

Final



WEARE ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
April 6, 2021

**PRESENT VIA ZOOM:** JACK DEARBORN, CHAIRMAN; MICHAEL MEYER, VICE CHAIRMAN; MARC MORETTE, MEMBER; BOBBI-JO PLAMONDON, MEMBER

**ZOOM INVITES:**

Case #13-2020: Jack Meaney, Doug Alwine, Shelley Duquette, Travis Corcoran, Larry Prince, Lowell Jacobson, Don & Lynn Carrara, Lori Davis, John Rauscher

Case #05-2021: Amy Lunt

Case #06-2021: Gina Stevens, Gerald Mirando

Case#07-2021: Mike Colburn

Case#08-2021: Aric Lantiegne, Tom Carr

Case#09-2021: Tom Carr, Will Lambert, Vinnie Iacozzi

Case#10-2021: Jordan Estrada, Tom Page, Jeremy Eggleton

**ZOOM HOST:** Naomi Bolton, Town Administrator, Interim Land Use Coordinator & Building Assistant

Chairman Dearborn called the meeting to order at 7:35 pm.

**I. INTRODUCTION/ADMINISTRATIVE ITEMS:**

Chairman Dearborn stated there are seven cases before the Board. The Chair shared his apologies in announcing only four members are available for tonight's meeting; an applicant may choose to wait for their case to be heard until five members are present because three yes votes are required. First, Continuation of Case #13-2020. Next, Case #05-2021, #06-2021, #07-2021, #08-2021, #09-2021, #10-2021, one request for continuation and two that need to be continued. These will be handled first.

**II. PUBLIC HEARING**

**A. Continuation of Case #13-2020** Application for a variance from Gil and Shelley Duquette of 271 Quaker Street. Tax Map 404, Lot 84 in the Residential District. The variance application is for Article #3, Section 3.5 and 3.5.1, which authorizes reduced setbacks on a single-family residence.

Chairman Dearborn stated our Attorney on the case passed away in December. The new Town Attorney requested this case be continued for one month. Chairman Dearborn asked the Board for a motion to...

Travis Corcoran vehemently interrupted and asked the Chair if he could ask a question. What does the new attorney have anything to do with this case it is between citizens?

Chairman Dearborn tried to explain the request came from the Town Attorney, as the other Attorney died so...

Travis Corcoran sternly interjected that he understands, why is the other Attorney relevant.

Chairman Dearborn stated we are going to have an Attorney, it is our position.

Travis Corcoran firmly asked when you say we, who is we, Zoning Board?

Chairman Dearborn responded we is the Zoning Board and the Town. The Chair asked Travis Corcoran not to speak anymore so business could move forward, ok?

Travis Corcoran answered ok.

John Rauscher coarsely interjected how much has the town spent on attorney's fees.

Chairman Dearborn tried to respond that he has no idea, call...

John Rauscher interrupted loudly and angrily stated, "No, no this is a public meeting and I'm asking..."

Chairman Dearborn requested Zoom Host Naomi Bolton to block this invite.

Travis Corcoran asked to speak with one last question.

Chairman Dearborn responded no, requesting Zoom Host Naomi Bolton to block this invite and proceeded to move forward with the next case.

John Rauscher then yells, "You're out of order! I have asked a question."

Travis Corcoran next interjects since Chairman Dearborn is accidentally muted, stating, I will speak. I will be filing a request for the Board of Selectmen tomorrow for a teardown order.

Zoom Host Naomi Bolton successfully removes the guests.

Chairman Dearborn roll calls the Board, Mike Meyer, member; Bobbi-Jo Plamondon, member; Marc Morette, member. The Chair asked for a motion.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to continue Case #13-2020 until the May 4th Zoning Board meeting. Passed 4-0-0**

**B. Case #07-2021** Variance application from Lake Shore Village Realty Holdings LLC, Mike Colburn, for property on 18 Chester Drive, Map 103, Lot 1 in the Residential District. The applicant would like to construct a garage closer than the 30' requirement for the front setback of the property line, Weare Zoning Ordinance Section 3.5.1 (non-conforming setback requirements).

Chairman Dearborn explained this case needs to be continued as there is a problem with the application. A judge had amended our Zoning Ordinance on a different case, stating the accessory building/garage requires a 50' frontage setback. Tonight's application will be fixed at no charge to the applicant as the proposed 30' setback should have been picked up when it was submitted. If this case were to proceed tonight, it could be challenged later on that this was not properly noticed. An oral amendment is not allowed. Applicant is not available for May 4th Zoning meeting, case continued until June 1st meeting.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to continue Case #07-2021 until the June 1st Zoning Board meeting. Passed 4-0-0**

**C. Case #10-2021** Variance application from Jordan Estrada for property owned by Louis Page on Bart Clough Road, Map 409, Lot 20 in the Rural District. The applicant would like to build a new home on an existing private road in accordance to Weare Zoning Section 17.1.1.

Chairman Dearborn explained the issue is the Town vote now requires private roads to be heard at the Planning Board for Conditional Use. Jordan Estrada stated he has gone before the Planning Board for a Conceptual Review. Site Walk scheduled for Thursday, April 8th, hopefully, a final decision on April 22nd. Chairman Dearborn stated after consulting with our Town Attorney this case needs to be postponed until May 4th Zoning Board meeting.

Jordan Estrada asked could the application be approved as complete in fear of losing their purchase and sales agreement with a delayed date. The Chair having consulted with our Town Attorney requests to hold off.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to continue Case #10-2021 until the May 4th Zoning Board meeting. Passed 4-0-0**

**D. Case # 05-2021** Variance application from Amy Lunt for property on 298 Old Francestown Road, Map 411, Lot 341 in the Rural Agricultural District. Applicant would like to build a second home on same lot as existing home. Variance is required from Zoning Section 3.1.1, to allow 2 homes on one lot.

Chairman Dearborn asked the applicant for clarification, proposing to build a new home and teardown existing home or no longer use as a dwelling. Not looking to have two homes on one lot. Amy Lunt answered in the affirmative, to use the existing house for storage.

Chairman Dearborn stated Case #05-2021, applicant Amy Lunt, 298 Old Francestown Road, Map 411/341 with 777.37 ft. of frontage on Old Francestown Road, and 1071.59 ft. of frontage on Buxton School Road, southern property line from Buxton School Rd. west is 1351.10 ft. and western property line from southern corner back to Old Francestown Rd, is 688.64 ft. Acreage: 22.28 lot currently has one residential home, building permit to start second home.

The Chair reviewed the application; Board members hearing this case are Mike Meyer, Marc Morette, Bobbi-Jo Plamondon and Jack Dearborn.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept Case #05-2021 as complete. Passed 4-0-0**

The Chair explained the application appears to have all needed material, voted as complete. The Chair asked if any member of the Board would like to speak. Being none, the Chair asked the applicant to read the 5 points of hardship with answers.

Amy Lunt proceeded with the five points of hardship as follows:

**1. The Variance will not be contrary to the public interest:** With the approval of the variance, we feel the neighboring properties will actually benefit from us building a new residence, as it will increase their property values. In addition, we want to preserve the 22.28 acres as a single lot, which could benefit them and the town of Weare, and protect all neighboring properties from subdivision of the one lot. We want to preserve the essence of the family homestead, which has been in my family since 1937.

Indirectly, turning the existing home into a workshop, and using the rear or side entrance, instead of the front (which we need to do now), will create a safer pedestrian situation on Old Francestown Rd. The existing home is so close to the road, we often have to be very cautious of oncoming vehicles when leaving or entering the residence.

**2. Please describe how the spirit of the ordinance is observed:** The ordinance states that only one residential home can exist on each lot. If we are granted the variance, we would start the new construction at the end of April 2021 with the goal of being completed within one year. We would stay in the existing home until the new home was completed and ready for certificate of occupancy.

**3. Please describe how substantial justice is done:** At the completion of the new home, we would immediately turn the existing home into a workshop/storage area. This would happen within 30 days. The process of turning the existing home into a non-inhabited building would be to remove the kitchen appliances, washer and dryer, and any other appliances or fixtures that the Town of Weare deems necessary. We do not intend to restore or make the existing home habitable, or use it for anything more than storage or workshop uses. As soon as the removal of items in existing home was completed, we would invite the building inspector to visit the building to ensure it was satisfactory.

It has been my lifelong dream to make this property my home. My grandmother received the property in 1937 from her in-laws after her husband was killed in World War II. I grew up across the street and was raised a large portion of time in her home. While the existing home has significant sentimental value in my life, at this point, the amount of money required to return it to a comfortable, livable home is extensive and unrealistic. (Please see the attached photos.) It would require, but not limited to: foundation repairs, a new heating system, a new well, new electrical and plumbing, insulation and new windows. None of these items affect it being used as a workshop, but all of them would be needed to improve it as being livable. I feel that we can preserve the essence of the homestead and its acreage and maintain the outside of the building in a satisfactory way for the Town of Weare, while also being able to build a new, energy efficient house in a significantly better location than the existing home.

**4. Please describe how the values of surrounding properties are not diminished:** The building of the new home with current building codes and energy efficient requirements on the 22.28 acre lot can only stand to increase property values of the surrounding homes and land. We have no intention of ever subdividing the 22.28 acres and want to maintain it as a family homestead, with a good portion of it being woodland and fields. This is beneficial to surrounding properties, the Town of Weare and for the wildlife systems that are existing on the property.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;**

**A. Please describe the special conditions of the property that distinguish it from other properties in the area:** Although we do not intend to keep the existing home as a habitable structure, we would need to be able to stay in it while the new home was being constructed. We would need the building permit approved to be able to start the new home construction the last week of April 2021. We can provide the town with a timeline for completion of the new home and will turn the existing home into a non-habitable structure at the earliest possible date, so that we would only have one inhabitable structure on the property as to be in compliance with the Town Zoning Ordinance.

**i. Owing to the special conditions identified above, please indicate how no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property:** The ordinance exists to prevent smaller properties from having more than one inhabited structure at a time on property that cannot ideally sustain multiple homes. In our case, we would like only one inhabitable structure on the 22.28 acres. We feel we have the acreage to effectively be able to build the new home within all other road and boundary setbacks, wetland and other compliances required by the town.

**ii. Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one:** We have a large lot of land, 22.28 acres, that we would like to preserve as one single lot, while being able to build a new, more modern and efficient house. We would turn the existing home into a workshop or storage building to maintain compliance with the Town zoning regulations.

**B. Please describe the special conditions of the property that distinguish it from other properties in the area:** Previously addressed in 5a.

**i. Owing to the special conditions identified above, please indicate how the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:** Previously addressed in 5i.

The Chair asked for approving abutters to speak. Tom Carr, 287 Old Francestown Road, stated he is in favor of the application. Great neighbors, being the third generation to their property, very satisfied with their intent.

The Chair asked for disapproving abutters to speak. There was none.

The Chair asked for any other abutters, public at large or other boards to speak. There was none.

The Chair asked the applicant to speak. She was all set.

The Chair asked for a second round of abutters, public or boards. There was none.

The Chair closed the hearing at 8:08 pm. stating usually two dwellings are not allowed on the same property. The applicant will sign an affidavit, legal document that comes with penalties, to render the existing building as a non-dwelling in 18 months.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept Case #05-2021 with the amendment that the existing structure domicile will be transferred to the new structure within 18 months starting April 6, 2021. The owners would attest on an affidavit to those conditions, point 1. Passed 4-0-0**

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 2. Passed 4-0-0**

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 3. Passed 4-0-0**  
**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 4. Passed 4-0-0**  
**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point 5 in its entirety. Passed 4-0-0**

Chairman Dearborn stated the motion passed.

**E. Case # 06-2021** Special Exception application from William (Jeff) and Gina Stevens on 34 Dudley Brook Road, Map 107, Lot 3, in the Rural Agricultural District. The applicant would like to construct an accessory dwelling use, ADU, and per Weare Zoning a Special Exception is required from Section 19.1.10.

Chairman Dearborn explained Case #06-2021, William (Jeff) & Gina Stevens, 14832 N. Calle Del Prado, Fountain Hills, Arizona, property address of 34 Dudley Brook Rd., Map 107, Lot 3, has 20 ft. on Dudley Brook Rd, front 402.72 ft., sides 718.59 ft. and 824.25 ft. with the rear 405.02 ft. Applicant proposing an accessory dwelling unit over garage.

The Chair reviewed the application and asked why the applicant went before the Planning Board on July 12, 2018. Gina Stevens explained their property does not have road frontage. They have an easement deeded for their driveway through adjacent Jonathan Palmer's property.

Chairman Dearborn asked why did you have to go to the Planning Board for this. Gina Stevens replied it took three years to get a driveway. They were told every property in town has road frontage. At that time, they presented a history of deeds showing when the property lost its frontage by changing Dudley Brook Rd.

Chairman Dearborn asked if there was a house on the property. Gina Stevens replied no, but looking to plan for a home.

Chairman Dearborn was under the impression there was an existing house. He clarified the applicant wants to build a house with an accessory unit over the garage. Gina Stevens answered yes.

Chairman Dearborn stated there is a problem, is there a building permit for the house. Gina Stevens replied they are working on that, and asked do you pay for a permit for a building you cannot build because you do not have approval for an ADU.

Chairman Dearborn explained a variance is needed with no Class V Road frontage. Gina Stevens responded she has a driveway permit. Chairman Dearborn answered that is not the requirement; it is the issue of frontage. Gina Stevens stated the Town needs to return the frontage that was taken away. Chairman Dearborn explained the applicant needs a variance to build on a property without the appropriate amount of frontage on a Class V Road. The Town will require a variance for a building permit.

The Building Department Assistant/Land Use Coordinator makes the determination, she issues building permits. Gina Stevens stated her hardship in getting this far having met with the Code Enforcement Officer several times, Planning Board, etc. Chairman Dearborn explained if a building permit was in place, the next step would be a Special Exception. Gina Stevens asked for clarification. Chairman Dearborn explained to move forward correctly, the ADU Special Exception application should be continued to May 4th, a building permit for a house first.



**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to continue Case #06-2021 to the May 4th Zoning Board meeting. Passed 4-0-0**

Chairman Dearborn suggested the applicant improve the Lot Plan to include a floor plan. The Chair communicated, with a 45° angle ADU to the house, the door leading into the ADU cannot be on the same side as the house.

**F. Case #08-2021** Variance application from AG Paintball for the existing business at 158 Deering Center Road, Map 411, Lot 21 in the Rural District. The applicant has a sign for the business which is larger than allowed in accordance to the Weare Sign Ordinance Section 34.10.1.

Chairman Dearborn reviewed the application, 28.5 acre Rural Agricultural Lot. AG Paintball owner, Aric Lantiegne, stated Tom Carr, Meridian Land Services, Inc. will present on his behalf. Aric Lantiegne explained in 2008 a list of signs were approved for the property. For tonight's hearing he has provided this list, it includes the sign that has since been updated. This is the main entrance sign. It is out of compliance. Aric Lantiegne explained the posts are 12 ft. with 2 ft. below grade; sign is roughly 9.5 ft. to 10 ft. up from the ground.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept Case #08-2021 as complete. Passed 4-0-0**

Chairman Dearborn questioned the applicant as to why the sign was built with its current location and height that is not compliant with Zoning. Aric Lantiegne responded he misinterpreted the ordinance, he thought that an approved business could have a 16 ft. high sign. He determined the current height based on how it could be seen on the other side of his loading dock.

Vice Chairman Meyer asked how many signs are on the property. Is it the height of the sign that deems it noncompliant? The Ordinance 34.10.1.2 states not more than two signs per lot. Aric Lantiegne reiterated the list of signs on the property were approved in 2008. This sign in question replaces an existing sign.

Chairman Dearborn stated the Sign Ordinance was redone in 2016. Vice Chairman Meyer summarized this new sign is taller than the ordinance allows; tonight's purpose is to bring it back into compliance. Aric Lantiegne answered yes, explaining the former Land Use Coordinator was confused about the overall sign, size and square footage. No clearance was given, included in the variance request, not sure if needed.

Chairman Dearborn stated because the size of the existing sign is unknown, a variance cannot be granted tonight. There are two reasons for tonight's presentation; first, the sign is in the wrong place, secondly, the size of the sign, in the wrong place, is unknown. The applicant is addressing the height issue tonight. Is there a suggestion the size of the sign is also in question with regards to the sign with a height problem?

Aric Lantiegne replied yes, an application was resubmitted to the former Land Use Coordinator with the height and overall size. A request for a variance for height and overall size, though, the former LUC was unclear if the overall size needed a variance. Former LUC was confused if the business should be treated as grandfathered or approved.

Chairman Dearborn explained the applicant should have been told they are not compliant by the former LUC for the height and size. A variance should not be granted to a compliant sign. Aric Lantiegne restated it was not made clear to him.

Tom Carr requested to share his screen with a picture of the sign in question. The Chair explained there is no way of knowing the dimensions. Tom Carr replied it is a small sign, the zoning ordinance should tell what the maximum size is.

Vice Chairman Meyer read Ordinance 34.10.1.2 as follows: *One (1) sign, to contain no more than two surfaces, and each surface to contain no more than six (6) square feet, shall be allowed on any one lot for each independently-owned business activity but not more than two (2) per lot. If freestanding, the height of such sign shall not exceed six (6) feet from the centerline elevation of the road to the top of the sign.*

To this point, Chairman Dearborn restated the height of the sign and size is unknown. Aric Lantiegne responded the sign is 9.25 square feet, how is the height calculated from yellow centerline. Chairman Dearborn answered your surveyor is present. Tom Carr screen shared a picture of the property depicting the sign in place. He explained the sign is double sided; a distance measurement could be taken from the base of the post to the top of the sign, a couple of tenths to within the true height from the yellow line. He continued rounding up to the nearest half a foot would be a safe number. He could do this as soon as tomorrow.

Chairman Dearborn expounded all obtainable, the question remains what is the relief, how many feet above the limit is needed. For example, if six feet is allowed and you have nine feet, the relief relaxation would be no higher than three feet above the limit.

Aric Lantiegne stated with regards to the ordinance, if the business is approved, in RA zoning, then 16 square feet is allowed. His sign is 9.25 square feet. The business is designated as a grandfathered business, is this considered approved?

Chairman Dearborn explained Interim Building Department Assistant/Land Use Coordinator Naomi Bolton will decide. The Zoning Board does not make determinations. They consider granting relief to zoning issues. If the applicant is dissatisfied with the decision, the next step would be to come before the Board with an Administrative Appeal. The Interim Building Department Assistant/Land Use Coordinator should send you a letter stating you are not compliant.

Aric Lantiegne responded the letter he received from former LUC was not definitive in what he was not compliant with. Chairman Dearborn suggested this matter be brought to Interim Building Department Assistant/Land Use Coordinator Naomi Bolton.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon to continue Case #08-2021 to the May 4th Zoning Meeting. Passed 4-0-0**

**G. Case #09-2021** Special Exception application from Duck Pond LLC for property in Duck Pond Estates subdivision, Map 405, Lots 62-21, 22 & 23 for gravel removal in accordance with Weare Zoning Section 19.1.6.

Chairman Dearborn reviewed the application and explained this case is a Special Exception for Will Lambert, Duck Pond, LLC, owner of Lot 62-22 & 62-23. Vincent Iacozzi, representative of NBAC, owner/investor of Lot 62-21 of the Duck Pond Subdivision is also present. Tom Carr, Meridian Land Services, Inc. indicated permission signed by Vincent Iacozzi, Lot 62-21, for minor incidental grading.



Vice Chairman Meyer pointed out there is no signed application in the packet. Chairman Dearborn added the application is noncompliant. Tom Carr responded the former LUC never indicated that the application was incomplete; he was never sent the appropriate information.

Tom Carr requested since both owners, Will Lambert, Lot 62-21 and Vincent Iacozzi, representative of all Duck Pond properties, are present on tonight's Zoom hearing could they proceed with the condition an application would be signed. He then asked Naomi Bolton to comment if verbal authorization would suffice. The former Building Inspector did not send the proper material, the Town Office was closed and there is no access to applications online. He relied on what he was given.

Interim Building Department Assistant/Land Use Coordinator Naomi Bolton stated Tom Carr's statements are correct. With all parties present, Will Lambert, Vincent Iacozzi and Tom Carr, she has no problem with the application being signed later.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon to accept Case #09-2021 without a signed application, all parties involved on the call right now agree to move forward with this, at the earliest opportunity, sign the application and complete the package. No decision without the signature page. Passed 4-0-0**

The Chair asked if there were any questions for the applicant. There was none.

The Chair requested Tom Carr, Meridian Land Services, Inc. presenting for Duck Pond LLC, read the following seven conditions per Article 6 Section 1.3 of the Zoning Ordinance as provided in Article 19 Section 1.6, which must be met in the positive to warrant the granting of a special exception;

**1. The specific site is an appropriate location for such a use or uses in terms of overall community development:** Many of the lots within this subdivision will need to secure a Special Exception for safe and adequate development. Grades from the existing road in this area do not allow for reasonable and safe development in consideration of mandated maximum driveway grades and yard requirements. Attached is an exhibit that clearly shows what was presented to the Planning Board at the time of local Subdivision Application. This was a highly contested subdivision application following a local denial and in the courts for a gravel pit. Ultimately, this residential subdivision was approved by the Town of Weare and State of NH knowing Earth Removal for individual lots may well need a Special Exception under 19.1.6 to develop them safely and adequately.

**2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area:** These lots are within a cluster subdivision that is not associated with other neighborhoods. As noted, many lots within this specific neighborhood will require a Special Exception under the ordinance to be reasonably and safely developed. Therefore, the two lots under this application are the first of several to come needing relief. As a result, real estate values will not be adversely diminished by the approval of this Special Exception request.

**3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians:** There are two other homes in the subdivision that are under construction and have not been transferred via a certificate of occupancy to a private landowner. Residential traffic therefore does not exist at this point. Access from the subdivision to NH Rte. 114 is safe and the line of site far exceeds the NH DOT requirements. Pedestrians rarely, if ever, walk along NH Rte. 114 and there are no residents within the subject subdivision.

**4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services:** Safe access to the site must be maintained by the applicant and NBAC Corporation, who owns the remaining lots in the subdivision that Duck Pond, LLC does not own. Safe access for EMS, Fire and Police is a basic necessity understood by the applicant and NBAC. This is still a private road that has not been accepted by the Town of Weare.

**5. Adequate off-street parking be provided if determined necessary by the Zoning Board of Adjustment:** The excavation and loading of dump trucks will occur on the subject lots. Two trucks are proposed to run in staggered timing so that one truck is not “waiting” for the other to load. This is the most efficient and cost-effective way to move this volume of material off-site. We do not feel additional parking is necessary or applicable to this application.

**6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees:** Under the circumstances of the site, there is no need to buffer these properties from neighboring uses or dwellings. This is going to be an ongoing request in this particular subdivision.

**7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to ensure compliance with this section:** The applicant understands that the Zoning Board of Adjustments may impose restrictions or conditions on any approval, which may come in the form of a staff memo or other technical review.

Tom Carr commented it is noted on the grading plan Lot 23 will be 7049 cubic yards net removed. Lot 22 will be 9614 cubic yards net removed. Incidental to grading Lot 22, Lot 21 424 cubic yards will be removed from Lot 21 to provide side yard grading to the dwelling on Lot 22.

Chairman Dearborn asked if most of the material will be used within the subdivision or out onto Rte. 114. Will Lambert replied most would have to leave the site, 400 to 500 yards to remain on site.

Chairman Dearborn stated that might be an issue for the Board of Selectmen. Having looked at the property it is a very steep hill.

The Chair asked if the Board had any questions. There was none.

The Chair asked for approving abutters to speak. Vincent Iacozzi, NBAC, is strongly in favor of this. Starting in 2006 when the subdivision was approved, along with grading contours by the Planning Board and NHDES with the AOT, alteration of terrain, permit. Resubmitted with improved contours with upgrades to the drainage and detention areas, a new permit in 2019. There are competing regulations between AOT, the incidental excavation, the ZBA and the Planning Board. Three months' worth of work trying to find accommodation. NBAC could have clear-cut the property, bringing everything down to subgrade without an issue. The mistake was made with transferring the lots to Will Lambert's company. Material could not be left on his site.

Chairman Dearborn responded a Special Exception is allowed if conditions are met.

The Chair asked for other approving, disapproving abutters, public at large, other Boards to speak. There was none.

The Chair asked Tom Carr if he would like to rebut. Tom Carr replied no, it is straightforward.

The Chair asked for a second round of abutters, public and boards. There was none.

The Chair closed the public hearing at 9:24 pm.

Chairman Dearborn stated the approval will be based on the SP page showing the cuts and fill for Lots 21, 22, & 23.

**Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept the Special Exception with the condition that the SP1 shows the cuts for the three lots mentioned 21, 22 & 23 as well as being conditional to having received the signed application prior to the decision letter. Passed 4-0-0**

### **III. MINUTES:**

December 8, 2020 Site Walk Minutes: **Marc Morette moved, Bobbi-Jo Plamondon seconded to accept the minutes of December 8<sup>th</sup>, as written, passed 3-0-1. Vice Chairman Meyer abstained.**

January 5, 2021 Minutes: **Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept the minutes of January 5<sup>th</sup>, as amended, passed 4-0-0**

March 2, 2021 Minutes: **Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept the minutes of March 2<sup>nd</sup>, as amended, passed 4-0-0**

### **IV. OTHER BUSINESS:**

2021 Appointments for members – all members were reappointed by Board of Selectmen

2021 Zoning Board Officer Nominations

**Marc Morette nominated Jack Dearborn as Chairman, Bobbi-Jo Plamondon seconded, passed 4-0-0**

**Marc Morette nominated Mike Meyer as Vice Chairman, Bobbi-Jo Plamondon seconded, passed 4-0-0**

### **V. CHAT ROOM QUESTIONS:**

1. Gina Stevens – having not been admitted into the meeting until 7:54pm, asked if her application was reviewed already. Answer: She had not missed her hearing time and her case had not been heard yet prior to her signing into the Zoom meeting. She was available for her case discussion with the Board.

2. Lowell Jacobson – asked why two guests were removed from the public meeting and denied reentry in violation of RSA-91A. Answer: It was not RSA-91A, the two guests were talking prior to opening the public meeting. They were compelled to start talking before the Chair had an opportunity to ask for public input. They were out of order. A motion to continue was for the applicants, who may have wanted to wait until there was a full sitting Board. The two guests that were removed continued to speak over the motion that was to continue on advice from our Town Attorney. The guests did not accept this decision. The meeting had not been opened for the variance.

### **VI. NEXT MEETING:**

May 4, 2021

**Being that there was no more business to come before the Board, Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to adjourn the meeting at 9:44 pm., passed 4-0-0.**

### **ADJOURNMENT**

A True Record.

*Karen Nelson*

Karen Nelson transcribed from

Zoom recording & TA Bolton notes