

TOWN OF AMHERST
Planning Board

June 21, 2023

APPROVED

In attendance at the 6:30 p.m. non-public session Arnie Rosenblatt – Chair, Bill Stoughton – Board of Selectmen Ex-Officio, Tracie Adams – Vice Chair, Cynthia Dokmo, Chris Yates, Tom Silvia, and Tom Quinn.

6:30 p.m. Non-public session pursuant to RSA 91-A:3, II. (I) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present

Cynthia Dokmo moved to enter Non-Public session pursuant to RSA 91-A:3, II at 6:30pm. Seconded by Tom Silvia.

Motion carried unanimously by roll call: Arnie Rosenblatt – aye, Bill Stoughton – aye, Tracie Adams – aye, Cynthia Dokmo - aye, Chris Yates – aye, Tom Silvia – aye, and Tom Quinn - aye; 7-0-0.

Arnie Rosenblatt stated that the Board was in non-public session to discuss the resignation of Tim Kachmar, Alternate, and Town Counsel’s opinion on replacing the third alternate on the board. No votes were taken.

Cynthia Dokmo moved to exit Non-Public session at 6:55pm. Seconded by Tom Silvia.

Motion carried unanimously by roll call: Arnie Rosenblatt – aye, Bill Stoughton – aye, Tracie Adams – aye, Cynthia Dokmo - aye, Chris Yates – aye, Tom Silvia – aye, and Tom Quinn - aye; 7-0-0.

In attendance at Town Hall: Arnie Rosenblatt – Chair, Tracie Adams, Bill Stoughton – Board of Selectmen Ex-Officio, Tom Quinn, Cynthia Dokmo, Chris Yates, Tom Silvia, Pam Coughlin (alternate), and Rob Clemens (alternate)

Staff present: Kristan Patenaude (Recording Secretary)

Arnie Rosenblatt called the open meeting to order at 7:00pm. He explained that Tim Kachmar, alternate to the Planning Board, has resigned.

Tom Silvia moved to repost for a third alternate candidate for the Planning Board, materials due by the Wednesday prior to the Board’s first August meeting.

Seconded by Chris Yates.

Motion carried unanimously 6-0-0.

PUBLIC HEARING(S):

1. **CASE #: PZ17205-041323 – Scott & Susan Jacobs O’Connell (Owners) & Kali Construction (Applicant), 3 Mack Hill Road, PIN #: 020-029-000 –**
Subdivision Application –To depict a subdivision of land of existing lot 20-29 creating

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two new residential lots to be known as 20-29-1 & 20-29-2 with a larger remainder lot. *Zoned Residential Rural. Continued from May 3, 2023.*

Arnie Rosenblatt read and opened the hearing.

Jason Bolduc, Meridian Land Services, reviewed the Staff Report comments. The minor corrections for the abutters have been corrected, the driveway location sight distance has been added on page 3 and page 4, Note 5 states the suitability of the lots, Note 11 for the bounds should be appropriate for the Town's requirements, a letter regarding taxes on the property being paid was previously sent to Nic Strong, a list of lien holders has not yet been addressed but could be as a condition of approval, the requested study waivers have been added along with the date approved, Note 15 regarding that a construction debris container shall be on site during construction activities has been added to the plan, the State subdivision approval has not yet been submitted for and this could be handled as a condition of approval.

Jason Bolduc explained that last night, the Zoning Board of Adjustment (ZBA) granted relief regarding the existing driveway being within 500' of a publicly traveled intersection of Manchester Road and Mack Hill Road. The lot configurations are otherwise identical to the presentation from May 3rd.

Bill Stoughton stated that there was some question by the ZBA regarding potential increased setbacks, as the lots are located within the Historic District. Jason Bolduc stated that he reviewed this item and structures within the Historic District require a 50' front setback. Due to Mack Hill Road being a scenic road, this leads to a 100' separation from structures. Bill Stoughton agreed that he did not see anything in the Historic District regulations that would require a setback more restrictive than already proposed.

Bill Stoughton noted that there is a requirement in the Historic District Commission regulations that utilities be buried, where feasible. He would find this to be appropriate for this project and will introduce a condition to that fact. Jason Bolduc stated that this has been noted on the plan in Note 6.

Bill Stoughton stated that, regarding vesting today's regulations through a definition of active and substantial development or building, the excavation for the building foundation could be used for this definition. Jason Bolduc explained that there has been no discussion as to the buildings that could be placed on these lots. The only intention is to subdivide them at this time. Jason Bolduc agreed with the definition proposed for active and substantial development or building. Bill Stoughton explained that, also for vesting, the Board defines substantial completion of the improvements. He would recommend installation of utilities to the point of the foundation and the foundation is poured. This is usually to be completed within five years. Jason Bolduc stated that he believes this is the intent for these two lots and thus agreed.

Tom Silvia stated that he had no questions at this time.

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Cynthia Dokmo asked if use of the property as a horse facility was grandfathered. Arnie Rosenblatt stated that he previously asked the applicant to respond to if this application currently satisfies the Equestrian Ordinance requirements. If it does not, does the applicant consider this use to be grandfathered and will the proposed construction of the property change the satisfaction of the Equestrian Ordinance requirements. Jason Bolduc stated that previous owners of the property, from 1993, boarded and trained horses. With four acres removed through this proposal, some of the horses will need to be removed from the property, in order to meet the guidelines, set by the Town. Arnie Rosenblatt stated that he would like a clear articulation of the Equestrian Ordinance and how this proposal will satisfy them.

Tracie Adams echoed the questions about the equestrian facility. Jason Bolduc asked if this project will be grandfathered or not. Arnie Rosenblatt noted that a use can be grandfathered but this may not carry over if the property is significantly changed. Jason Bolduc stated that within the Other Provisions section of the ordinance, it states that barns and other structures shall be used to stable horses. This should be limited to one animal per stall, and one stall per one acre of pasture. He would have to defer this item to the owners. Arnie Rosenblatt explained that he would like to know if this proposal satisfies the requirements.

Tracie Adams asked to see the driveway sight distances. Jason Bolduc presented this information. Tracie Adams suggested a condition that the driveways be approved by DPW.

Chris Yates stated that this corner lot is 300' from the edge of the driveway to the middle of Mack Hill Road. From the corner to the edge of the radius of the road is 135.14'. These drawings need more detail on the numbers, as they do not seem to make sense. Jason Bolduc explained that the 135.14' runs to the granite bound to be set, from there it is an additional 174' to the lot corner. He stated that he would try to make this clearer on the plan.

Tom Quinn asked about stormwater compliance and when it will be clear if these lots will comply. Jason Bolduc explained that the actual house footprints are still unclear. He suggested a condition that, in order to issue the building permits, a stormwater management plan must be in place. Tom Quinn asked who would approve the stormwater features of the lots. Jason Bolduc suggested that this might be the Building Inspector. Bill Stoughton noted that, in the past, the Board has either reviewed the stormwater features itself, or stated that they must be acceptable to the Town Engineer. It would make sense for this to be a condition of approval.

Arnie Rosenblatt asked for public comment.

Daphne Jackson, 5 Mack Hill Road, asked if the Heritage Commission or others have given input on how the proposal will change the neighborhood to place buildings on an existing field. Arnie Rosenblatt explained that the Historic District Commission may comment on the buildings at a future date. It is unclear if the Heritage Commission has commented on this. The real question is if zoning permits the proposal. Tom Quinn agreed that the Historic District Commission could comment on potential buildings on these sites but does not usually comment on proposed subdivisions. Daphne Jackson explained that she is concerned regarding the change

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the open space and character of the neighborhood. This has always been used only as a small horse farm.

There was no additional public comment at this time.

Arnie Rosenblatt stated that he previously asked specific questions which have not yet been answered. He does not support approving this item at this time. He asked if the contention is that having any number of horses grandfathered the use on the property. This seems counterintuitive, but he would like to hear directly from the applicant. With the proposed development on the lot, he would like to know if this impacts the satisfaction of the Equestrian Ordinance. One of the purposes of the Equestrian Ordinance is to encourage open space. This proposal, which eliminates some open space in Town, is the opposite of what the ordinance is intended to accomplish. As it appears there will continue to be an equestrian facility on the site, he would like to know how the applicant contemplates satisfying the requirements of the Equestrian Ordinance, as approximately four acres are proposed to be eliminated. Jason Bolduc explained that this will leave approximately eight acres, although not all of that is pasture.

Bill Stoughton stated that it is important for the Board to understand what will be designated as pasture out of the remaining eight acres. He would like to see this designated on the plan, so that this will be clear for any future development on the lot.

Tom Silvia asked if the Board is looking to determine the amount of pasture in order to decide the number of horses that can exist on a property. Bill Stoughton stated that the ordinance defines the number of horses for a property. The Board's purpose is to ask the applicant to define what is pasture on the property so that this can be used for the ordinance's formula. Jason Bolduc stated that he would work through this with the applicant.

Tracie Adams moved to continue the hearing for CASE #: PZ17205-041323, 3 Mack Hill Road, to July 19, 2023, at 7pm, at Town Hall, including the applicant's agreement to extend all statutory deadlines. Seconded by Cynthia Dokmo. Motion carried unanimously 6-0-0.

OTHER BUSINESS:

2. REGIONAL IMPACT:

- a. **CASE #: PZ17445-060623 – Erin & Rory Jorgensen (Owners & Applicants); 4 Lake Outlet Road, PIN #: 008-123-000.** Conditional Use Permit – WWCD. To construct a 148 square foot addition onto the pre-existing, non-conforming structure within the Wetland and Watershed Conservation District. *Zoned Residential Rural.*

Cynthia Dokmo moved no regional impact. Seconded by Tracie Adams. Motion carried unanimously 6-0-0.

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- 175 b. **CASE #: PZ17450-060623 – Ballinger Properties (Owner) & Tanya &**
176 **Eric Schifone (Applicants); 10 Howe Drive, PIN #: 002-034-007.** Non-
177 Residential Site Plan Review. To depict a 20,000 square foot warehouse
178 and 2,560 square foot office with parking and other associated site
179 improvements. *Zoned Industrial.*

180
181 *Arnie Rosenblatt and Cynthia Dokmo recused themselves from this item.*
182

183 **Bill Stoughton moved that there is regional impact to Nashua, Merrimack, Milford,**
184 **and Hollis. Seconded by Chris Yates.**
185 **Motion carried unanimously 5-0-0.**
186

- 187 c. **CASE #: PZ17446-060623 – Vonderosa Properties LLC (Owners &**
188 **Applicants); County & Upham Road, PIN #: 004-145-000.** Design Review –
189 Subdivision Application. To subdivide Tax Map 4 Lot 145 into five (5) residential
190 lots. *Zoned Residential Rural.*
191

192 **Bill Stoughton moved that there is regional impact to Mont Vernon and Merrimack.**
193 **Seconded by Tracie Adams.**
194 **Motion carried unanimously 6-0-0.**
195

- 196 d. **CASE #: PZ17447-060623 – Vonderosa Properties LLC (Owners &**
197 **Applicants); Cricket Corner & Upham Road, PIN #: 004-116-000.** Design
198 Review – Subdivision Application. To subdivide Tax Map 4 Lot 116 into nine (9)
199 residential lots. *Zoned Residential Rural.*
200

201 **Bill Stoughton moved that there is regional impact to Mont Vernon and Merrimack.**
202 **Seconded by Chris Yates.**
203 **Motion carried unanimously 6-0-0.**
204

- 205 e. **CASE #: PZ17448-060623 – Vonderosa Properties, LLC (Owners &**
206 **Applicants); County, Upham & Spring Road, PIN #: 004-118-000, 004-119-**
207 **000 & 004-121-000 & 006-102-000.** Design Review – Subdivision Application.
208 To subdivide Tax Map 4 Lots 118, 119 & 121, and Tax Map 6 Lot 102 into forty-
209 one (41) residential lots. *Zoned Residential Rural.*
210

211 **Tom Silvia moved that there is regional impact to Mont Vernon and Merrimack.**
212 **Seconded by Tracie Adams.**
213 **Motion carried unanimously 6-0-0.**
214

- 215 3. Discussion re: TFMoran letter dated May 8, 2023, re: Decommissioning
216 Existing Monitoring Wells, Map 2 Lot 23, Hertzka and Bon Terrain Drives
217

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Jeremy Belanger, TFMoran, explained that the proposal is to decommission existing ground monitoring wells at the Eversource Amherst substation. In September 2021, the applicant sought site approval from the Board to expand the substation yard. This was approved at that time. There are five existing ground monitoring wells on the property that were installed as part of the original condition of approval in 1987. As infiltration was occurring as part of the process on the site, the Town requested that groundwater wells be installed and sampled annually to ensure there were no contaminants in the groundwater. In 2004, a second transformer was installed, and in 2015, the systems were decommissioned for newer technology. This includes an impermeable liner underneath the transformers which is angled downward to a collection pipe. The site has two 12,000-gallon oil/water separators which are regulated by DES and the EPA. The proposal is to remove the requirement for the annual groundwater monitoring well testing as a housekeeping item. The wells are no longer required with the new systems and permits. The decommissioning will be in compliance with State regulations and findings will be presented to the Town.

Tom Quinn asked if the 12,000-gallon separators discharge. Jeremy Belanger explained that they discharge into a swale with a baffle system. This is in accordance with DES regulations. The monitoring wells were being used as a secondary backup. The current system is within the containment, with an effluent discharge at grade. Tom Quinn asked if there is ever a chance the electronic component could fail if oil is present. Jeremy Belanger stated that a failure is always possible, but the newer systems have backup systems for redundancy. Tom Quinn asked how often the effluent is tested. Jeremy Belanger stated that this is done monthly. He noted that the system is designed to handle 110% oil capacity for the largest transformer on site. In studying the available data from 18 years (2004-2021), this did not show any detectable limits above those listed by the State and federal limits.

Chris Yates asked if the monthly testing data is made available to the Town. Jeremy Belanger stated that this data is provided directly to DES as part of the permitting process. This data is publicly available. The Town received bi-annual sampling data from the monitoring wells. Chris Yates asked if the Town would be made aware if something occurred on the site. Jeremy Belanger stated that he would look into this.

Bill Stoughton asked if the substance of concern in the transformer is oil. Jeremy Belanger stated that sampling in the groundwater wells is for PCBs and mineral oil dielectric fluid.

Rob Clemens stated that the proposal seems to be consistent with best management practices. He asked if any groundwater monitoring wells will remain. Jeremy Belanger stated that no monitoring wells will remain, and no additional wells are proposed at this time. Rob Clemens stated that he would like for the data submitted to the State also to be submitted to the Town.

Arnie Rosenblatt asked if there are tanks with 24,000 gallons of oil in Town. Jeremy Belanger explained that these are oil/water separators. These only collect precipitation that falls into the liner area. This is then discharged out. The oil is contained within the transformers units unless a failure occurs. On average, each of the transformers holds some thousands of gallons of oil.

Arnie Rosenblatt asked what happens if the system fails. Jeremy Belanger stated that there is a

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remote monitoring system that would be activated if the sensors sensed a failure. Downstream there is a pump with a sensor in it as well to monitor this. The baffle would stop the oil from leaving the swale.

Monitoring well alerted if there was something already in the aquifer, but the new system is an improvement for the protection of this.

Bill Stoughton moved to approve the decommissioning of the existing groundwater sampling wells, in accordance with State regulations, as requested in the TFMoran letter. Seconded by Chris Yates.

Motion carried unanimously 6-0-0.

4. Discussion re: Planning Board representative to CIP Committee

The Board agreed that Tom Silvia would continue to be the Board's representative to the CIP Committee.

Tracie Adams volunteered to be the Board's representative on the Village Streets Committee, which was formed by the Board of Selectmen to assess recommendations made by Mobycon for the Village streets.

Cynthia Dokmo exited the meeting briefly.

5. Minutes: June 7, 2021

Tom Silvia moved to approve the site walk minutes of June 7, 2023, as presented.

Seconded by Chris Yates.

Motion carried unanimously 4-0-2 [A. Rosenblatt voted; T. Adams and T. Quinn abstaining.]

6. Any other business that may come before the Board.
None at this time.

Tom Silvia moved to adjourn the meeting at 8:11pm. Seconded by Chris Yates.

Motion carried unanimously 5-0-0.

Respectfully submitted,
Kristan Patenaude

Minutes approved: July 5, 2023