



TOWN OF WAKEFIELD, NEW HAMPSHIRE

Held in the Meeting Room

Planning Board Minutes

July 20, 2023

Approved

MEMBERS		ALTERNATES		OTHERS	
Tom Dube Chairman	✓	Johnny Blackwood Alternate		Victor Vinagro, Building Inspector/Code Enforcement Officer, Shoreland Officer	
Doug Stewart Vice Chairman	✓	Stephen Leroux Alternate		Peter Gosselin, Building Inspector	
Ken Fifield Selectmen's Representative	✓	Priscilla Colbath Alternate	✓		
David Silcocks, Member				Steven Whitley, Town Counsel	
Dick DesRoches, Member By Zoom	✓			Public Hearing	✓

Others present

The sign in sheet was missing after the meeting ended. These are the names of people who spoke. Attorney Eli Leino, Lenny and Cindy Marshall, George Fredette, Raymond Bisson, Sara and Dick Benner, Mr. and Mrs. William Cox, Mr. Mooney, Kathy O'Brien, Mary Lou Phillips, Kelli Cooper, Relf Fogg, Carol Engels. Michelle Keating from Clearview Community TV and Ethan Harris via Zoom.

Pledge of Allegiance & Call to Order

Mr. Dube called the meeting to order at 7:00 and led those present in the Pledge.

Seat Alternates as necessary

Mrs. Colbath was seated for Mr. Silcocks.

Public Comment

None

Public Hearings

Boundary Line Adjustment Application:

Submitted by Raymond Bisson of Stonewall Surveying, Barrington, NH, for property owned by Alan George and Mary Mackillop, on Cottle Lane and 52 Garney Road, TM 134-1 and TM 133-

1. The applicants seek approval of a Boundary Line Adjustment Application which would reduce the 67 +/- acre lot [TM 133-1] to 10.49, and increase the 3 +/- acre lot [TM 134-1] to 60 acres +/-

The application includes waiver requests from Development Regulations for the entire 67 acres of TM 133-1 and TM 134:

1. Article IV – Section 4.06, 09 - Property boundary lines, inclusive of distances and angles plotted to scale
2. Article IV – Section 4.06, 11 – Delineation of all wetlands and wetlands buffers
3. Article IV – Section 4.06, 12 – Delineation of all slopes over twenty-five percent (25%)
4. Article IV – Section 4.06, 13 – Location of all buildings within fifty feet (50) of subject site
5. Article IV – Section 4.06, 14 – Location of all driveways within two-hundred feet (200') of subject site/s
6. Article IV – Section 4.06, 15 - Existing access roads, recreational trails and boundaries (such as stone walls, barbed wire, etc.)
7. Article IV – Section 4.06, 16 - Existing and proposed buildings and driveways on-site

Mr. Bisson pointed out the lots on the map. He also pointed out old foundations from a farmhouse and a barn. He said fifteen acres were surveyed for the adjustment. A rock wall creates a boundary. Only limited areas have some steep slopes. All pins have been set. Mr. Dube said all fees have been paid, abutters notified, it is administratively correct and the notice has run.

Mr. DesRoches made a motion, seconded by Mr. Stewart, to accept the application as complete. (Vote 5-0)

The large lot has a house that comes in from Brookfield. There is no house on the smaller lot. Mr. DesRoches said the existing 3 acre lot will become 67 acres and lot 1 will become 10.4 acres.

Mr. Dube opened the Public Hearing at 7:12.

Mrs. Benner said her deed says she owns the southerly side strip. Mr. Bisson said it has been surveyed and that's not what they found. He also had several deeds that say that piece is part of the parcel he is speaking of tonight. Mr. Dube told the Benner's that this didn't change the lot line adjustment request before them tonight. The large lot can get access from Cottle Way. Mary Lou Phillips had a question about the waiver and Mr. Fifield said the waiver is for wetlands on the remainder of the acreage.

Mr. Dube will close the Public Hearing at 7:16 until after the waivers have been discussed.

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Mr. Bisson said no access to any recreation trails will be cut off by approving any of the waivers.

Mr. Dube reopened the Public Hearing at 7:28. There were no public comments about the waivers so Mr. Dube closed the Public Hearing at 7:29.

Mr. Fifield made a motion, seconded by Mr. Stewart, that waiving the wetland delineation on the larger portion would be appropriate as listed in the application. (Vote 5-0)

No conditions are necessary.

Mr. DesRoches made a motion, seconded by Mr. Stewart, that the Board approve the Boundary Line Adjustment. (Vote 5-0)

Major Subdivision Application

Submitted by Daniel Flores, PE, of SFC Engineering Partnership, Inc., of Windham, NH, for property owned by Wyman's Cove LLC, 161 North Road, TM 110-6, 23 acres in the RIII and RII Zoning Districts. The applicants seek approval of a Major Subdivision Application to create four new buildable lots, with the original lot reduced to 1.35 acres and four new lots >3.4 acres. The application includes a waiver request from Development Regulations:

Article VI, Section 6.01.7 that requires Subdivision along a Class VI Road, or any private road, shall not be approved unless the applicant upgrades such road to meet the design standards of this regulation and the Town's ordinances. The owner proposed continuation of the existing private road (North Road.)

Mr. Fredette said he was at the April Planning Board meeting for a Conceptual Review of this subdivision. He has since then put a plan together which conforms to all the regulations except the waiver and believes he addressed all the questions the Board had at that time. The lot is about 21 acres. He pointed out Mr. Horns property and with it the land across the street. In 1974 he subdivided land which created his lots. North Road actually exists as an easement on the Horn property to service these lots. In 1976 Wyman's View Drive subdivision was created which is only partially developed. There is a house out there. Wyman's Cove LLC purchased these properties. He's here tonight to propose a subdivision of the 23 acre piece. Part is residential 2 and part is residential 3 zone. North Road is 2100 ft. long. It's a private road and exists upon the easement that he just mentioned. It serves nine homes. The finger of land that abuts the water on Balch Lake is part of the twenty-three acres. There is a home on 161 North Shore Road. There are four acres of wetlands and the wetlands and buffer are wetland conservation overlay. The topography slopes from Acton Ridge down to the lake.

They are proposing a five lot subdivision. There are four new lots and one existing residential lot with a house on it. Wetlands and steep slopes occupy a large part of the middle of the property. The plan shows where a house, septic and well for each lot could be located. They would like to leave the road as is adding a turn-a-round for a fire truck. They met with the Fire Department and the Fire Department was satisfied with the turn-around and the road. The Fire Department did ask that some of the overhead branches be cut.

That easement will become a right-of-way. It will become a separate parcel of land and maintained by a homeowners association. A draft of the homeowners association is included in the packet. The finger is part of lot 1 and they have it marked as lot 1A on the map. There is no wildlife habitat or unique vegetation.

Mr. Dube said all fees have been paid, abutters notified, it is administratively correct and the notice has run. There was one abutter. Mr. Mooney, that did not receive his notice but he's here tonight as he was notified by his neighbor.

Mr. DesRoches made a motion, seconded by Mr. Stewart, to accept the application as complete. (Vote 5-0)

Mr. Dube asked Mr. Fredette to explain the waiver. Mr. Fredette said Mr. Dube forgot one line when he read the waiver earlier. The last line read: The Class VI Road or private road shall meet the "suggested Minimum design Standards for Rural Subdivision Streets" as published by NHDOT. Mr. Fredette said that provides for a gravel road. We are meeting the requirement of the DOT standard. We are leaving North Road in its current condition. Its been there since 1974 and has functioned well. It provides access to seventeen buildable lots. There will be three additional driveways. He said we are asking for a waiver of the current design standards in favor of the DOT standards. Mr. Dube said our regs say suggested minimum design standards for rural subdivision streets as published by the NHDOT. It doesn't say class V or class VI or dirt roads. We are referring to our regulations as in a rural New Hampshire minimum design standard. Mr. DesRoches asked if Mr. Fredette is saying that the current condition of the road meets the DOT requirement. Mr. Fredette replied, yes. It's fifty feet right-of-way.

Mr. DesRoches asked if there is a requirement that all residents be members of the association? Attorney Leino said he had drafted a simple road agreement. The current situation is an ad hoc that works well. He said the RSA that applies is RSA **231:81-a Repair of Roads Not Maintained by a Municipality** which states: In the absence of an express agreement or requirement governing maintenance of a private road, when more than one residential owner enjoys a common benefit from a private road, each residential owner shall contribute equitably to the reasonable cost of maintaining the private road. Mr. Leino said everyone on that road received a copy of the draft road association agreement. RSA 231:81-a is relatively new. This would create an association with a limited purpose of maintaining the road.

Mr. Fifield left the meeting at 8:00.

Mr. DesRoches feels a road association should be a condition of a subdivision. Mr. Dube said it is. Mr. DesRoches asked why a waiver is needed if the RSA is the standard. Mr. Fredette stated that the town requires that the road be up to town standards. We are asking for a waiver of that to set the bar at the NHDOT standard for rural roads. Mr. Stewart drove down the road today. He said it looks like there's been some work done like the access into Wyman View Road. It looks like a new culvert has been installed and drainage ditches put along the side of the road. Are those things the owner has done for improvements? Mr. Stewart suggested a site walk. He believes some improvements could be made. Mr. Stewart asked if there could be language that specifically states that only one lot has access to the water? Mr. Fredette said he would make that clearer on the plan. Mr. Fredette said he'll speak with the assessor to see if lot 1A and lot 1 could be one lot. Perhaps state there will be no further subdivision on that lot. All lots have three acres of high and dry land.

Mr. Dube opened the Public Hering at 8:13.

Mr. Marshall is concerned about drainage. The lot with the existing dwelling at the proposed turn around will divert the water coming down from the hill to his property. Mrs. Cooper said she is straight across from the lot with the barn. She said there was a water retention in the wetlands area on the down side of Horn Brook. Many loads of dirt were brought in and filled in that area on the driveway up to the barn. There was a pipe under the road that was already insufficient that would overflow into that retention area in big rains and spring runoff. With that retention area closed the water now goes across the road. The road is not going to stay in its current condition with new driveways, culverts and drainage. She believes that there is and will be changes in the current drainage system and asked if a standard dredge and fill application has been filed. She opposes the waiver. She also said that lot A is called a green space and not a right of way and you can't cut within 30 feet of the water on either side.

Mrs. O'Brien said she has been driving on the road for eleven years and never bottomed out. Today she did. Mr. Cox is also concerned about the drainage and believes there should be something like rip rap in the ditches. He said at the intersection of Wyman Road and North Road used to be one culvert and now there are two and the water used to go through the woods and now is going down the side of the road. Mr. Cox pointed out the area on the map and passed pictures to the Board to see the condition of the road area. Mr. Mooney pointed out wetland areas on the map. Mr. Dube said the wetland have been delineated. There is a criteria that they follow to delineate wetlands. The area can be wet. Mr. Fredette and Attorney Leino looked at the pictures and Mr. Cox explained where they were taken. Mr. Dube and Attorney Leino explained how a road association works.

Attorney Leino handed Mr. Dube a letter to be added to the official record which Mr. Dube read. (Letter attached at the end of the minutes)

Ms. Engles asked if they would be liable to fix the road. Mr. Dube said the Board will require a road association agreement for the subdivision. Mr. Dube said that there are items that would need to be negotiated and he agrees that the residents on Wyman Drive would need a separate agreement. He also recommended one vote for each lot no matter how many lots you own and you pay for each lot you own for road maintenance as well.

Mr. Dube recommended that they work with the developer to come up with an agreement to make sure the road is fixed properly. Mr. Leino said his client is a reasonable person and as the developer would certainly repair any damage they do to the road and that's on the record right now. As far as voting requiring an 85% voting rate, Mr. Dube said most associations require a majority. You could require a percentage of owners to be present to vote. Mr. Fogg asked a hypothetical question about voting shares. The Board agreed with Mr. Dube, one vote for each lot you own.

Mr. Dube closed the Public Hearing at 8:47.

The Board, by consensus, decided to take a site walk at 6:30 on August 3rd prior to the next Planning Board meeting. The abutters are welcome to meet the Board for the site walk and then reconvene the Public Hearing at 7:00.

Mr. DesRoches made a motion, seconded by Mr. Stewart to continue the Public Hearing at the 6:30 pm site walk on North Road on August 3, 2023. (Vote 4-0)

Mr. Fredette asked about soliciting staff comments about this project. Mr. Dube suggested contacting Mrs. Mulkern.

Conceptual Review

Margaret Krasowski, Stoneham Road, TM 117-005, 16.68 acres, possible subdivision.

Mr. Dube stated that nothing said here is binding on either party. Mr. Fisher said over time he would like to split this property for his son and daughter. There is 200 ft. of road frontage. Mr. Dube suggested that Mr. Fisher read the zoning ordinances. He said the Board can offer some suggestions but that's all. Mr. Dube said you can put a road on the side of the property. You could possibly do a conservation subdivision. He pointed out where Mr. Fisher could put the houses toward the front of the property and keep the rest an open space. The property is located in the three acre zone. Mr. Fisher said his basic question is, is this doable? Mr. Dube said in a traditional subdivision the road would go down the center. He suggests that Mr. Fisher stay tight to one of the property lines and you could still put houses on the side of the road. He suggested hiring a licensed surveyor. We can't recommend one but you can find out down stairs the ones that come before us. You may be able to do a flag lot which would require a variance. You need to make sure that your deed says you can do a subdivision. Mr. Stewart said if part of your subdivision was to carve off a piece of land to go into conservation the ZBA would likely look more favorably on this.

Board Business

Mr. Stewart asked that the CIP be on the August 3rd agenda to start the process. Also, a solar company would like to be on the agenda for a Conceptual Review on August 3rd. Mrs. Colbath will let Larissa know.

Approval of minutes

Mr. Stewart made a motion, seconded by Mr. DesRoches, to approve the July 6, 2023, minutes. (Vote 4-0)

Correspondence

None

Public comment

Mr. Fogg asked if the Planning Board made agendas available. Mrs. Colbath said they were on the table. There were a lot of people here tonight so they went fast.

Set next meeting date

August 3, 2023

Adjournment

Mr. Stewart made a motion, seconded by Mr. DesRoches, to adjourn the meeting at 9:15 (Vote 4-0)

Respectfully submitted for approval at the next Planning Board meeting,

Priscilla Colbath,
Planning Board Secretary

June 20, 2023

Wyman's Cove LLC
Attn: Kerry Brown, Sr.
36 Governor Dinsmore Road
Windham, NH 03087

Re: North Road and Wyman's View Drive – Road Maintenance Agreement

Dear Mr. Brown,

Thank you for your letter regarding the desire to formalize an association by requesting a formal agreement, via the Private Road Maintenance Agreement. The residents of North Road have performed some diligence on your letter. It's our understanding that the Town would prefer that we set-up a Road Maintenance Agreement, but a formal letter requiring them to do so has not been sent to any of the residents of North Road. As such, we've discussed our options and are comfortable with our current arrangement regarding the maintenance of the road.

If in the future we see a need to formalize the structure, there are items listed in the "Road Maintenance Agreement" that would need to be changed for our consideration. Our areas of concern, but not limited to, are:

- The arrangement would only include those lots currently on North Road, the residents on Wyman's View Drive would need to have a separate agreement.
- Proportionate Sharing cost would need to be 1/individual families (not number of lots owned).
- Voting on an annual budget, amendments, and any other situations requiring a vote, would require an 85% approval vote.
- All officers will be limited to a term of 2 years, unless the agreement has been amended to reflect a change in term limits.
- The owners are under no obligations to pay for any road improvements initiated by an individual owner, due to subdivision requirements, levied by the Town of Wakefield, New Hampshire.
- Any changes or damages to the road created by the current officers of the Wyman's Cove LLC will be the sole responsibility of Mr. Brown to repair and the bear the burden of cost.

Once again, thank you for your letter and offer to participate in this new arrangement, but at this time we will respectfully decline to enter into this agreement.

Regards,

The Residents of North Road

Jim and Shelly Amato
Lenny and Cindy Marshall
Ed and Theresa Loftus

William and Sue Cox
Ethan Harris

Carol Engels
Mike and Kelli Cooper

