



TOWN OF WAKEFIELD, NEW HAMPSHIRE

Held in the Meeting Room

Planning Board Minutes

November 2, 2023

Approved

MEMBERS		ALTERNATES		OTHERS	
Tom Dube, Chairman	✓	Johnny Blackwood, Alternate		Peter Gosselin, Building Inspector	
Doug Stewart, Vice Chairman	✓	Stephen Leroux, Alternate	✓	Jen Czysz, SRPC via Zoom	
Ken Fifield Selectmen's Rep.	✓	Priscilla Colbath, Alternate	✓		
David Silcocks, Member		Rose Cleveland, Alternate		Steven Whitley, Town Counsel	
Dick DesRoches, Member				Public Hearing	✓

Others present

George Fredette, Rose Cleveland, Kelli Cooper, Mr. Brown and Michelle Keating from Clearview TV.

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

Mr. Leroux was seated for Mr. DesRoches. Mrs. Colbath was seated for Mr. Silcocks

Public Comment

None

Public Hearings

Continuance requested to November 2, 2023, Planning Board meeting:

Minor 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, 20.96 acres in the RIII and RII Zoning Districts. The applicants seek approval of a Minor Subdivision Application to create two new buildable lots, for a total of three lots. [Application was previously reviewed as a 5-lot subdivision.] 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. Owner proposed continuation of the existing private road (North Road.)

Mr. Fredette pointed out on the map where the original subdivision that was proposed is located. They decided to take a less aggressive approach and go from a five lot subdivision to a three lot subdivision. There is a home on an existing lot where Mr. Brown's son lives and he wants to define ownership of that lot. There is a lot that will be subdivided on Acton Ridge Road. The balance will be left as one big lot. There is a horse barn on the lot next to his son's lot, per your regulations, an accessory use. He said there is no new development and no new traffic on North Road. We're asking for a waiver because of no new development on the road. We will not be doing a fire turnaround as one exists further down North Road.

Mrs. Colbath asked how picky the Board is about having one acre. One lot is .99 acre. Mr. Dube said it has to be an acre. Mr. Stewart asked Mr. Fredette about the intent of the waterfront parcel. He said Lot 6A, the waterfront lot will be combined with lot 6, across the road in the deed with the provision there will be no subdivision on that finger lot. Mr. Stewart said he doesn't like that this is a separate lot. It looks like a four lot subdivision not a three. Ms. Czysz suggested having legal take a look at the configuration. Mr. Dube said note number 3 on the plan says no dwelling can be put on lot 6A.

Mr. Dube said he was concerned about the drainage where the main brook comes across the road and goes back towards the driveway towards the horse farm. That has to be sloped back towards the culvert so water doesn't pond there. Mr. Stewart said this is a reasonable plan and subdivision. He is concerned that someone might come in and do another subdivision in a couple of years saying it's only another two lots so we don't need to upgrade the road. He suggested putting a condition that any subdivision to lot 1 would require possible upgrades to the North Road. Ms. Czysz suggested any subdivisions to that lot would potentially require a return to the Planning Board as an amended subdivision.

The driveway to the horse barn should be shown on the plan. They haven't submitted to NHDES for a subdivision yet. The town would have to approve driveways on Acton Ridge Road. Mr. Leroux asked if there was anything in the Road Maintenance Agreement that says it has to be an association before someone adds additional access to North Road? The attorney does not believe that is a condition. Mr. Dube agreed that there should be something if it could be simple about adding a driveway to get the approval of the Board for the location of the driveway. Mr. Dube asked how the association agreement was going with the people on North Road. The attorney said there hasn't been any progress. Mr. Dube said in order for this road agreement to happen you still need to get people on board. The attorney said he's not sure that has to happen based on the number of lots his client owns. This portion of the road will be deeded to the association. The name would be Whyman Cove Maintenance Association.

Mr. Dube has read the agreement and feels it's very good. Everyone has to be part of the Association per the new law. Mr. Stewart said he believes they don't necessarily have to become part of the association but they do have to contribute their share to the road maintenance. He said we asked them to put an association agreement together, it looks good and we can't require the property owners to join. Mr. Dube agreed. Mr. Fifield believes this could be a stepping stone to get the road association and the proposed subdivision established and then come back later and do the original plan. He said this is setting up all the foundations for that purpose so some of the original questions and ideas are still a good idea.

Mr. Dube opened the Public Hearing at 7:40.

Mrs. Cooper, who lives across the road from the barn, said she questions whether Mr. Brown will eventually add a house to the lot with the barn, will it be more? She said the road isn't fifty feet wide in some places it's very narrow. She said there was twenty-five loads of fill added to the property where the barn was put and that was previously a water retention area. Now half the water goes to the brook and the other half goes to the end of North Road and it's not pitched right so it's coming across the road. She said the sand is running down into the river and into the lake. There is three feet of new sand in the brook that washed in from the road.

She asked the Board to consider that the applicant never determined a driveway on the lot with the barn. It's just a massive entryway. She asked about a curb cut. She said they have been a verbal association for twenty-nine years. They have meetings, pay dues, and determine how the road will be maintained. They aren't interested in joining a new one. She said Mr. Brown wants to give the liability of the road to the association which they don't want. Their deeds say they pay for road maintenance but have not had the liability of the road. He has been a member of our association for two years paying dues for road maintenance. She said he is piecemealing this now by not having a major subdivision.

Teresa Loftus who lives near Mrs. Cooper made a comment via zoom saying their driveway is completely sand. She agrees there is a lot of sand in the brook and will eventually go into the lake. Mrs. Cooper asked if the paperwork says there will be no changes to the road why would they need a waiver?

Mr. Dube closed the Public Hearing at 7:51.

Mr. Dube told Mrs. Cooper that if it meets our zoning we approve it and this meets our zoning. It doesn't meet all our regulations. They can take the twenty acre lot and put a house wherever they want if it meets our zoning. Mr. Dube feels the land where the horse barn could be sloped better for better drainage. He said North Road is a good road compared to most of the lake roads. He said that area needs to be addressed getting water to the original culvert and make sure the water doesn't wash over the road. He believes there can be a BMP there. Mr. Dube will work with Mr. Gosselin to make sure the road is addressed.

Ms. Czysz said in zoning, the definition of accessory use states an accessory use doesn't require the existence of a primary use provided the accessory use is consistent with the permitted uses in zoning. Either the primary use is located on a contiguous parcel under the same ownership or the lot is otherwise unbuildable for a permitted use due to the topographical or other unique characteristics of the lot. The horse barn lot and the horse lot have to be owned by the same person and if they cease to be under the same ownership that's not legal. There needs to be a primary use of that lot. Mr. Dube said right now it meets our zoning. Mr. Stewart said they could go for a variance. Ms. Czysz brought this up so the applicant would be aware of this.

Mr. Dube reopened the Public Hearing at 8:05.

Mrs. Cooper asked that the piece of land that goes to the lake be called green strip as her deed says not right of way to avoid any confusion. She asked about the drainage off Wyman View Drive as a lot of sand is coming down that road. Mr. Dube said yes, it's on both sides of the road.

Mr. Dube closed the Public Hearing at 8:07. Mr. Stewart said the proposal says no public access of any development is allowed on lot 6A. The width of the driveway to the horse barn needs to be shown on the plan.

Mr. Fifield made a motion, seconded by Mr. Stewart, to approve the waiver on the private road. (5-0)

Mr. Dube said the road will be owned by the association. Mrs. Cooper said they had a legal verbal association which is legal in New Hampshire. Mr. Dube explained to own the road will protect everyone. The road needs to be owned by an association.

Mr. Stewart made a motion, seconded by Mr. Stewart, to conditionally approve the Minor Subdivision application with the following conditions:

- 1. Provide a signature box allowing for signature by multiple board members.**
- 2. Boundary monuments to be set and noted on the plan, with the addition of pins to be set at the vertices along the westerly edge of the North Road ROW.**
- 3. Receipt of NHDES Subdivision Permit.**
- 4. Renumber “new lots 1 and 2” as 110-6-1 and 110-6-2, or per the assessor.**
- 5. Existing horse barn driveway to be shown on the plans.**
- 6. Identify drainage improvements at Horn Brook, on both sides of North Road, and set a Performance bond of \$4000 for the drainage improvements.**
- 7. Deed for lot 6 and 6A and to be reviewed and approved by legal counsel.**
- 8. North Road Deed to be reviewed and approved by legal counsel.**
- 9. Move the new lot 6 boundary line southward, parallel to how currently shown to achieve a full acre.**

Conditions Subsequent:

- 1. Prior to release of bond, driveway drainage improvements are to be inspected and approved by code enforcement or town engineer.**
- 2. Any subsequent subdivision of new lot 1 may require upgrades to bring North Road up to town road standards. (Vote 5-0)**

Conceptual Review

None

Board Business

Septic Ordinance continued discussion

The Board discussed the New Durham septic ordinance. Which is less restrictive than other towns. Anyone with a state approved septic system is exempt. Mr. Dube said this is an alternative that may work. Mr. Dube said we may want to say anything older than twenty or thirty years old may have to be inspected. They talked about how far from the lakes would this ordinance apply. Mr. Stewart explained that the Board was trying to come up with a workable solution and then meet with the selectmen as this is a health issue. They talked about the pros and cons. All agreed that protecting the lakes is of the utmost importance. Mr. Stewart will do more research and create a summary with examples from other towns and come to the Board at the next meeting.

Correspondence

Bryand Berlind sent a letter to the Board about not showing a shared driveway on the Ken and Chris Paul's plan and offering to pay for another hearing if necessary. After inspecting the mylar it was found that the driveway was shown.

Approval of Minutes

Mr. Stewart made a motion, seconded by Mrs. Colbath, to approve the minutes of October 19, 2023. (Vote 3-0-2)

Zoning Amendment changes for 2024 Town Meeting

The Board will be working on amendment changes for solar. Ms. Czysz said there is model language that the Board can pull from. Mr. Dube feels the only big issue is whether the solar is going to be commercial or not. Ms. Czysz said that the Town also wants to make sure they're protected. Mr. Fifield doesn't want the Board to rush this just to get it on the ballot. Solar will be on the next agenda.

Public comment

None

Adjournment

Mr. Stewart made a motion, seconded by Mr. Fifield, to adjourn the meeting at 9:46. (Vote 4-0)

Respectfully submitted for approval at the next Planning Board meeting,

Priscilla Colbath,
Planning Board Secretary