

STATE OF NEW HAMPSHIRE

STRAFFORD COUNTY

SUPERIOR COURT

David Schofield-Savo, et al

v.

Ian James, LLC, et al

Case No.: 219-2022-CV-00350

HOMEOWNERS' MEMORANDUM OF LAW

NOW COME the Petitioners, David Schofield-Savo, et al (“Homeowners”), by and through their attorneys, Hastings Law Office, P.A., and hereby respectfully submit the instant Memorandum of Law in support of their request for issuance of a preliminary injunction.

I. BACKGROUND

Undisputed Facts

Overlook Circle is a paved road less than one mile in length located in Barrington, New Hampshire. *See generally* Plaintiff Exhibit 1. It is undisputed that Ian James, LLC, through Cliff Williams (“Developer”), represented to Homeowners that Overlook Circle was going to be a Town road. It is undisputed that the Town of Barrington (“Town”) released the performance bond related to the development of the Overlook Circle subdivision (necessarily including the road). Both the Town and the Developer agree that the Homeowners have done nothing wrong.

Disputed Issues

What both the Town and the Developer dispute in this matter is whether Homeowners have or will suffer irreparable damages for which there is no adequate remedy at law. Additionally, the Developer maintains that he can unilaterally amend the Declaration for the development so as to force the twenty (20) families residing at Overlook Circle to associate. As for the Town, it (i) disputes that Overlook Circle was constructed in conformity with the construction standards and requirements then in effect in the Town, and (ii) argues that it would be unlawful for the Town to maintain the road.

II. EVIDENCE REGARDING ROAD CONSTRUCTION

The evidence as to proper construction of the road is contained in Plaintiff Exhibit 2, 7, 8, and 9, with Ex. 9 specifically stating that “the only item to be completed would be the gravel pit,” It is important to note that the date of Ex. 9 is November 24, 2019—17 days after the Field Observation Report provided in Exhibit B to Town of Barrington’s Objection to Request for Preliminary Injunction.

Also, although the Town provided, as Exhibit F to Town of Barrington’s Objection to Request for Preliminary Injunction, the Developer’s August 14, 2020 correspondence to the Town, the Town did not provide the Developer’s June 14, 2020 correspondence to Skillings & Associates regarding the bond issue. This correspondence is attached hereto as Exhibit B.

III. ARGUMENT

A. Homeowners Damages

Here, the Homeowners’ damages fall into categories including (i) lack of safe and convenient access to their homes, (ii) the threat of forced association (including the requirement that they take full responsibility for the road¹), and (iii) possible compensation for a substandard road (and substandard driveways). While substandard construction could arguably be corrected and could at least partially be addressed through an award of money damages, (i) lack of safe and convenient access to one’s home and (ii) forced association are irreparable harms without an adequate remedy at law.

Access to Homes

When damages consist of the infringement upon one’s rights, use, and enjoyment related to real estate, there is a presumption of irreparable harm and the lack of an adequate remedy at

¹ If the road is, in fact, substandard, then this particular aspect/measure of damages—in addition to infringing upon Homeowners’ property rights—could be substantial.

law. *See Soukup v. Brooks*, 2007 N.H. Super. LEXIS 42 (July 31, 2006) (copy of decision attached hereto as Exhibit A). Subjecting property owners to substantial annoyance, depreciation in the value of their properties, and the “uncomfortable and inconvenient” enjoyment of their properties are findings that support issuance of an injunction. *See Proulx v. Keene*, 102 N.H. 427, (1960). Here, the lack of winter maintenance would be the cause of substantial annoyance, depreciation in the value of the Homeowners’ properties, and uncomfortable/inconvenient enjoyment of Homeowners’ properties.

Forced Association/Negative First Amendment Rights

Here, the Developer’s defense to the imposition of an injunction actually further supports that an injunction is precisely the just and appropriate equitable relief to be granted at this juncture. To the extent that the Town supports association (and the Homeowners being responsible for a road that the Town claims to be in need of work/repairs in the amount of approximately \$200,000.00 to \$315,000.00 (*see* Exhibit D to Town of Barrington’s Objection to Request for Preliminary Injunction at p. 4)), then this may be government action compelling them to associate against their will. Additionally, \$200,000.00 to \$315,000.00 far exceeds the amount of \$207 per household.

B. Developer Cannot Amend Declaration

The Developer cannot amend the Declaration for two reasons, (i) equity and the doctrine of estoppel, and (ii) he does not own a “lot.”

Equity/Estoppel

The Homeowners acted in reliance upon the Developers express representations to their detriment. Moreover, the fact that the existence of a HOA was *removed* from the Declaration supports the conclusion that the Developer should not be permitted to now amend the Declaration to force association and monetary payment upon the Homeowners. *Great Lakes*

Aircraft Co. v. Claremont, 135 N.H. 270, 289-290 (1992) provides a relevant discussion of estoppel that is applicable here:

Although the term “estoppel” embraces a number of loosely defined theories, estoppel may generally be defined as “a bar which precludes a person from denying or asserting anything to the contrary of that which has, in contemplation of law, been established as the truth . . . by his own deed, acts, or representations, either express **or implied.**” 28 Am. Jur. 2d Estoppel and Waiver § 1, at 600 (1966) . . .

[There are] [t]wo types of estoppel theories [that] concern us here: promissory and equitable estoppel. Traditionally, courts have applied promissory estoppel in order to enforce promises when consideration is lacking, such as in cases involving gratuitous promises, charitable subscriptions and certain intra-family promises. J. Calamari and J. Perillo, *The Law of Contracts*, §§ 6-1 to -3 (3d ed. 1987). More recently, however, its application has been expanded to enforce promises underlying otherwise defective contracts and promises made during the course of preliminary negotiations. In some instances, it has been employed to provide a remedy for reliance upon offers subsequently withdrawn. Calamari and Perillo, *supra* § 6-5. But, in all instances, application of promissory estoppel is appropriate only in the absence of an express agreement. It serves to impute contractual stature based upon an underlying promise, and to provide a remedy to the party who detrimentally relies on the promise. 2A Corbin on Contracts § 196A, at 55-56 (Supp. 1991).

Equitable estoppel, on the other hand, does not involve a promise. Rather, it serves to “forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon.” 28 Am. Jur. 2d Estoppel and Waiver § 28, at 629. In other words, a wrongdoer may be estopped from making assertions, even if true, which are contrary to acts and representations previously made which are reasonably relied upon by the wronged party. *See* 2A Corbin on Contracts, *supra* at 35 (equitable estoppel arises from non-promissory conduct, actions, misrepresentations, and other language). Significantly, equitable estoppel is applied even when the parties memorialize their agreement in an express contract. *See Olszak v. Peerless Ins. Co.*, 119 N.H. 686, 406 A.2d 711 (1979) (estoppel applied in order to prevent insurance company from applying terms of the contract to deny coverage in light of prior representations and actions).

(Emphasis added.)

Moreover, while the Developer may argue that he is not forcing Homeowners to associate against their will, he is, nonetheless, arguing that they make payments to be used for winter road maintenance. Forced association or not, the Developer cannot impose mandatory payments upon Homeowners. *See Tentindo v. Locke Lake Colony Ass’n*, 120 N.H. 593, 597 (1980) (“Involuntary membership may not be imposed or assessments required even if an assessment adopted by the association is one determined on an equitable and fairly proportionate basis of benefit received.”)

If an validly existing HOA cannot impose involuntary membership and cannot impose assessments upon property owners that lacked the requisite notice at the time of purchase, it follows that the Developer in this case—especially given the totality of the circumstances—cannot do so.

Developer Does Not Own a Lot

The Developer presented the Homeowners with a property tax bill and argued to the Court that his property ownership, as evidenced by the tax bill, affords him the unilateral right to amend the Declaration however he sees fit. The property tax bill, *see* Plaintiff Exhibit 6, indicates that the Developer’s parcel is 20.65 acres, is located at 69 New Bow Lake Road, is identified as map 215, parcel 1, and—importantly—is assessed \$0.00.

Plaintiff Exhibit 4 at p. 5 states that “[t]here shall be no further subdivision of lots except for boundary line adjustments between abutters, which do not create additional buildable lots.”

Here, the development is built out and all homes have been sold. To read the Declaration so as to afford Developer the continuing right to amend the Declaration to the detriment of Homeowners because he owns non-buildable conservation land he intends to convey to the Town, would not be a fair, appropriate, or equitable reading of the instrument.

C. The Town Can Lawfully Maintain the Road

Here, the Town agrees that they were going to accept the road; however, the Town determined that the road did not comply with construction standards and requirements then in

effect. Yet, they released the bond. As such, the Town has waived the right to present evidence or argument relative to “[a]ny burden² on the town that is found to be the result of its unreasonable actions in inspecting the road[] and releasing the construction bond.” *Wolfeboro Neck Property Owners Ass’n v. Town of Wolfeboro*, 146 N.H. 449, 453 (2001).

Because Overlook Circle was presented and approved as a road that would be accepted as a Town road, because the Town had an agent and/or engineer on site during construction, and because the Town released the bond, there is no valid basis Homeowners can think of to challenge the “occasion” to layout/accept Overlook Circle as a town road. As such, notwithstanding the Town’s refusal to officially accept the road, the road has effectively been “taken” by the Town. This means that regardless of the benefit to any private parties (here 20 families), the road is actually “for the public use.” *Rodgers Dev. Co. v. Town of Tilton*, 147 N.H. 57, 62 (2001), citing *Crosby v. Hanover*, 36 N.H. 404, 420 (1858). As such, the Town’s proffer regarding not having the authority to maintain the road is contradicted.

Additionally, the Town’s third-party engineer (paid for by Developer) made representations to the Developer. *See* Plaintiff Exhibit 7, 8, and 9. Moreover, the Town, through its Road Agent, Jere Calef, and the Town Planner, Marcia Gasses “approved each step of the road construction,” and, also, the Town’s request for more road testing came “4 years since the road bed was laid, and 7 months since the wear coat was installed. And during that time, not a single issue has arisen and the road looks perfect.” *See* Exhibit C to Town of Barrington’s Objection to Request for Preliminary Injunction at p. 4³. Consequently, as a result of the Town’s own deed, acts, or representations—either express or implied—the Town should also be

² This would include the need for the Town to perform any work on the road.

³ The reference is to page 4 of the Exhibit, but the bottom of the referenced page is numbered as page 1.

estopped, particularly from alleging any deficiencies with the road. *See Great Lakes Aircraft Co. v. Claremont*, 135 N.H. 270, 289-290 (1992), *supra*.

Clapp v. Jaffrey, 97 N.H. 456, 458 (1952) stands for the proposition that a town can lawfully “perform services for private individuals on their property” if the services are “subordinate and incidental to town needs” and “prices charged are sufficient to cover the cost so that no burden falls on taxpayers.” Here, the “prices charged,” if any, can and should be charged to the Developer.

D. The Evidence on Record Supports a Finding that the Road Should be Accepted by the Town

The evidence on record, including without limitation, that the original engineer, Dubois & King, approved the road and that the Town released the bond supports the conclusion that the road did conform to the necessary standards and requirements.

IV. LIKELIHOOD OF SUCCESS ON THE MERITS & CONCLUSION

Based on express representations made to them, Homeowners reasonably relied to their detriment by purchasing homes on Overlook Circle. The Town’s only basis to reject acceptance of the road is that based upon a September 27, 2021 memo dated before the date the Town released the performance bond (February 11, 2022), the road “was not built to the Town’s specifications...” *See* Exhibit A to Homeowners’ Complaint at p. 2. The only burden referenced in the minutes of the relevant meeting is that of a “poorly built road.” *See id.* This burden, however, “**shall not** be weighed in the ‘occasion’ analysis.” *Wolfeboro Neck Property Owners Ass’n*, 146 N.H. at 453 (emphasis added.)

Given that the preliminary injunction standard, including irreparable harm for which there is no adequate remedy at law and a likelihood of success on the merits is satisfied, an injunction should issue forthwith, either (a) to maintain the status quo of Developer

responsibility for the road or, in the alternative, (b) ordering that the Town be responsible for winter maintenance.

Respectfully submitted,
Homeowners
By their Counsel,

Date: January 18, 2023

By: /s/ Jason B. Dennis
Jason B. Dennis, Esquire | NH Bar ID No.: 19865
Hastings Law Office, P.A.
PO Box 290
Fryeburg, ME 04037
(207) 935-2061
jdennis@hastings-law.com

CERTIFICATE OF SERVICE

I, Jason B. Dennis, Esquire hereby certify that a copy of the forgoing has, this date, been served upon all counsel of record via e-file and serve.

Dated: January 18, 2023

/s/ Jason B. Dennis
Jason B. Dennis, Esq.

Exhibit A



Neutral

As of: January 17, 2023 3:21 PM Z

Soukup v. Brooks

Superior Court of New Hampshire, Grafton County

July 31, 2006, Decided

No. 06-E-141

Reporter

2006 N.H. Super. LEXIS 35 *

William Soukup and Kathy Soukup v. Robert Brooks and Kristine Brooks

Notice: THE ORDERS ON THIS SITE ARE TRIAL COURT ORDERS THAT ARE NOT BINDING ON OTHER TRIAL COURT JUSTICES OR MASTERS AND ARE SUBJECT TO APPELLATE REVIEW BY THE NEW HAMPSHIRE SUPREME COURT.

Subsequent History: Summary judgment denied by [Soukup v. Brooks, 2007 N.H. Super. LEXIS 42 \(2007\)](#)

Judges: [*1] Steven M. Houran, Presiding Justice.

Opinion by: Steven M. Houran

Opinion

ORDER ON PRELIMINARY INJUNCTION

Pending before the court is the petitioners' request for a preliminary injunction asking that the court enjoin the respondents from entering onto or traversing the petitioners' property without permission. The preliminary hearing was held on July 31, 2006, and proceeded on offers of proof. The court finds ¹ and rules as follows.

At the preliminary stage of an injunction proceeding, the petitioners bear the burden of showing by a preponderance of the evidence a likelihood of success on the merits. See 4 R. WIEBUSCH, NEW HAMPSHIRE PRACTICE, CIVIL PRACTICE AND PROCEDURE. §19.15 at 475 (2d ed. 1997). The petitioner must establish that it is likely that they will be able to prove the need for and appropriateness of a permanent injunction. *Id.* §19.16 at 477. The petitioner must establish that it is likely that

they will be able to prove that the need for injunctive relief is present and immediate. See [UniFirst Corp. v. City of Nashua, 130 N.H. 11, 14, 533 A.2d 372 \(1987\)](#).

[*2] The petitioner must also establish that it is likely that they will be able to prove that the threatened harm will be shown to be irreparable and that there is no adequate remedy at law, see *id.*, and that the issuance of an injunction will provide a just resolution, furthering the interests of justice, see [Higgins v. Higgins, 57 N.H. 224 \(1876\)](#).

Thus, the well-established standard for granting injunctive relief requires the petitioner to demonstrate that: (1) he or she is likely to succeed on the merits; (2) there is a present threat, based upon a lack of an adequate, alternative remedy at law, of irreparable harm to the petitioner if the court does not grant injunctive relief; (3) the potential harm to the petitioner outweighs any harm to the party or parties who would be enjoined; and (4) the public interest would be served by granting the injunction. [UniFirst Corp., 130 N.H. at 13-14](#).

Although a party seeking an injunction must show that he or she would likely succeed on the merits, injunctive relief is an equitable remedy, requiring the trial court to consider the circumstances of the case and balance the harm to each party if relief were granted. See *id.*, [130 N.H. at 14-15](#). "[A] [*3] preliminary injunction is a provisional remedy . . . that . . . preserves the status quo pending a final determination of the case on the merits." [Kukene v. Genuardo, 145 N.H. 1, 4, 749 A.2d 309 \(2000\)](#) (quoting [Davis v. Sponhauer, 574 N.E.2d 292, 302 \(Ind. Ct. App. 1991\)](#)).

The issuance of injunctions, whether temporary or permanent, has long been considered an extraordinary remedy. [Murphy v. McQuade Realty, 122 N.H. 314, 316, 444 A.2d 530 \(1982\)](#). All less restrictive alternatives should be explored before granting the requested relief. *Id.*

In 1993, Andrew Dibner subdivided the land at issue. In

¹ Findings are based upon the offers of proof, verified pleadings, and the exhibits to those pleadings, not upon a full evidentiary hearing. Accordingly, findings are made for preliminary purposes only.

1995, he sold one of the subdivided lots, the so-called Lisbon lot, to the respondents Robert Brooks and Kristine Brooks. In doing so, he split his remaining land in two, landlocking one of his remaining parcels, the so-called Lyman lot. Accordingly, he reserved an access easement across the respondent's property to the Lyman lot. The easement starts at Brooks road, crosses what was Dibner's remaining land in Lisbon, then crosses the respondents' property to the Lyman lot.

In 1996, Dibner sold the Lyman lot to the respondents as well. The deed states that the sale is together with this access easement in part "running from [*4] the Brooks Road across Lot No. R4-5." Lot No. R4-5 is Dibner's remaining lot.

In 1999, Dibner sold that remaining lot to the petitioners.

In 2002, the respondents Robert Brooks and Kristine Brooks sold the Lyman lot to Frank Brooks and Lillian Brooks, Robert Brooks' parents, together with the same easement, and retained the Lisbon lot.

The petitioners initially brought this action against only the respondents Robert Brooks and Kristine Brooks. By motion filed this date and, with the assent of those respondents, granted this date, the petitioners have requested that Frank Brooks and Lillian Brooks be impleaded so that their rights in the easement, if any, may be determined.

Issues concerning the existence of an easement across the petitioners' land in favor of the Frank Brooks and Lillian Brooks Lyman lot, including whether what is now the petitioners' estate ever was a servient estate to the dominant Lyman lot's easement and whether the ownership by Robert Brooks and Kristine Brooks of both their original lot and the Lyman lot at the same time extinguished the easement and, if so, whether their conveyance out of the Lyman lot recreated it, must necessarily wait until the owners of the [*5] Lyman lot may be heard on the issues. What is clear on the record before the court is that the petitioners have shown a likelihood of success on that portion of their claim that seeks a determination that Robert Brooks and Kristine Brooks do not have an easement across the petitioners' property to benefit their property. Neither the 1995 nor the 1996 deeds from Dibner granted that right to the owners of the Lisbon lot.

Because the subject of this litigation is rights in real estate, there is a presumptive lack of an adequate, alternative remedy at law and of irreparable harm by

use without right which cannot be redressed by a damage award.

Likewise, the owner of property being used by another without right is presumptively harmed. On the other hand, the respondents Robert Brooks and Kristine Brooks will suffer little or no potential harm with the granting of an injunction, since their lot has direct, developed, access onto Brooks Road, which it abuts.

Finally, the public interest is served by upholding rights in real estate and, on the circumstance of this case, requiring the respondents Robert Brooks and Kristine Brooks to stay off the petitioners' property as one means of avoiding additional [*6] incidents between these parties until the underlying issues may be resolved finally on their merits.

For the foregoing reasons, the petitioners' request for preliminary relief is granted to the extent that it seeks to preliminarily enjoin the respondents Robert Brooks and Kristine Brooks from entering or traversing the petitioners' property along the claimed access easement pending resolution on the merits, and is otherwise denied.

Because the respondents Robert Brooks and Kristine Brooks have good developed access in use directly from Brooks Road, the court determines that good cause exists to waive the requirement for an injunction bond. See Superior Court Rule 161 (c).

So ordered.

End of Document

Exhibit B

July 14, 2020

Ian James LLC
1062 Parker Mountain Rd
Strafford, NH 03884

Jessica L. Hughes
Skillings & Associates
103 Park Street, 2nd Floor
Lewiston, ME 04243

Re: Bond # 207409, for River Peak Subdivision.

Dear Jessica

I'm enclosing a timeline and documents to show the progression of the subdivision and to show the fact that the Town has made little attempt to resolve the completion of the road and release of the bond, as stated in the Scope of Work agreement. DuBois and King were contracted through the Town on February 17th 2016, to perform the scope of work in accordance with the Master Contract. On June 28th 2016, Scott Bourcier, DuBois and King sent an email to the Planning Dept, that he was preparing a milestone letter including his opinion of the bond reduction recommendation after we had completed the paving of the base coat. After completing the construction of 20 home, the last one in September of 2019, I hired GMI paying to complete the wear course. I completed the preparation of the road to except the wear course, as requested by DuBois and King. Scott Bourcier and I walked the site on Friday November 1st, to confirm the road was ready for paving on November 7th. Scott also talked with Ron Vaillancourt from GMI paving on Friday to make sure he was ready for paving on November 7th. All parties agree the road was ready to except the wear course and that we would meet first thing in the morning on the 7th.

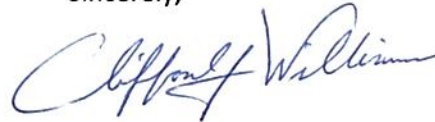
GMI mobilized their equipment starting around 7am, Scott Bourcier was concerned that we were not going to meet the 2010 DOT Spec's for a one inch wear course. I had talked to Ron from GMI and to Scott days before, Ron had agree to add more asphalt to meet the 1 ¼ compacted depth, 2010 spec, for Scott. Ron and I could not understand why Scott was even referencing 2010 standards, when the NHDOT spec for paving had changed in 2016 and even Scott had referenced 2016 spec's in his field reports? I was assured by Ron, who is a Certified NHDOT paver, that the road would meet NHDOT Standards. Scott's temp gun was reading in the twenties, while my temp gun, that was calibrated, was reading in the high thirties, 38 degrees at 7:30am. Everyone on the paving crew agreed that there was no way the ground could read 25 degrees at any time, seeing the air temperature had not been that low since April ? The 2016 Spec's only call for the road to be dry and free of frost, which it was and that the asphalt coming out of the truck be above 260 degree Fahrenheit, which it was. We started paving at 7:40 am and finished around Noon. The ground temp went from 40 degrees to 50 degrees by noon time.

Since November 7, 2019 I have tried enter into any kind of logical dialog with the Town of Barrington to release the bond, but to no avail. Marcia Gasses, the Town Planner, has cancer and no longer works there, Jere Calef the road agent retired over a year ago. Both of these Town employee's worked with DuBois and King to create the final punch list. Marc Moreau, the new road agent was part of the final inspection in the fall of 2019 and stopped by and got temperature reading of the asphalt on the day of the paving. I'm not sure why the Town since January 28, 2020 has now taken a position that there is something wrong with the road? They had 4 years since the base course of asphalt was put down and as I have stated, did a final inspection of the road and completed the punch list with exception of the gravel pit. Scott's original claim that the wear course was placed in too cold of ground temperature, this is inaccurate and easily address by calling Eric Thibadeau at the NHDOT. He is the Chief Pavement Manager for the NHDOT, 603 271 1750. I spoke with him on December 20, 2019, after it was brought to my attention that Scott Bourcier had submitted a field report, stating the asphalt was only 1 to 1 ¼ inches in depth and that it was not to spec? Scott indicated to GMI on the day of paving that he was pleased with the job, moreover, GMI put down extra asphalt and tack. If he believed that the job was not being done to standards, then he should have stopped the paver, that's why he is there! I've provided pictures of the site that day and even by the naked eye, you can see that the asphalt is in no way an inch or an inch and a quarter anywhere on that job, it's 1 ½ to 2 throughout the whole road as we had agreed upon at the beginning of the day. But once you talk to Eric, if you wish too, he will inform you that I was only required to pave one inch as the plan indicates. He told me that I had paved in "Ideal Conditions". Brock's asphalt plant was just 5 miles down the road, the asphalt was over 300 degree coming out of the truck, the temperature was 40 rising to 50 and the road was dry and frost free, that is all that is required by the DOT, I went above the required spec's for the Town of Barrington and Scott.

I retained a Attorney, Kevin G. Collimore, on March 17, 2020 with the hope that I would get a better response from the Town. We have posed direct question to the Towns Attorney, Laura Spector-Morgan, we have not fared any better. I have enclosed an email from May 4, 2020, where she states "I think I dropped the ball and didn't ask, but I've just sent an e-mail to try and get the information you were seeking", even to Lawyer is incompetent. Since the Town has indicated that they believe the Engineer has made some mistakes, then address that with the engineer. The main representatives for the town also signed off on all these inspections and the punch list. The Town Planner is no longer there, along with the Road Agent, so who is pushing this inconsistent and sporadic narrative? What is the person's name, what are their qualifications and when did they know this information? We have yet to get a logical response. I have bargained in good faith and made every attempt to get a logical response from the Town of Barrington for 8 months. The Town is, in my opinion, in breach of the scope of work agreement and the Bond agreement, Task # 10, that I entered into with them and DuBois and King, February 17, 2016. The "Scope of Work" agreement, gave DuBois & King authority to perform all of the oversight of the road construction, including Task # 10, Bond Release. In their reports and emails; they have stated that the job is complete. The only thing in question was the temp of the asphalt, but we have already address that with the 2016 NHDOT Standards. I have completed all the road work that was required of me and fulfilled all the standards and more. DuBois & King has completed their obligations to the Town and it is now time to move on. There is only two more week until the bond is due, I have no intentions of having any future business dealings with the town of Barrington and have advised my

attorney to file suit. I am looking for support and relief from Skillings Shaw & Associates in order to part ways with the Town of Barrington, I look forward to your response, thank you.

Sincerely,

A handwritten signature in blue ink, reading "Clifford Williams". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Ian James LLC/ Clifford Williams, Manager



Town of Barrington

P.O. Box 660
Barrington, NH 03825
603-664-5183

RECEIVED

AUG 04 2020

MAILROOM

July 28, 2020

Developers Surety and Indemnity Company
17771 Cowan Street
Irving, CA 92614

Re: Site Improvement Bond #506179S

To whom it may concern:

Pursuant to Condition #1 of the Site Improvement Bond issued on August 1, 2016 and Confirmed on July 9, 2019, the Town of Barrington hereby gives notice of acts or omissions that might involve a loss under the bond. These acts and/or omission include but are not necessary limited to:

1. The transition radii from Boulder Drive to Overlook was not constructed according to plan.
2. The wear course was placed at too cold of ambient air and/or surface temperature. Not only did the temperature require a 1.5 inch wear course, it has also resulted in other issues, such as the excessively high longitudinal joints, the tie in joints at the intersections are extremely poor, and there are numerous roller marks and roller stop bumps.
3. Required monumentation has not been installed.

The town has requested to take borings at various locations on the road to confirm the thickness of the wear course; however, Clifford Williams has refused to allow the town to do so. The other issues have not yet been addressed.

Please do not hesitate to contact me if you require additional information. Thank you.

Sincerely,


John Huckins, Building/Code Enforcement
PO Box 660 Barrington NH 03825
Email jhuckins@barrington.nh.gov

River Peak Subdivision, Barrington NH
June 2015 to Nov 2019

History of Subdivision Construction :

1. September 2015 Started construction.
2. February 17, 2016 Signed Scope of Work agreement with the Town of Barrington and DuBois & King, the Town's Engineering Firm.
3. May 13, 2016 Paved the 1st section of the subdivision
4. June 17, 2016 Paved the 2nd section of the subdivision
5. Scott Bourcier, the Town Engineer, AKA Project Manager, Inspected every step of the construction and paving of the road and on Jun 28, 2016 prepared a milestone letter that included his opinion of the bond reduction recommendation to the Town.
6. July 18, 2018 and Rev. 11/01/19; the Punch List of items required for the completion of the project. Created by the Town Planning Dept. Road Agent and Scott Bourcier.
7. Nov 4, 2019, contacted Scott Bourcier to do the final inspection of the road for the paving of the wear course.
8. November 7, 2019, GMI Paving paved the entire 3,000 ft of wear course with the average depth of 2 inches of asphalt in about 4 hours, under the supervision of Scott Bourcier, Project Manager.
9. November 7, 2019, Scott Bourcier completes his field report for the wear course paving. He states that the surface temperature was 25 degrees at 6 am ? He then makes mention of the 2010 paving spec's etc...
10. November 24, 2019, Scott Bourcier writes to the Town of Barrington; that the paving was done in accordance with NHDOT Spec's, except for the Temp requirement.
11. I had been attempting to contact Marcia Gasses, the planning administrator since November 7, 2019. I was finally informed that Marcia was ill and that I should talk with John Huckins of the planning department.
12. December 19, 2019, I emailed John once I was made aware of the field report from November 7, 2019.
13. February 1, 2020, Finally received a response from the Board of Selectmen. Questioning the Temp of the wear course, Longitudinal joints and roller bumps and suitability of the base gravel.



18 Constitution Drive, Suite 8
Bedford, NH 03110
Tele: (603) 637-1043
Fax: (866) 783-7101

ENGINEERING • PLANNING • MANAGEMENT • DEVELOPMENT

FIELD OBSERVATION REPORT

PROJECT:	River's Peak Subdivision
PROJECT No.:	323138P
DATE:	June 10, 2016
CONTRACTOR:	Better Built Homes
LOCATION:	Barrington, NH
FIELD REP:	David Petrell

TEMPERATURE:

68 °F at 1:00 p.m.
°F at p.m.

SKY:

- ☒ CLEAR
☐ OVERCAST
☐ PRT CLOUDY
☐ CLOUDY
☐ OTHER

PRECIPITATION:

- ☐ MISTY
☐ DRIZZLE
☐ SPRINKLE
☐ RAIN
☐ SNOW
☐ OTHER: _____

EQUIPMENT ON-SITE:

(1) Caterpillar 323F Excavator
(1) Cat Roller
(1) Volvo A35D Dump Truck

(1) Caterpillar D5R Dozer
(1) Dresser 850 Grader

(1) Doosan DL250 Loader
(1) Volvo EC250F Excavator

PRESENT AT SITE:

David Petrell (DuBois & King), Kevin Arel (Better Built Homes)

OBSERVATIONS:

1. Arrived at 12:45pm.
2. Review of the roadway bankrun gravel was performed from Sta. 17+50 to 30+00, the following items were recorded:
 - a. Centerline, roadway edge, and shoulder grade stakes were installed at 50-foot intervals and identified finish grade elevations.
 - b. Subbase depth measurements were recorded and found to be a consistent 9-inches (3-inch bituminous concrete and 6-inches of crushed gravel) from roadway finish grade elevation.
 - c. Roadway cross-sectional slopes were recorded at every 50-foot station. Results ranged from 1.6% to 2.4% and found to be within tolerance of NHDOT Section 214 – Fine Grading.
3. Spoke on the phone with Matt Arel (Better Built Homes) and Mr. Arel stated that at this point they plan on having the crushed gravel base course fine graded and compacted by mid next week.
4. Left at 1:30pm.

OUTSTANDING ITEMS:

1. Clean drainage lines of sedimentation.
2. Address remaining item on the Fire Cistern punch-list.
3. Raise Fire Cistern #1 to the appropriate elevations.
4. Place mortar to ensure smooth edge between culvert inlet and headwall to mitigate sediment/debris collection.
5. Confirm that erosion control measures along disturbed areas are installed to protect from sedimentation being conveyed to down-gradient.



18 Constitution Drive, Suite 8
Bedford, NH 03110
Tele: (603) 637-1043
Fax: (866) 783-7101

ENGINEERING • PLANNING • MANAGEMENT • DEVELOPMENT

FIELD OBSERVATION REPORT

PROJECT:	River's Peak Subdivision
PROJECT No.:	323138P
DATE:	June 16, 2016
CONTRACTOR:	Better Built Homes
LOCATION:	Barrington, NH
FIELD REP:	David Petrell

TEMPERATURE:

80 °F at 2:30 p.m.
°F at p.m.

SKY:

- ☒ CLEAR
☐ OVERCAST
☐ PRT CLOUDY
☐ CLOUDY
☐ OTHER

PRECIPITATION:

- ☐ MISTY
☐ DRIZZLE
☐ SPRINKLE
☐ RAIN
☐ SNOW
☐ OTHER: _____

EQUIPMENT ON-SITE:

- | | | |
|--------------------------------|---------------------------|----------------------------|
| (1) Caterpillar 323F Excavator | (1) Caterpillar D5R Dozer | (1) Doosan DL250 Loader |
| (1) Cat Roller | (1) Dresser 850 Grader | (1) Volvo EC250F Excavator |
| (1) Volvo A35D Dump Truck | | |

PRESENT AT SITE:

David Petrell (DuBois & King), Scott Bourcier (DuBois & King), Matt Arel (Better Built Homes)

OBSERVATIONS:

1. Arrived at 2:20pm.
2. The paving subcontractor (Milinazzo) was on site fine grading and compacting the end of the roadway crushed gravel course.
3. Performed a site-walk and recorded the following:
 - a. Review of the roadway crushed gravel was performed from Sta. 11+50 to Sta. 30+00. The following items were recorded:
 - i. Centerline, roadway edge, and shoulder grade stakes were installed at 50-foot intervals and identified finish grade elevations.
 - ii. Subbase depth measurements were recorded and found to be a consistent 3-inches (3-inch bituminous concrete) from roadway finish grade elevation.
 - iii. Roadway cross-sectional slopes were recorded at every 50-foot station. Results ranged from 1.6% to 2.4% and found to be within tolerance of NHDOT Section 214 – Fine Grading.
4. Scott Bourcier arrived on site at 3:00pm and performed a site-walk with Matt Arel (Better Built Homes) and myself, the following was recorded:
 - a. Matt Arel notified Scott Bourcier that Compaction test and sieve analysis results between Sta. 11+50 to Sta. 30+00 would be emailed to him for the bankrun and crushed gravel courses.
 - b. Fire Cistern #1 has been raised to the appropriate level.
 - c. Fire Cistern #1 and Fire Cistern #2 are now completed per the approved plan.
 - d. Mortar has been placed to ensure smooth edges between culvert inlets and headwalls to mitigate sediment/debris collection.
 - e. The access path created in the 50' wide R.O.W. between lots 6 & 7 is to be removed and




June 27, 2016

Marcia Gasses, Planner and Land Use Administrator
Town of Barrington
P.O. Box 660
333 Calef Highway
Barrington, New Hampshire 03825

Subject: River's Peak – Map 215 / Lot 1
Bankrun Gravel Observations

Dear Ms. Gasses:

As requested, DuBois & King performed bankrun gravel observation of the above-referenced project's subdivision roadway from Boulder Drive to end (approx. Sta. 30+54.85). Observations were performed on May 6, 2016 (Sta. 0+00 to 11+50); June 2, 2016 (Sta. 11+50 to 17+50); and, June 10, 2016 (Sta. 17+50 to end). The following were comments recorded during the observations.

1. Based on a sieve analysis provided by John Turner Consulting (JTC), the bankrun gravel material met the New Hampshire Department of Transportation (NHDOT) 304.2 Bankrun Gravel requirements; 
2. The roadway width met the 24-foot travel way and 4-foot shoulder requirement;
3. Roadway centerline stakes were set at 50-foot intervals and marked indicating finish grade elevations (measurements of the subbase were a consistent 9-inches from finish grade);
4. The roadway's cross-sectional slope was measured and determined to meet the 2% (+/- 0.4%) requirement (in accordance with Section 214 of the NHDOT Standard Specifications for Road and Bridge Construction; dated 2016); and,

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,
DuBOIS & KING, Inc.



Scott M. Bourcier, P.E.
Project Manager

SMB/js

cc: Clifford Williams, Ian James, LLC (via email)
Matthew Arel, Better Built Homes (via email)

I:\323138P - Barrington - Rivers Peak Insp\Const\LETTER_Barrington (16) 06-27b.doc

① - 304.2 Gravel met
NHDOT requirements



June 27, 2016

Marcia Gasses, Planner and Land Use Administrator
Town of Barrington
P.O. Box 660
333 Calef Highway
Barrington, New Hampshire, 03825

Subject: River's Peak – Map 215 / Lot 1
Bankrun Gravel and Binder Pavement Observations
Construction Bond Reduction Estimate

Dear Ms. Gasses:

As requested, DuBois & King performed crushed gravel and bituminous concrete binder course observations of the above-referenced project's subdivision roadway from Boulder Drive to end (approx. Sta. 30+54.85). Observations for crushed gravel were performed on May 12, 2016 (Sta. 0+00 to 11+50) and June 16, 2016 (Sta. 11+50 to end), while bituminous concrete binder course observations were performed subsequent the crushed gravel observations on May 13, 2016 and June 17, 2016. The following were comments recorded during the observations.

1. Based on a sieve analysis provided by John Turner Consulting (JTC), the crushed gravel material met the New Hampshire Department of Transportation (NHDOT) 304.3 Crushed Gravel requirements; ①
2. The roadway width met the 24-foot travel way and 4-foot shoulder requirement;
3. The roadway's cross-sectional slope was measured and determined to meet the 2% (+/- 0.4%) requirement (in accordance with Section 214 of the NHDOT Standard Specifications for Road and Bridge Construction; dated 2016); and, ②
4. Compaction test results from John Turner Consulting (JTC) of the crushed gravel layer were submitted on May 6, 2016 and June 22, 2016. Results demonstrated that compaction of the material met the NHDOT requirements. ③

① - 304.3 mat requirements

② - He is quoting 2016 Spec's for DOT, But Nov 7, 2019, he states 2010 Spec's?

③ Compaction met NHDOT requirement.

**REPORT OF SOILS FIELD COMPACTION TESTING**

CLIENT: Better Built Homes
Att: Matt Arel
matthewarel@yahoo.com

PROJECT: Rivers Peak
Barrington, NH

DATE: May 6, 2016 **REPORT #:** 16-10-025-001

General Location: Roadway, Base Course
Field Rep: Dave Grodan
Contractor: Better Built Homes
Earthwork: Better Built Homes
Air Temp: 50°F
Weather: Cloudy
Soil Type: 3" Minus Sand & Gravel
Soil ID#: 16-378
Sample Source: Onsite, Station #10-00

Proctor Value: 141.9 lbs/ft³ **Optimum Moisture:** 4.8%

Gauge Type: Troxler 3430 **Required Compaction:** 95.0%

TEST NUMBER	DEPTH/ELEV. (in/ft)	MOISTURE (%)	DRY DENSITY	COMPACTION (%)
1	10"/Base Course	3.1%	139.4	98.2%
LOCATION: 50' off Boulder Road, Centerline				
2	10"/Base Course	2.0%	144.2	100+%
LOCATION: Station 3+00, 3' Right of Centerline				
3	10"/Base Course	2.7%	139.5	98.3%
LOCATION: Station 5+00, 3' Left of Centerline				
4	10"/Base Course	2.9%	143.3	100+%
LOCATION: Station 6+00, 4' Left of Centerline				
5	10"/Base Course	2.3%	142.6	100+%
LOCATION: Station 8+50, Centerline				
LOCATION:				
LOCATION:				
LOCATION:				
REMARKS:				

Document list, River Peak Subdivision, Barrington NH

Bond # 207409

1. Scope of Work Agreement between, The Town of Barrington NH, DuBois & King and Ian James LLC. The scope of work is performed by DuBois & King, key task's are #1 through 10, which Scott Bourcier of DuBois and King did, from February 17, 2016 until his final email on November 24, 2019, indicating that the punch list was complete. So to summarize, the Town's agreement between the three parties, indicates that DuBois and King will do the inspections, final punch list and final Inspection, they did and signed off on all of it, with exception for their confusion on the 2010 spec's verses the current 2016 spec's that the NHDOT follow's and is outlined in my plans. All of this was done with the knowledge and assistance of the Planning director and Road Agent.
2. Email from Scott Bourcier, of DuBois and King. Stating he is preparing a milestone letter to reduce the bond after paving the base coat of asphalt. This indicates to me, that the road has been inspected paved and passed, to make a long story short, this was June 27, 2016 the base coat is now complete and we start on the construction of 20 residential homes. We acquired the Bond in August 2016 .
3. Punch list and Email from Scott Bourcier on November 21, 2020 (indicating punch list for the road is complete). The punch list, created by Scott Bourcier, Marcia Gasses, Planner and Road Agent Jere Calef, dated July 18, 2018. On November 01,2019 the punch list was updated and about 80% done, by November 21,2019 according Scott Bourcier, in his email, is complete except to the pit, which is not part of the road.
4. Email from Scott Bourcier November 4, 2019, talking about; how he has talked to GMI paving and the temp spec's for 2010, which don't apply as I have pointed out in my letter, regardless we met them anyway.
5. Field Report DuBois & King; November 7, 2019. Scott makes mention of the conversation again about the temperature. As you can see we agreed that more asphalt would be put down to meet his 1 ¼ compacted, for 2010 spec's, but he writes 1 ½ compacted depth, not sure why he is all over the place. As you can see from his pictures; there is in excess of 1 ½ inches of asphalt on the entire road? Even if you use his 1 to 1 ¼ inch statement, it still meets the spec per Sec 401 3.17.3.3.1 . So the road meets 2016 NHDOT spec's for Temp etc.. Per Eric Thibodeau, Pavement Management Chief for the NHDOT, as I stated in my cover letter.
6. Email from Scott Bourcier, November 21, 2019. States that the gravel is completed on the sides of the road.
7. Email from Scott Bourcier, November 24, 2019; Stating that the road was paved and completed with exception for temp, which by now we now is wrong. So we have a report stating the road is complete and from #2 doc's the email stating the punch list is complete. So I am done with the road at this point and DuBois & King have completed their Scope of Work.
8. Email from me to John Huckins the new Town Planner, December 19, 2019. I am sending him pictures of the paving job and questioning why Scott has taken a position that we didn't meet spec's. As you can see from my pictures and the picture of my finger, that the asphalt exceeds the spec's Scott is referencing.
9. Email sent by me to John Huckins, January 2, 2020. Asking for an update on the Bond?

10. Letter I received the first week of February 2020 per U.S Mail, from the Town of Barrington. They are now along with other concerns, saying that the base gravel of the road, which was placed, inspected and passed by the Engineer, Town Planner and Road Agent four years ago, but is now too soft? I then requested the person's name, qualifications and how long they knew of these defects, seeing they have been signed off for over four years, I'm still waiting for that information. The road was also inspected by GMI paving, because they will not pave over a defective road, they found no problems with the road, there had been no cracking or heaving in any part of the road after 4 winters and is still flawless after four years. I have also asked what they base their concerns on seeing the road is still in perfect shape, I have not received an answer. By March after getting little no response to what exactly they wanted to do to move forward, I hired a Lawyer.
11. Email from my Lawyer, from the Town Lawyer; May 4, 2020. After waiting for answer for months, the Town attorney states; " I think I dropped the ball and didn't ask" They have made no real attempt to come to a conclusion on this matter and I consider them in default of their agreement for posting a bond with them.
12. 2016 Sec 401 NHDOT Standards and Specifications, as explained to me by Eric Thibadeau, Pavement Management Chief for NHDOT. Sec 3.10.7.2 & 3.10.7.3. I'm not sure why Scott Bourcier was using 2016 standards and then went back and started stating 2010 ?



February 17, 2016

Ms. Marcia Gasses
Town Planner & Land Use Administrator
Town of Barrington
PO Box 660
Barrington NH 03825

SUBJECT: Rivers Peak
Road Inspections

Dear Ms. Gasses:

We are pleased to submit our second proposal to conduct road inspections for the Barrington Planning Board regarding the above project. We propose the following scope of work.

SCOPE OF WORK

Task 1 - Subgrade Inspection

We will conduct a subgrade inspection (prior to placement of road subbase) and issue a letter report.

Task 2 - Drainage Inspection

Following installation of drainage facilities, we will make an inspection and submit a letter report.

Task 3 - Bankrun Gravel Inspection

Following placement of bankrun gravel, we will make an inspection and submit a letter report.

Ms. Marcia Gasses
February 17, 2016
Page Two

Task 4 - Crushed Gravel Inspection

Following placement of crushed gravel, we will make an inspection and submit a letter report.

Task 5 – Paving Inspection

We will be on-site during paving and monitor the paving process.

Task 6 – Punch List

Following paving, we will issue a punch list of items necessary to complete roadway.

Task 7 - Final Inspection

Following completion of the punch list, we will make a final inspection and submit a closeout report stating that the road was constructed in accordance with the approved drawings and recommending acceptance as a Class V road.

Task 8 – Shop Drawings

We will perform reviews of shop drawings, compaction test results and sieve analysis.

Task 9 – Field Reports

After each inspection, we will prepare a field report that will be issued to the Contractor should issues require attention or correction and acknowledgement of receipt by the Contractor will be documented.

Task 10 – Bond Releases

We will provide recommendation on bond releases/reduction if required.

DuBois & King will perform the above Scope of Work in accordance with our Master Contract. We suggest a budget range of \$3,400 to \$3,700. Actual costs will depend on the extent of coordination required, phasing, and the actual number of inspections required.



Ms. Marcia Gasses
February 17, 2016
Page Three

If you find this proposal to be acceptable, please execute both copies of this proposal and return one fully executed copy to this office. Upon receipt of the fully executed Agreement and the security deposit, we will initiate work.

We look forward to serving the Town of Barrington this project.

Yours truly,

DuBOIS & KING, INC.



Jeffrey A. Adler, P.E.
Senior Project Manager

JAA/js

ACCEPTED AND AUTHORIZED TO PROCEED:

TOWN OF BARRINGTON, NH

DEVELOPER

BY _____

BY

Ian James LLC / Clifford William

DATE _____

DATE

Feb 22, 2016

Compose

Inbox999+

Drafts133

Sent

Archive

Spam

Trash

FoldersEditHide

+ New folder

Drafts5

Sept 10 Fin Com

Synced Messages2

Unwanted

Compose

scott bourcier

Clifford Williams

Account Info

Go

Sign Out

Home

Inbox

Contacts

Notepad

Calendar

Back to Search

Delete

Spam

Actions

Apply

RE: Barrington, NH - River's Peak Subdivision; Field Report 05/03/16 to 06/17/16

cliffack@yahoo.../Inbox

Jun 28, 2016 at 3:50 PM

Print

Raw message

SB

Scott Bourcier <sbourcier@dubois-king.com>


To: 'Planning Department' <barrplan@metrocast.net>, barringtondpw@gmail.com, 'Clifford Williams' <cliffack@yahoo.com>, 'Matthew Arel' <matthewarel@yahoo.com>

Cc: 'Scott Cole' <scole@bealsassociates.com>, 'Jeffrey Adler' <jadler@dubois-king.com>, 'David Petrell' <dpetrell@dubois-king.com>

1 File208.4kB

Download All

PDF208kB



FIELD_(16) 05...

Download

All:

Please replace the Field Report dated (16) 05-20, noted at the footer of the report, with the attached; the date on the first page was incorrect. I apologize for this oversight.

Thank you,

Scott

-----Original Message-----

From: Scott Bourcier [mailto:sbourcier@dubois-king.com]

Sent: Monday, June 27, 2016 1:05 AM

To: 'Planning Department'; barringtondpw@gmail.com; 'Clifford Williams'; 'Matthew Arel'

Cc: 'Scott Cole'; 'Jeffrey Adler'; 'David Petrell'

Subject: Barrington, NH - River's Peak Subdivision; Field Report 05/03/16 to 06/17/16

Team:

Please see attached field reports 05/03/16 to 06/17/16. I am currently preparing milestone letters that will include our opinion of a bond reduction recommendation to the Town.

If you have any questions or comments, please do not hesitate to contact me.

Thank you,

Scott

Scott Bourcier, P.E.
Project Manager

DuBois & King INC.

18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
Tele: (603) 637-1043
Fax: (866) 783-7101
Cell: (603) 828-8788

&

831 Union Avenue
Laconia, New Hampshire 03246
Tele: (603) 524-1166

Civil Engineering excellence since 1962

This email transmission is confidential and may contain proprietary information for the exclusive use of the intended recipient. Any use, distribution or copying of this transmission, other than by the intended recipient, is strictly prohibited. If you are not the intended recipient, please notify the sender and delete all copies. Electronic media is susceptible to unauthorized modification, deterioration, and incompatibility. Accordingly, the electronic media version of any work product may not be relied upon.

Please consider the environment before printing this email.

Police Say To Carry This

TrySafePersonalAlarm.com

Police say everyone should carry this new safety device that protects against attackers.

OPEN

https://mail.yahoo.com/b/search/keyword=i9zovFMYb6X209II3jAlnxeydvhH~A&account... 1/29/2020

Subject: FW: Barrington, NH - River's Peak; Project Punch List

From: barrplan@metrocast.net

To: Matt@bbhnh.com

Cc: cliffack@yahoo.com

Date: Tuesday, October 10, 2017 11:30:21 AM

Matt

Please see the communication below from the Town Engineer regarding the need to have the missing guardrail installed immediately per the approved plan.

Marcia

Marcia J. Gasses

Town Planner & Land Use Administrator

Town of Barrington

PO Box 660 333 Calef Highway

Barrington, NH 03825

(O) 603-664-0195

(C) 603-312-4468

From: Scott Bourcier [mailto:sbourcier@dubois-king.com]

Sent: Thursday, October 05, 2017 9:20 AM

To: 'Marcia Gasses'; 'Peter Cook'

Subject: Barrington, NH - River's Peak; Project Punch List

Marcia:

I met with Jere Calef of the Barrington Highway Department on site of the above-referenced project to review Jere's concerns of the project. With the exception of the missing guardrail at the entrance of the subdivision that is recommended to be installed immediately in accordance to the approved plan set, the other items will

need to be addressed prior to the Developer placing the final wearing course. We recommend that prior to the Developer's placement of the final wearing course, the

Town's Planning and Highway Departments and DuBois & King walk the site to develop a project punch list to be completed by the Developer prior to placement of the final wearing course. If you could respond with your thoughts about this recommendation it would be greatly appreciated.

If you have any questions or comments, please do not hesitate to contact me.

Thank you,

Scott

Scott M. Bourcier, PE *Project Manager | Municipal / Civil / Site* **DuBois & King, Inc.**



Phone: (603) 637-1043 x 4413
Cell: (603) 828-8788
Fax: (866) 783-7101
Email: SBourcier@dubois-king.com
Website: www.dubois-king.com
18 Constitution Drive, Suite 8, Bedford, NH
03110
Address:

Linked in profile

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.



18 Constitution Drive, Suite 8
Bedford, NH 03110
Tele: (603) 637-1043
Fax: (866) 783-7101

Scott M. Bourcier, P.E.
Project Manager

ENGINEERING • PLANNING • MANAGEMENT • DEVELOPMENT

MEMORANDUM

TO: Matthew Arel, Better Built Homes, LLC
Marcia Gasses, Barrington Planner & Land Use Administrator

RE: Barrington, NH – River's Peak Subdivision (Map 215 / Lot 1) – Project Punch List

DATE: July 18, 2018 (Rev. 11/01/19)

Project Punch List:

- ~~1. Replace cross culvert at gravel reclamation entrance along New Bow Lake Road.~~
- ~~2. Remove silt fence along southerly side of haul road that parallels New Bow Lake Road.~~
- ~~3. Place approximately four (4) to six (6) inches of gravel material along New Bow Lake Road for an approximate distance of 600 feet, centered from the cross culvert identified of Item No. 1 above.~~
- ~~4. Remove silt fence along New Bow Lake Road.~~
- ~~5. Install three (3) to four (4) stone check dams from the retention pond stone outlet apron to New Bow Lake Road to convert concentrated flow to sheet flow.~~
- ~~6. Install guardrail from Sta. 0+00 to 2+80 (L).~~
- ~~7. Repair / stabilize drainage swales at approx. Sta. 1+75 to 2+75 (L) and Sta. 2+00 to 3+25 (R). Recommend utilizing angular, not rounded gravel.~~
- ~~8. Repair four (4) edge of pavement areas located throughout the project site.~~
- ~~9. Repair outlet flared end section (FES) of culvert located at approximate Sta. 12+10 (L).~~
- 10. Raise finish grade to match inlet culvert invert at approximate Sta. 22+80 (L).**
- ~~11. Review project site with Barrington Road Agent.~~
- ~~12. Remove all silt fence from development.~~
- 13. Stabilize all flared end-sections.**
- 14. Stabilize all erosion areas.**
- 15. Clean all drainage swales from sedimentation and ensure drainage outflows are unobstructed.**
- ~~16. Correct outlet pipe at Sta. 20+50 (R), bent upward and does not allow flow to egress from pond.~~
- ~~17. Mow / weed wack vegetation within all drainage swales and retention ponds.~~
- ~~18. Stabilize outlet apron at Sta. 23+00 (L).~~
- 19. Stabilize the gravel pit in accordance to the approved Reclamation Plan.**

Prior to placement of wearing course pavement,

- street sweeping
- mill all driveways 12-inch wide x 1-inch deep x full width of driveway
- apply emulsion tack in accordance to NHDOT Section 410.3.4.1.1.

Upon completing wearing course pavement,

- establish 4-foot wide roadway gravel shoulders with NHDOT 403.33 material (angular material)

Photographs / Figures:

On subsequent page.

Photographs / Figures:



Figure 1 – Stabilize all erosion areas



Figure 2 – Stabilize all flared-end sections



Figure 3 – Clean all outlets and drainage swales



Figure 4 – Stabilize all erosion areas



Figure 5 – Stabilize gravel pit per approved Reclamation Plan

End of Memorandum

RE: Barrington, NH - River's Peak Subdivision; Shoulder Leveling Gravel

cliffack@yahoo.../Inbox



Scott Bourcier <sbourcier@dubois-king.com>
To: 'Clifford Williams' <cliffack@yahoo.com>

Nov 24, 2019 at 8:45 PM

Hi Cliff,

Has the access road from the gravel pit to the project site been stabilized? If so, then I would agree the only item to be completed would be the gravel pit.

Scott

Scott M. Bourcier, PE
DuBois & King, Inc.
18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
(O) 603.637.1043
(C) 603.828.8788

-----Original Message-----

From: Clifford Williams [<mailto:cliffack@yahoo.com>]

Sent: Thursday, November 21, 2019 11:49 AM

To: Scott Bourcier

Subject: Re: Barrington, NH - River's Peak Subdivision; Shoulder Leveling Gravel

Hi Scott, other than the pit area, does that complete the punch list for the road ?

On Wednesday, November 20, 2019, 7:58:50 AM EST, Scott Bourcier <sbourcier@dubois-king.com> wrote:

Thank you.

Scott

Scott M. Bourcier, PE
DuBois & King, Inc.
18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
(O) 603.637.1043
(C) 603.828.8788

-----Original Message-----

From: Clifford Williams [<mailto:cliffack@yahoo.com>]

Sent: Tuesday, November 19, 2019 9:02 AM

To: Scott Bourcier

Subject: Re: Barrington, NH - River's Peak Subdivision; Shoulder Leveling Gravel

Hi Scott, I talked with Ron from GMI, they did finish the gravel on the shoulders yesterday, the 18th. Thanks

On Sunday, November 17, 2019, 8:08:12 PM EST, Scott Bourcier <sbourcier@dubois-king.com> wrote:

Thank you for the update.

Scott

Scott M. Bourcier, PE
DuBois & King, Inc.
18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
(O) 603.637.1043
(C) 603.828.8788

-----Original Message-----

From: Clifford Williams [<mailto:cliffack@yahoo.com>]

Sent: Sunday, November 17, 2019 1:00 PM

To: Scott Bourcier

Subject: Re: Barrington, NH - River's Peak Subdivision; Shoulder Leveling Gravel

Hi Scott, Ron from GMI told me that it would be this Monday, the 18th. I think its predicted to rain, so I will let you know, thanks.

On Thursday, November 14, 2019, 5:22:06 PM EST, Scott Bourcier <sbourcier@dubois-king.com> wrote:

Re: Barrington, NH - River's Peak Subdivision; Updated Punch List and Final Wearing Course Pavement

cliffack@yahoo.../Sent



Clifford Williams <cliffack@yahoo.com>
To: Scott Bourcier <sbourcier@dubois-king.com>

Nov 4 at 11:33 AM

Hi Scott and thanks for all your help, one question; you wanted 48 hours, not sure GMI, AKA (Ron) thinks, if he has a cancelation he was going to try and get over to Rivers Peak, so if a 48 hour notice is required, I need to tell him that ?

On Monday, November 4, 2019, 8:38:35 AM EST, Scott Bourcier <sbourcier@dubois-king.com> wrote:

Hi Cliff,

Thanks for meeting with me on site last Friday. A lot of items on the above-referenced Project Punch List— thank you. Attached is the current list for everyone's file

I spoke with GMI last Friday afternoon to discuss the placement of the wearing course pavement. It is my understanding that pavement is not scheduled this week; this project is on the list to be used if a currently schedule project is not feasible to be completed. It is also my understanding that GMI will be contacting you and in turn you will be notifying us when the driveways will be milled and the day the wearing course is to be placed. We require a 48-hour confirmed notice. As you are aware, all construction projects are pushing to meet a milestone prior to the first snow fall; therefore, we are not available at a moment's notice.

Based on the forecast for the next two week in Barrington, it appears the weather might not be accommodating. As you and GMI are aware, per NHDOT Section 401.3.10.6.3 the pavement surface is to be dry, frost free, and surface temperature above 50-degrees Fahrenheit for a 1-inch pavement depth. Based on the below forecast, snow is predicted this Friday, next Monday, and next Thursday.

3.10.6.3 Method Requirements. Mixtures shall be placed only when the underlying surface is dry, frost free, and the surface temperature is above 40°F (5°C) for courses greater than or equal to 1-1/4 in (32 mm) in compacted depth and above 50°F (10°C) for courses less than 1-1/4 in (32 mm) in compacted depth. The Engineer may permit, in case of sudden rain, the placing of mixture then in transit from the plant, if laid on a base free from pools of water, provided motorist visibility is not impaired and all other specifications are met. No load shall be sent out so late in the day that spreading and compaction cannot be completed during the daylight, unless the requirements of 3.10.4 are met. If rapid surface cooling of the laid down mix is occurring due to wind, the Engineer may suspend operations for the day. Wearing course shall not be scheduled for placement after October 1st of any year without written approval by the Engineer. If it is determined to be in the best interest of the Department to schedule placement after October 1st, the above specified weather and surface conditions shall remain in effect.

Barrington, NH 10 Day Weather

DAY	DESCRIPTION	HIGH / LOW	PRECIP	WIND	HUMIDITY
TODAY	Mostly Sunny	51 / 39	0%	SSW 5 mph	51%
TUE	Rain	56 / 36	90%	SSW 7 mph	83%
WED	Sunny	47 / 33	0%	W 11 mph	57%
THU	Mostly Sunny	48 / 25	0%	W 4 mph	50%
FRI	AM Snow Showers	32 / 21	90%	NNW 11 mph	62%
SAT	Mostly Sunny	36 / 23	0%	WSW 7 mph	51%
SUN	Mostly Sunny	44 / 27	10%	SW 8 mph	63%
MON	PM Snow Showers	38 / 25	30%	WNW 7 mph	56%
TUE	Snow Showers	36 / 27	40%	NNW 9 mph	59%
WED	Partly Cloudy	41 / 26	20%	WSW 4 mph	51%
THU	AM Snow Showers	41 / 32	50%	WSW 7 mph	62%
FRI	Rain/Snow Showers	42 / 30	50%	N ¹ Scattered snow flurries and snow showers before noon, becoming partly cloudy later. High 42°. Winds WSW at 5 to 10 mph. Chance of snow 30%.	

WATER CHANGE
UNLOCK CLEAN WATER +
Clean water is good for you and your pet.

STAY UP TO DATE
FEATURES
Featured stories, photo essays, and more by Weather.com

FAN PHOTOS
Submit your photos to our fan photo contest.

MAPS
See how weather impacts your road conditions.

If you have any questions or comments, please do not hesitate to contact me.



18 Constitution Drive, Suite 8
Bedford, NH 03110
Tele: (603) 637-1043
Fax: (866) 783-7101

ENGINEERING • PLANNING • MANAGEMENT • DEVELOPMENT

FIELD OBSERVATION REPORT

PROJECT:	River's Peak Subdivision
PROJECT No.:	323138P
DATE:	November 7, 2019
CONTRACTOR:	Better Built Homes
LOCATION:	Barrington, NH
FIELD ENGINEER:	Scott Bourcier

TEMPERATURE:

30 °F at 5:50 a.m.
47 °F at 12:15 p.m.

SKY:

☐ CLEAR
☐ OVERCAST
☐ PRT CLOUDY
☒ CLOUDY
☐ OTHER

PRECIPITATION:

☐ MISTY
☐ DRIZZLE
☐ SPRINKLE
☐ RAIN
☐ SNOW
☐ OTHER: _____

EQUIPMENT ON-SITE:

(1) Volvo P4410B Paver (1) Caterpillar CB54B Tandem Drum Compactor (1) Dynapac CC1300 Tandem Drum Compactor

PRESENT AT SITE:

Clifford Williams (Owner / Developer); GMI Asphalt LLC; Scott Bourcier (DuBois & King)

OBSERVATIONS:

1. Arrived at approximately 5:50am.
2. Recorded subdivision development roadway binder course pavement surface temperatures:

Time	Surface Temperature
6:00am	25 °F
7:00am	32 °F
8:00am	39 °F
9:00am	43 °F
10:00am	46 °F
11:00am	46 °F

3. At approximately 6:50am spoke with GMI Asphalt Superintendent to inquire if the project was proceeding forward with the placement of the wearing course pavement. The Superintendent reported that according to the Owner / Developer, the project is proceeding. I then spoke with Cliff about the placement requirements as identified in New Hampshire Department of Transportation (NHDOT – Section 401.3.10.6.3; dated 2010). I reiterated the surface temperature requirement of 50-degrees Fahrenheit for a 1-inch compacted placement and noted the weather forecasted today was to be a high of approximately 52-degrees around 2:00pm and cloudy with inclement weather moving in. I suggested that if the wearing course was placed at a 1.50-inch compacted depth, the surface temperature requirement would be reduced to 40-degrees Fahrenheit. After much discussion, Cliff decided to proceed with placing the wearing course pavement to the 1-inch compacted depth.
4. Recorded the following:
 - a. Tie-in at the intersection of Boulder Drive and all abutting driveways were previously milled 1-inch deep x 12-inch wide.
 - b. The existing binder course pavement surface was previously swept.
 - c. Tack coat was placed for all horizontal and vertical surfaces of the existing binder course pavement surface, tie-in of Boulder Drive, and tie-in of all abutting driveways prior to the placement of new pavement material in accordance with NHDOT Section 410.3.4.1.1 for an Oxidized Hot-Mixed Asphalt (HMA) category.

- d. Placement of the wearing course pavement commenced at approximately 7:20am.
- e. Delivery slips identified the material delivered to be 9.5mm, 75-gyraton.
- f. Pavement depths were recorded to be 1-1/4 to 1-1/2 inches loose and 1 to 1-1/4 inches compacted; meeting the 1-inch compacted requirement.
- g. Pavement temperature was recorded to range between 300 to 330 °F; acceptable in accordance with NHDOT Section 401.3.6.2.1.
- h. Pavement placement of the adjacent travel-lane centerline was performed by overlapping the joint approximately 2-inches (no luting), and compacting in accordance with NHDOT 401.3.13.2.
- i. Observations of both placement and compaction procedures were reviewed and appeared to have been performed in a satisfactory manner.
- j. The 24-foot wide, from Sta. 0+00 (intersection of Boulder Drive) to 30+54.85 (end), wearing course pavement was completed at approximately 12:15pm

5. Departed at 12:15pm.

OUTSTANDING ITEMS:

- 1. Complete remaining Project Punch List items.

PROJECT PHOTOGRAPHS:



Figure 1 – Tack coat



Figure 2 – Placement



Figure 3 – 04/19/19 photograph



Figure 4 – Joint overlap



Figure 5 – Compaction of joint

END OF REPORT

Barrington, NH - River's Peak Subdivision; Field Report 11/21/19

cliffack@yahoo..../Inbox

**Scott Bourcier** <sbourcier@dubois-king.com>

To: 'Marcia Gasses' <barrplan@metrocast.net>, 'Barbara Irvine' <barrplan@metrocast.net>, 'Marc Moreau' <mmoreau@barrington.nh.gov>, 'Erin Paradis' <eparadis@barrington.nh.gov>, 'Matthew Arel' <matt@bbhnh.com> [more...](#)

Nov 24, 2019 at 8:53 PM

Team:

Please see attached field report dated 11/21/19.

If you have any questions or comments, please do not hesitate to contact me.

Thank you,

Scott

Scott M. Bourcier, PE
DuBois & King, Inc.
18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
(O) 603.637.1043 [x](#)
(C) 603.828.8788 [x](#)

1 File 4.3MB



FIELD_(19) 11-21.pdf

4.3MB



18 Constitution Drive, Suite 8
Bedford, NH 03110
Tel: (603) 637-1043
Fax: (866) 783-7101

ENGINEERING • PLANNING • MANAGEMENT • DEVELOPMENT

FIELD OBSERVATION REPORT

PROJECT:	River's Peak Subdivision
PROJECT No.:	323138P
DATE:	November 21, 2019
CONTRACTOR:	Better Built Homes
LOCATION:	Barrington, NH
FIELD ENGINEER:	Scott Bourcier

TEMPERATURE:

40 °F at 11:05 a.m.
°F at p.m.

SKY:

- ☒ CLEAR
☐ OVERCAST
☐ PRT CLOUDY
☐ CLOUDY
☐ OTHER

PRECIPITATION:

- ☐ MISTY
☐ DRIZZLE
☐ SPRINKLE
☐ RAIN
☐ SNOW
☐ OTHER: _____

EQUIPMENT ON-SITE:

None

PRESENT AT SITE:

Scott Bourcier (DuBois & King)

OBSERVATIONS:

1. Arrived at approximately 11:05am.
2. Performed a site walk and recorded the following:
 - a. Confirmed shoulder leveling gravel has been placed.
3. Departed at 11:15pm.

OUTSTANDING ITEMS:

1. Complete remaining Project Punch List items.

PROJECT PHOTOGRAPHS:

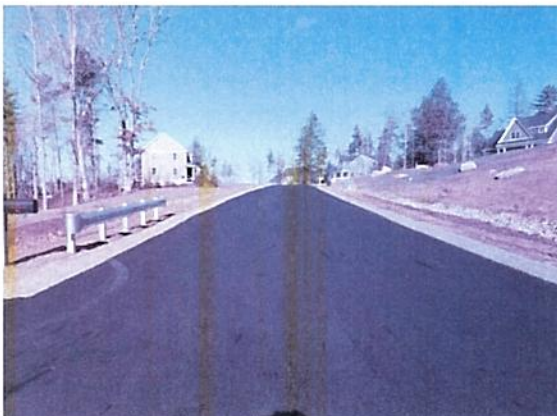


Figure 1 – Shoulder gravel



Figure 2 – Shoulder gravel

END OF REPORT



November 24, 2019

Ms. Marcia Gasses, Town Planner
Town of Barrington
P.O. Box 660
Barrington, New Hampshire 03825

Subject: River's Peak – Map 215 / Lot 1
Wearing Course Pavement Observations

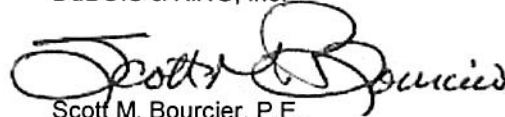
Dear Ms. Gasses:

As requested, DuBois & King performed wearing course pavement observations of the above-referenced project's subdivision roadway from Boulder Drive to end (approx. Sta. 30+54.85). Observation for the wearing course pavement was performed on November 7, 2019, while confirmation of the shoulder leveling gravel placement was performed November 21, 2019. The following were comments recorded during the observations.

1. The wearing course pavement width met the 24-foot travel way and 1-inch compacted depth requirements.
2. Placement of the wearing course pavement met the New Hampshire Department of Transportation (NHDOT) Standard Specifications for Road and Bridge Construction (dated 2010) specifications, except for surface temperature requirement; please see Field Report dated 11/07/19.
3. The shoulder leveling gravel met the 4-foot width requirement; and,
4. There are some outstanding punch list items to be completed as of the date of this letter.

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,
DuBOIS & KING, Inc.



Scott M. Bourcier, P.E.
Project Manager

SMB/smb

I:\31323138P - Barrington - Rivers Peak Insp\Const\LETTER_Barrington (19) 11-24.doc

Re: Barrington, NH - River's Peak Subdivision; Wearing Course Surety

cliffack@yahoo.../Sent



Clifford Williams <cliffack@yahoo.com>
To: John Huckins <jhuckins@barrington.nh.gov>
Cc: Matthew Arel <matt@bbnh.com>

Dec 19, 2019 at 9:31 AM

Hi John, thanks for this information. I am not sure why Scott is taking this position on the paving of the road. I spoke with Ron at GMI yesterday after receiving this email. He was under the impression that Scott was pleased with the job, as he was there inspecting the pavement from the beginning, until completion. The only difference we had from the beginning was the fact that Scott's Temp gun was reading 6 or 7 degree's different than the one I had. I work for the Federal Government and had my personal temp gun from work, my temperature gun is required to be Calibrated. I ask Scott if his was, he did not give me an answer. At no time was the surface temp 25 degrees, the day before the road temp was 55 degree and at the time we started paving it was 40 degree's, by Noon, it was 50 degree's. We did talk about the compact depth required for 40 degree's Vs. 50 degree's and I had spoken with Ron from GMI days before and he assured be they were going to add more tonnage to the job. I have attached a photo of my finger up against the compacted asphalt and the email sent by Scott with the requirements for paving in the 40 degree range. Scott was also asked throughout the day if everything was good as he did his measurements etc... I know we used more asphalt and put down extra Tack at the request of Scott, I also believe the road agent from the Town stopped by to check the temperature of the asphalt coming out of the truck. I am putting together the pictures and information I have. Let me know what direction we need to go from here ?

On Tuesday, December 17, 2019, 12:40:18 PM EST, John Huckins <jhuckins@barrington.nh.gov> wrote:

From: Barbara Irvine <birvine@barrington.nh.gov>
Sent: Wednesday, December 11, 2019 2:46 PM
To: Marc Moreau <mmoreau@barrington.nh.gov>
Cc: John Huckins <jhuckins@barrington.nh.gov>
Subject: FW: Barrington, NH - River's Peak Subdivision; Wearing Course Surety
Importance: High

Marc,
Marcia is out of the office, so I am forwarding to you and John Huckins.
Barbara

From: Scott Bourcier <sbourcier@dubois-king.com>
Sent: Wednesday, December 11, 2019 2:43 PM
To: Marcia Gasses <mgasses@barrington.nh.gov>
Cc: Barbara Irvine <birvine@barrington.nh.gov>
Subject: Barrington, NH - River's Peak Subdivision; Wearing Course Surety
Importance: High

Hi Barbara,

Please see the attached letter. I would recommend having Marc Moreau review to ensure that Public Works is in agreement with our recommendation.

If you have any questions or comments, please do not hesitate to contact me.

Thank you and Happy Holidays!

Scott

Scott M. Bourcier, PE
DuBois & King, Inc.
18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
(O) 603.637.1043
(C) 603.828.8788

TOWN OF BARRINGTON CONFIDENTIALITY AND DISCLOSURE NOTICE:

This email and any email to employees and officials of the Town of Barrington may be subject to public disclosure under the New Hampshire Right to Know law (RSA 91-A). However, this message may also contain information that is privileged and confidential which may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

1 File | 516.3kB



E-paving finger pic.pdf
516kB

(No Subject)



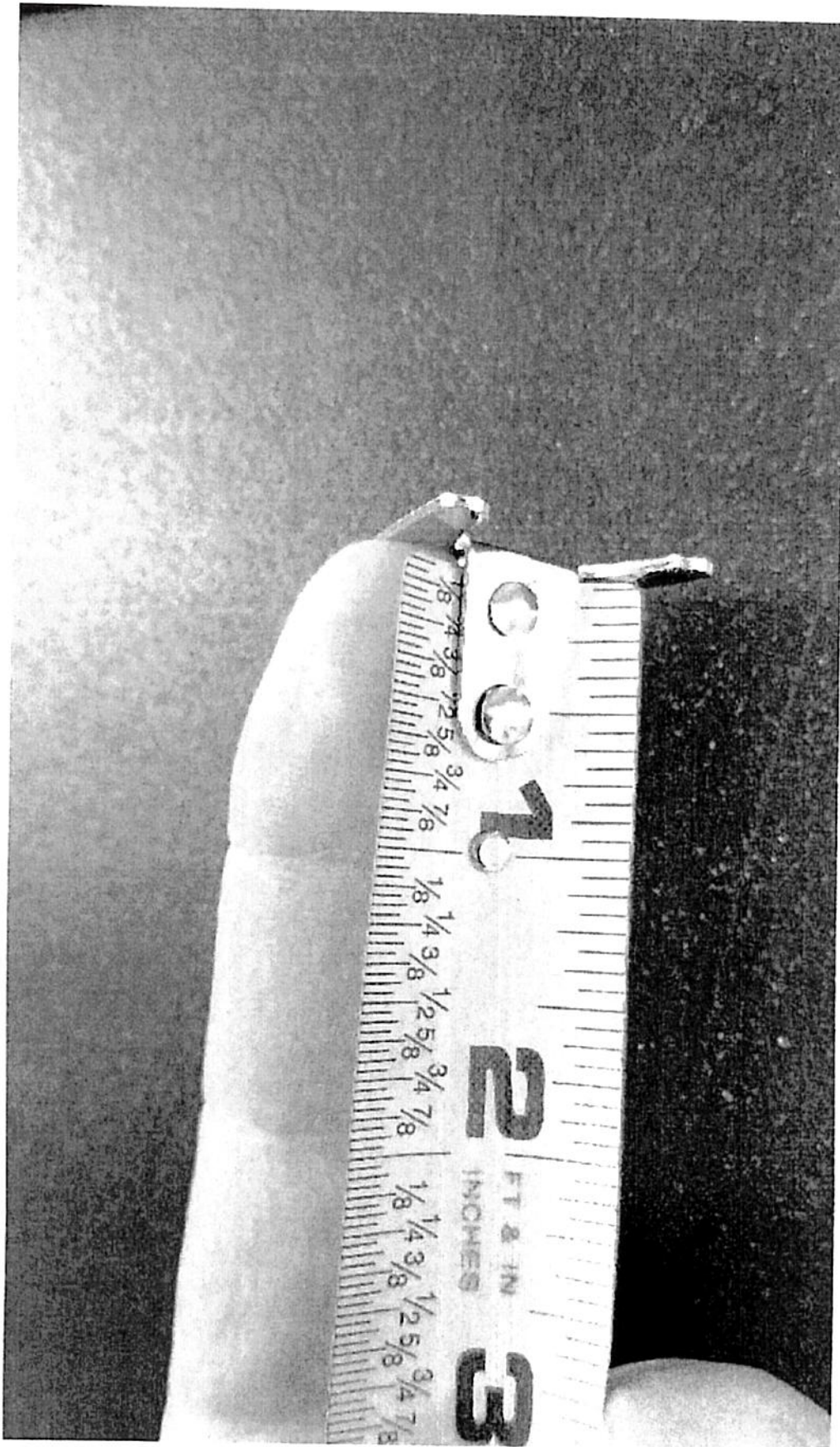
Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

cliffack@yahoo.../Inbox

Nov 30 at 7:54 PM



[Sent from Yahoo Mail on Android](#)



(No Subject)

cliffack@yahoo.../Sent



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 30 at 9:03 PM



[Sent from Yahoo Mail on Android](#)

(No Subject)

cliffack@yahoo.../Inbox



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 19 at 12:30 PM



[Sent from Yahoo Mail on Android](#)

(No Subject)

cliffack@yahoo.../Sent



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 19 at 12:06 PM



[Sent from Yahoo Mail on Android](#)

(No Subject)

cliffack@yahoo.../Inbox



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 30 at 7:55 PM



[Sent from Yahoo Mail on Android](#)

(No Subject)

cliffack@yahoo.com/Sent

Nov 19 at 12:32 PM



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>




Engineer (Scott
Bourcie
(DuBois
+
King)

- Scott was there
all day.

[Sent from Yahoo Mail on Android](#)

(No Subject)

cliffack@yahoo.../Inbox

 Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>


Nov 30 at 8:00 PM



(No Subject)

cliffack@yahoo.../Inbox

Nov 30 at 8:01 PM

 Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>





(No Subject)

cliffack@yahoo.../Sent



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 30 at 8:52 PM



[Sent from Yahoo Mail on Android](#)

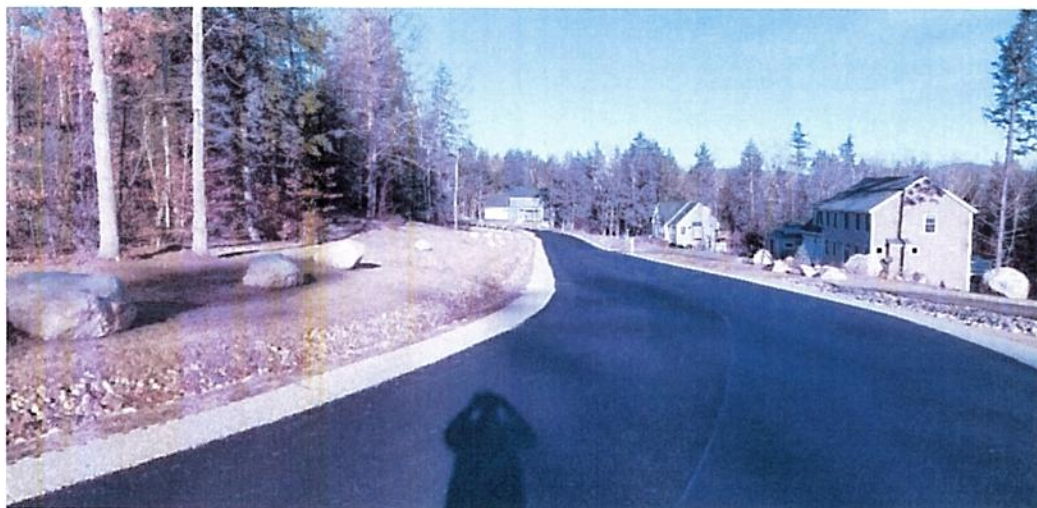
(No Subject)

cliffack@yahoo.../Sent



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 30 at 8:52 PM



[Sent from Yahoo Mail on Android](#)

RE: Barrington, NH - River's Peak Subdivision; Wearing Course Surety

cliffack@yahoo.../Inbox



John Huckins <jhuckins@barrington.nh.gov>
To: Clifford Williams <cliffack@yahoo.com>
Cc: Conner MacIver <cmaciver@barrington.nh.gov>, Marcia Gasses <mgasses@barrington.nh.gov>, Barbara Irvine <birvine@barrington.nh.gov>, Marc Moreau <mmoreau@barrington.nh.gov>

Jan 2 at 12:24 PM

The attorney is still reviewing the information.

From: Clifford Williams <cliffack@yahoo.com>
Sent: Thursday, January 02, 2020 11:53 AM
To: John Huckins <jhuckins@barrington.nh.gov>
Subject: Re: Barrington, NH - River's Peak Subdivision; Wearing Course Surety

Hi John, I'm just checking in for an update with the bond. If you have responded, I didn't see it, I get hundreds of emails a day, so it could have gotten by me. If you could let me know what the status is I would appreciate it, thanks

On Tuesday, December 17, 2019, 12:40:18 PM EST, John Huckins <jhuckins@barrington.nh.gov> wrote:

From: Barbara Irvine <birvine@barrington.nh.gov>
Sent: Wednesday, December 11, 2019 2:46 PM
To: Marc Moreau <mmoreau@barrington.nh.gov>
Cc: John Huckins <jhuckins@barrington.nh.gov>
Subject: FW: Barrington, NH - River's Peak Subdivision; Wearing Course Surety
Importance: High

Marc,
Marcia is out of the office, so I am forwarding to you and John Huckins.
Barbara

From: Scott Bourcier <sbourcier@dubois-king.com>
Sent: Wednesday, December 11, 2019 2:43 PM
To: Marcia Gasses <mgasses@barrington.nh.gov>
Cc: Barbara Irvine <birvine@barrington.nh.gov>
Subject: Barrington, NH - River's Peak Subdivision; Wearing Course Surety
Importance: High

Hi Barbara,

Please see the attached letter. I would recommend having Marc Moreau review to ensure that Public Works is in agreement with our recommendation.

If you have any questions or comments, please do not hesitate to contact me.

Thank you and Happy Holidays!

Scott

Scott M. Bourcier, PE
DuBois & King, Inc.
18 Constitution Drive, Suite 8
Bedford, New Hampshire 03110
(O) 603.637.1043
(C) 603.828.8788

TOWN OF BARRINGTON CONFIDENTIALITY AND DISCLOSURE NOTICE:

This email and any email to employees and officials of the Town of Barrington may be subject to public disclosure under the New Hampshire Right to Know law (RSA 91-A). However, this message may also contain information that is privileged and confidential which may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.



- Received 1st week of
February 2020.

Town of Barrington
Code Enforcement/Building Department
P.O. Box 660
Barrington, NH 03825
603-664-5183

Clifford Williams
P.O. Box 432
Strafford NH 03884

RE: Rivers Peak Subdivision

Dear Mr. Williams:

You have requested the reduction/return of the bond posted to ensure the completion of Overlook Circle in the River's Peak Subdivision. As you are aware, the town has numerous concerns about the construction of this road, including but not limited to:

- The transition radii from Boulder Drive to Overlook are not according to plan.
- The wear course was placed at too cold of ambient air and/or surface temperature. Not only did the temperature require a 1.5-inch wear course, it has also resulted in other issues, such as the excessively high longitudinal joints, the tie in joints at the intersections are extremely poor, and there are numerous roller marks and roller stop bumps.
- There is also a concern that the base gravel that was used was too soft and consists of round stones rather than the required crushed stone.

Before the town will release the bond and/or consider accepting the road, we need to be assured that the road is properly constructed. The best way to examine the road's construction would be to take borings at various locations on the road to confirm the thickness of the wear course and the suitability of the base gravel. Assuming that those borings demonstrate compliance, then the only outstanding issue will be the transition radii, which you will need to correct regardless.

I am writing to seek your assent to the town taking borings of the road. The town will bear the expense of these borings, and will work with you to schedule a time for them to be taken. Would you please confirm that we have your permission to undertake this work?

Thank you in advance for your cooperation.

Sincerely,

John Huckins, Building/Code Enforcement

Laura Spector-Morgan, Esquire
Mitchell Municipal Group, P.A.
25 Beacon Street East
Laconia, NH 03246
(603) 524-3885
fax (603) 524-0745
www.mitchellmunicipalgroup.com



From: Kevin Collimore
Sent: Monday, May 18, 2020 3:34 PM
To: Laura Spector-Morgan <laura@mitchellmunigroup.com>
Subject: RE: Barrington

Hi Laura - Any update please?

Thank you, Kevin

Kevin G. Collimore
CullenCollimore, PLLC | Partner
10 East Pearl St | Nashua, NH 03060
T: 603.881.5500
kcollimore@cullencollimore.com
www.CullenCollimore.com
[www.Facebook.com/cullencollimore](https://www.facebook.com/cullencollimore)
www.millyardbpr.com

Notice of Confidentiality: This message comes from a law firm and may include attorney-client and/or work product privileged information. If you receive this email in error, please let me know by return e-mail and delete both messages. Thank you.

Please consider the environment before printing.

From: Laura Spector-Morgan <laura@mitchellmunigroup.com>
Sent: Monday, May 4, 2020 3:37 PM
To: Kevin Collimore <kcollimore@cullencollimore.com>
Subject: Barrington

Kevin:

I think I dropped the ball and didn't ask, but I've just sent an e-mail to try and get the information you were seeking. Thanks.

Laura

Laura Spector-Morgan, Esquire
Mitchell Municipal Group, P.A.
25 Beacon Street East
Laconia, NH 03246
(603) 524-3885
fax (603) 524-0745
www.mitchellmunicipalgroup.com



Barrington NH, Board of Selectmen



3.6 Mixing Temperature.

3.6.1 Method Requirements.

3.6.1.1 The Engineer may adjust the job mix formula temperature within the limits of 260° and 350°F according to the existing conditions. Material with a temperature at discharge outside the job mix formula tolerance may be rejected. In no case will a mixture be accepted with a discharge temperature in excess of 375°F.

3.6.1.2 During hot weather, the temperature of the mixture when discharged shall be as low as is consistent with proper mixing and placing. During cold weather, a temperature approaching the upper limit is desirable.

3.6.2 Performance Requirements (QC/QA).

3.6.2.1 The job mix formula temperature may be adjusted within the limits of 260 °F and 350 °F according to the existing conditions. Material with a temperature at discharge outside the job mix formula tolerance may be rejected. In no case will a mixture be accepted with a discharge temperature in excess of 375 °F.

3.7 Hot Storage System – General.

3.7.1 Material may be placed in a storage silo for a period not to exceed 24 hours from the time of mixing. The upper and lower gates when closed shall create an airtight seal. The silo shall be filled to capacity. 24 hour storage will not be allowed if there is reason to believe there is a problem with the gate seals or excessive heat loss.

3.7.2 The hot storage system shall be capable of conveying the hot mix from the plant to insulated and enclosed storage bins and storing the hot mix without appreciable loss in temperature, asphalt migration, segregation, or oxidation.

3.7.3 The conveyer system may be a continuous type or skip bucket type. If the continuous type is used, it shall be enclosed to prevent a drop in mix temperature. If the skip bucket type is used, the bucket must be of sufficient capacity to transport an entire batch and mass dump it into the bins.

3.7.4 The storage bins shall be designed in such a manner as to prevent segregation of the hot mix during discharge from the conveyor into the bins and shall be equipped with discharge gates that do not cause segregation of the hot mix while loading the mix into the trucks. The storage bin heating system shall be capable of maintaining the mix temperature without localized heating (hot spots).

3.7.5 The bin shall be equipped with a light or indicator to show when the level of material reaches the top of the discharge cone. The bin shall not be emptied below the top of the discharge cone until the use of the bin is completed each day. The material remaining in the discharge cone may be rejected if there is evidence of segregation.

3.8 Weighing and Hauling – General.

3.8.1 The Contractor shall provide an approved automatic printer system that prints the weights of the material delivered, provided the system is used in conjunction with an approved automatic batching and mixing control system. Such weights shall be evidenced by a weight slip for each load.

3.8.2 Weight slips shall include requirements as shown in 109.01 and the following for batch plants with automatic proportioning equipment:

- (a) Tare weight of aggregate weigh box.
- (b) Tare weight of asphalt binder weigh bucket.
- (c) Accumulative weights as batched for each aggregate (total of last aggregate will be aggregate total).
- (d) Weight of asphalt binder.
- (e) Accumulated total weight of batch.

3.8.3 Each weight slip will show a consecutive load number and shall include an accumulative total of material delivered for each day.

3.9 Vehicles – General.

3.9.1 The inside surfaces of vehicles may be lightly lubricated with a soap solution or non-petroleum release agent that will not be detrimental to the mix. Equipment that leaks oil, diesel fuel, gasoline, or any other substance detrimental to the pavement will not be allowed on the project.

3.9.2 The mixture shall be transported from the paving plant to the project in trucks having tight, smooth, metal beds previously cleaned of all foreign materials. Truck beds may be lined with a polyethylene type material designed and installed for hauling hot bituminous mixes. Each load shall be covered with canvas or other suitable material of sufficient size and

SECTION 401

thickness to retain heat and to protect it from weather conditions. The cover material when new shall weigh a minimum of 18 oz/yd² and it shall be a tightly woven or solid material. When necessary, so that the mixture can be delivered on the project at the specified temperature, truck beds shall be insulated, and covers shall be securely fastened.

3.10 Placing – General.

3.10.1 Prior to placing of any mix, a pre-paving conference shall be held to discuss and approve the paving schedule, source of mix, type and amount of equipment to be used, sequence of paving pattern, rate of mix supply, traffic control, and general continuity of the operation. Special attention shall be made to the paving pattern sequence to minimize cold joints. The field supervisors of the above mentioned operations shall attend this meeting.

3.10.2 The Contractor shall notify the Engineer at least five working days in advance of paving operations to allow sufficient time to schedule required site inspection and testing. All paving and compaction equipment shall be approved and on site prior to start up each day.

3.10.3 Crack sealing material to be covered by a 1" or less overlay shall cure a minimum of 45 days prior to the placement of bituminous pavement.

3.10.4 Base course pavement lifts shall not exceed the maximum compacted thickness of 5 inches. Any course exceeding 5 compacted inches shall be placed in 2 passes.

3.10.5 When performing paving operations at night, in addition to the requirements of 3.1.4.5, the Contractor shall provide sufficient lighting at the work site to ensure the same degree of accuracy in workmanship and conditions regarding safety as would be obtained in daylight.

3.10.6 Performance Requirements (QC/QA). The Contractor shall provide the following equipment for testing and sampling at the project site. The equipment shall be in good condition and shall be replaced by the Contractor if, during the duration of the project, it becomes unsuitable for testing or sampling purposes.

3.10.6.1 Metal plate 12" minimum each side, flat bottom scoop 3000-gram capacity minimum, and sample containers to perform NHDOT B-7 sampling.

3.10.7 Weather Limitations.

3.10.7.1 General. In special instances, when the Engineer determines that it is in the best interest of the State, the Engineer may waive the requirements of 3.10.7, provided that 3.10.7.3 shall always remain in effect.

3.10.7.2 Any material delivered to the spreader having a temperature lower than 260° F shall not be used unless modified by a qualified warm mix technology capable of being compacted to project requirements at the recommended delivery temperature.

3.10.7.3 Mixtures shall be placed only when the underlying surface is dry and frost free. The Engineer may permit, in case of sudden rain, the placing of mixture then in transit from the plant, if laid on a base free from pools of water, provided motorist visibility is not impaired and all other specifications are met. No load shall be sent out so late in the day that spreading and compaction cannot be completed during the daylight, unless the requirements of 3.10.5 are met. The Engineer may suspend operations for the day when the Contractor is unable to meet specifications.

3.10.7.4 All mix placed after October 1st and before May 1st shall be modified by a qualified warm mix technology.

3.10.7.4.1 Wearing course shall not be scheduled for placement after October 1st and before May 1st without written approval by the Engineer.

3.10.8 At the beginning and end of the project or project section, the existing pavement shall be removed to a sufficient depth to allow the placing of the new pavement and construction of a transverse joint, which shall be painted with a suitable bituminous material. The underlying course shall be clean and free from foreign materials and loose bituminous patches and must present a dry, unyielding surface.

3.10.9 Sweeping - General. Existing pavement or previously laid courses shall be thoroughly dry and free from all dust, dirt, and loose material. Sweeping with a power broom, supplemented by hand brooming, may be necessary.

3.10.10 Tack coat - General. Surfaces of any pavement course shall have a tack coat of emulsified asphalt applied in accordance with the requirements of 410.3.4.

3.10.10.1 Tack will be sampled daily and tested by NHDOT for conformance with Section 410. Any pavement that has been placed over tack that is found to be out of specification, but is deemed suitable to remain in place by the Engineer, will be subject to a 3% price reduction. The price reduction will be applied only to the pavement placed on the date that the tack is

(No Subject)

cliffack@yahoo....Sent



Clifford Williams <cliffack@yahoo.com>
To: Clifford Williams <cliffack@yahoo.com>

Nov 30 at 8:56 PM



[Sent from Yahoo Mail on Android](#)