be the shoulders. She also mentioned that another suggestion the Conservation Commission had was to remove a 12" concrete pipe in another area of the wetlands to offset the loss of the wetlands area due to the driveway.

G. Leedy's concern is the 12' wide driveway with 2' shoulders on each side without any guardrail. There might be cars that need to pass. Those 16' available to pass is the dead minimum. He proposed a 4' shoulder on each side.

C. Guida responded that he is trying to weigh impacting the wetlands as little as possible while maintaining the town standards.

G. Leedy also wanted to confirm it is in the plans to limit clearing activities to November to May due to the bat issue. C. Guida said not yet, but when they file for state permits, that triggers the federal and they will be told when the clearing restrictions are. Bats are normally active from April through August.

S. Wilkins struggled with the driveway impact vs safety issue which was exacerbated by the slope vs shoulder suggestions. She asked if EMS or APD had any thoughts. C. Mailloux stated Fire, Police and DPW reviewed the application and had no concerns with driveway as presented. They were not part of the discussion that suggested altering it.

G. Leedy also suggested the engineers look at the geometry of the intersections of those driveways to make sure the fire vehicle will clear.

94 The other concern that S. Wilkins had was that down the road someone will want to separate the large  
 95 horseshoe lot.

96 C. Guida addressed its unique shape stating it creates a buffer around the other residents. Some of the  
 97 neighbors were approached and are in favor of that land as a buffer. He also addressed the culvert  
 98 issue. They did talk about removing it during the site walk, but he doesn't believe it will serve any  
 99 benefit to the wetlands. The flow through there is minimal. The 12" culvert is adequate to handle the  
 100 current flow. If the owner of that lot wants to get to the back of the lot, that culvert is the access point.  
 101 Taking it out removes the access. The owner would have to take out a wetlands permit to access that  
 102 land. The disturbance is already there and it is stable and vegetated.

103

104 S. Wilkins asked when the small lots were created. Over 50 years ago.

105

106 M. Dell Orfano shares Sally's concern about a possible future subdivision. He also reviewed the wetlands  
 107 on the map. He asked if flood insurance will be required for these lots. No.

108 He asked if the board had a preference regarding chemicals/ salt on this road. S. Wilkins stated she  
 109 would prefer no salt this close to the lake, but understands an 8% driveway slope is permitted. C. Guida  
 110 stated that Broadway is the closest road to the lake. If there was a salt issue it would probably come  
 111 from there rather than the residential driveway.

112

113 C. Harris stated his concern is also the driveway width. If a UPS truck and a car try to pass, it won't work.  
 114 There's not enough space for safety. He wants it made wider and safer.

115

116 There were no public comments regarding this case.

117

118 **G. Leedy moved to approve the waivers. C. Harris seconded.**

119 Discussion

120 S. Wilkins had a concern about the wells in that area. C. Mailloux hasn't heard of any issues there.

121 **Vote: Unanimous in favor of approving the waivers**

122

123 **G. Leedy moved to accept the subdivision and conditional use permit applications for review.**

124 **C. Harris seconded. Vote Unanimous in favor**

125 The board discussed the driveway slope, the fall off from either side of the driveway and the proposed  
 126 width of the driveway. The board agreed that steepening the driveway is not a good idea. S. Wilkins  
 127 suggested creating a pull off on either side of the wetlands crossing.

128

129 A. Rosenblatt reminded the board of the Conservation Commission's reservations with regard to impact.  
 130 S. Wilkins mentioned that the National Heritage Bureau doesn't often present a finding with six  
 131 endangered species on it so that's pretty significant.

132 C. Guida reviewed and clarified the habitat in that wetland area.

133

134 R. Hart asked about the visibility down the length of the driveway from the road to the split and agreed  
 135 with Sally's suggestion of a proposed pull-off rather than widening the whole driveway. C. Guida stated  
 136 the visibility is clear throughout that 300 ft. from the road to the intersection.

137

138 G. Leedy figured that by increasing the slope to 10% it would save a couple hundred square feet of  
 139 wetlands from impact. This did not seem worth the safety risk.

A. Rosenblatt asked Rich as conservation representative if the grade remains 8% due to safety, is it a problem? R. Hart said it was more of a suggestion to reduce the impact than a requirement. Based on the information heard here, it might not be an appropriate solution to change the grade.

S. Wilkins asked why the current crossing is not proposed for use. C. Guida responded that the slopes are much steeper and there would be a much more aggressive land impact. It's also much longer and would need longer slopes on the sides. R. Hart agreed with that analysis and prefers the proposed location.

S. Wilkins suggested the applicant redesign the driveway to make the shared portion wider and safer.

A. Rosenblatt asked if a site walk was necessary. The board didn't think that was needed.

S. Wilkins suggested tabling the case. G. Leedy said they could approve with conditions or table the case to see another plan.

C. Guida asked the board if he should look into how he plans driveways going forward to avoid this issue. G. Leedy said it would be case by case. This is a unique situation with a shared driveway on a causeway with an 8% slope. That doesn't happen often.

**S. Wilkins moved to table the case to December 2<sup>nd</sup> to enable the applicant to come back with a redesigned driveway. G. Leedy seconded.**

C. Guida asked for specific suggestions from the board on how they would like the issue resolved. The board suggested widening the buffers on one side or the other- away from wetlands and/or adding a turn- around. The causeway can remain narrow. Add a turn out on the road side of the bridge. It would be a comfort to add a foot on each side of the driveway and perhaps a driveway marker on the edge.

**Vote: Unanimous in favor to table the case**

NEW BUSINESS

**2. Case #: PZ6721-100515 – Ellen & Richard Fallon (Owners), 9 Clark Avenue, PIN #: 025-048-000 – Request for approval of a Conditional Use Permit for construction of an 24' x 28' garage within the 100 foot shoreline buffer of Baboosic Lake. Zoned Rural Residential.**

**G. Leedy moved and C. Harris seconded to table the case to December 2<sup>nd</sup> per the request of the applicant. Vote: Unanimous in favor**

**3. Case #: PZ6728-100815 – Scott A. & Gwendolyn R. Krauss (Owners), Amherst Street, PIN #: 003-084-003 – Request for approval of the subdivision of one residential lot into four in Milford with 3,900 square feet in Amherst. Zoned Rural Residential.**

Randy Haight from Meridian Land Services presented the case.

Prior to receiving this application, there was no record of this lot within the Town of Amherst. In preparing an application for subdivision approval by the Town of Milford, the surveyor determined that approximately 3,910 square feet of the property is located in the Town of Amherst. The Assessing office has since created a Tax Map and Lot number for the parcel. The proposed subdivision has been reviewed and was approved by the Milford Planning Board on October 20<sup>th</sup>.

The entire subdivision, the lots and the access, will be in Milford. The small portion in Amherst is precluded from development due to setbacks. Because the lot is in two towns, both towns need to give approval. Milford conditionally approved the plans. There will be no change to the Amherst portion.

G. Leedy stated the town line is a political boundary, not a lot line. There isn't an additional setback from the town line? R. Haight replied no, but the setback lines are so large, the whole Amherst portion is within the setback. On the Milford side, they can develop right up to the town line.

This is a minor subdivision application with minimal impact in the Town of Amherst, waivers are requested from the studies in checklist items 3.X.1 through 7); Fiscal Impact, Environmental Impact, Traffic Impact, Storm water Drainage, Water Supply Impact and Hydrogeological.

**G. Leedy moved to approve the waivers. C. Harris seconded. Vote: Unanimous in favor**

**G. Leedy moved to approve the plan prepared by Meridian Land Services, last revised October 21, 2015, with conditions to be fulfilled within one year and prior to plan signature:**

1.A letter shall be submitted to the Office of Community Development by a licensed land surveyor certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.  
2.One mylar, 2 full size plan sets and one pdf of the revised plan set shall be delivered for signature by the Planning Board Chair.

**C. Harris seconded. Vote: Unanimous in favor of approving the plan**

R. Haight requires 2 mylars for Milford. He will bring them to Amherst Planning Board for signature.

#### OTHER BUSINESS

#### **4. Case #: PZ6740-100915 – Southern NH Medical Center (Owner), 8 Limbo Lane, PIN #: 020-037-000 – Compliance Hearing prior to Certificate of Occupancy for an 11,300 square foot medical building.**

Gary Manoogian from Fulcrum Associates was present.

C. Mailloux explained the situation to the board. There were a few minor changes in utility locations and drainage details that were dictated by site conditions during construction. The orientation of the propane tank was adjusted to align with the decorative fence, and an additional propane tank was added adjacent to the generator near the rear of the site. C. Mailloux and the town building inspector were at the site and can confirm the site work is substantially complete and the building is nearing completion, with a goal to receive a certificate of occupancy in late November to early December. There are a few punch list items to do including handicapped parking signage. This compliance hearing is a formality. The town staff will confirm all punch list items are complete before a CO is issued.

A. Rosenblatt confirmed that the staff recommendation is for the board to approve. Yes.

G. Leedy asked if the propane is underground. Yes.

**S. Wilkins moved to approve. C. Harris seconded. Vote: Unanimous in favor**

**5. 40 Courthouse Road – Discussion of subdivision approved March 4, 2015**

C. Mailloux described the issue to the board with visual aide.

On March 4, 2015, the Planning Board approved the subdivision of Lot 16-24. The subdivision plan included a reference to an earlier Lot Line Adjustment plan which was approved in 2003. The 2003 Lot Line Adjustment created Lot 16-24, a parcel bisected by Courthouse Road, and included a note that the portion of the parcel located on the westerly side of Courthouse Road is not to be considered a separate building lot without additional subdivision approval by the Planning Board. By Planning Board action of March 2015, the Planning Board authorized the subdivision creating the new Lot 16-24-5. Attorney Tom Quinn is working with the property owners and the Amherst Land Trust, and has expressed concerns because, though the Planning Board approved the subdivision, the reference to older plans which state that the parcel is not a separate building lot could give cause for confusion. To eliminate any source of confusion, Staff recommends that the Planning Board consider making a motion to clarify that the intent of the March 4, 2015 Planning Board approval was to subdivide Lot 16-24 from one into two lots, creating the new lot 16-24-5 as a separate buildable lot as shown on plans prepared by Monadnock Survey, dated February 2, 2015.

It was asked and confirmed that this lot is the lot approved for a park and playground.

A. Rosenblatt confirmed that they need to change the wording so that from a title search perspective everything is clear.

Tom Quinn suggested a certified letter from the Planning Board that the buildable lot was approved would be adequate. S. Wilkins suggested recording a corrected plan after removing that note.

M. Dell Orfano asked about procedure. C. Mailloux will write a letter describing the action taken by the planning board tonight. Monadnock will remove the note from the plan and file the new plan.

**C. Harris moved that the letter be drafted to meet the needs of this lot becoming classified as buildable. M. Dell Orfano seconded.**

Discussion

M. Dell Orfano suggested recording the letter with the plan. The board discussed if this is necessary. A new subdivision plan will be recorded. The Planning Board chairman will sign the plan.

**Vote: the motion passed with S. Wilkins and G. Leedy abstaining.**

**6. Regional Impact**

C. Mailloux stated there is no regional impact for next month.

**S. Wilkins moved no regional impact for discussion. G. Leedy seconded. Vote: Unanimous in favor**

J. D'Angelo asked if the board is going to have time to look at accessory apartments this year as discussed or will it be moved to next year? He said if we have the time to do it right, he'd like to get it on the ballot. If not, then he'd like to work on it early next year. C. Mailloux said the special exception language could be tweaked pretty easily so she can come up with a draft for the board to review.

The other issue he mentioned was, assuming Kinder Morgan files on the 20<sup>th</sup>, when does Bill Bosquet want to come to talk to the board regarding a natural gas/fire power plant at Bon Terrain?

C. Mailloux said she assumes as soon as Kinder Morgan files with SEC, they will want to file with the site evaluation committee. When the pipeline is filed with the FERC and the SEC, then the power plant would file with SEC and then he will probably want to come in to talk to the board in the January timeframe. It won't be for any approvals, but for informational purposes only.

282 **7. Approval of Minutes: October 7, 2015**  
283 Line 130 *measure to evaluate*  
284 Lines 132-133 ...”applicant tell us where we are lacking in that diversity and why we should give  
285 accommodations for more units because we are lacking.”  
286  
287 **C. Harris moved and S. Wilkins seconded to approve the minutes of October 7<sup>th</sup> as amended.**  
288 **Vote: Unanimous in favor.**  
289  
290 **C. Harris moved to adjourn at 9:11pm. G. Leedy seconded. Vote: Unanimous in favor**  
291  
292 Respectfully submitted,  
293 Jessica Marchant