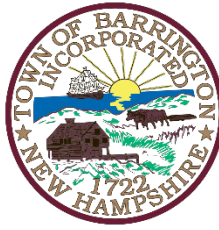


**TOWN OF BARRINGTON, NH**  
LAND USE DEPARTMENT  
*Vanessa Price, Town Planner*  
*Barbara Irvine, Planning &*  
*Land Use Administrative Assistant*



**Planning Board Members**  
John Driscoll, Chair  
Ron Allard, Vice Chair  
Buddy Hackett  
Andy Knapp  
Bob Tessier  
Donna Massucci  
Joyce Cappiello (Ex-Officio)

---

**Meeting Minutes**  
**Town of Barrington Planning Board**  
**Public Hearing**  
**March 5, 2024, at 6:30p.m.**  
**APPROVED 3/19/2024**

**1. CALL TO ORDER**

J. Driscoll called the meeting to order at 6:30 PM.

**2. ROLL CALL**

**Members Present:** John Driscoll, Ron Allard, Bob Tessier, Joyce Cappiello, Donna Massucci, Andy Knapp

**Members Absent:** Buddy Hackett

**Staff Present:** Town Planner: Vanessa Price, planning & Land Use Administrative Assistant: Barbara Irvine

**Town Attorney:** Laura Spector-Morgan

**Town Engineer:** Josh Bouchard-CMA Engineers, Inc.

**3. REVIEW AND APPROVAL OF MINUTES**

A. Review and approval minutes of the February 6, 2024, meeting minutes.

*A motion was made by R. Allard and seconded by J. Driscoll to approve the meeting minutes of February 6, 2024, as written. The motion passed unanimously.*

Roll Call:

A. Knapp-Yay

D. Massucci-Yay

J. Cappiello-Yay

B. Tessier-Yay

R. Allard-Yay

J. Driscoll-Yay

**4. STAFF UPDATES-TOWN PLANNER**

A. [Changes to Planning & Zonings Law in 2023: A Guide for Municipalities – a joint NHMA/OPD advisory](#)

V. Price explained to the Board the changes to Planning & Zoning Law in 2023 and that there was a link on the Agenda. V. Price explained that there are some changes for the Planning & Zoning laws in 2023. V. Price explained that it goes over of the summaries of changes and when they go into effect. V. Price explained to the Board that she wanted everyone to have a copy, and this could be discussed at a further work session.

## **B. Housing Master Plan Chapter – Finalized Goals and working on rough draft of the Chapter.**

V. Price explained that they are finalizing their goals tomorrow for the Housing Master Plan Chapter. V. Price explained that they would have a rough draft and then would be brought before the planning Board for a Public Hearing in April or May.

### **5. ACTION ITEMS**

#### **A. CONTINUED CASES: From February 6, 2024**

- 1) **240-8-NR-23-Sub (23) (Owner: Young Road, LLC (Previously-Norma Bearden)** Request by applicant for a major site plan to subdivide into 23 Lots using the Conservation Subdivision Ordinance with waivers on a 65.55-acre lot (Map 240, Lot 8) in the Neighborhood Residential Zoning District on Young Road. BY: Christopher Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825. **(Application was accepted as complete on April 4, 2023. Waiver granted October 17, 2023.)**

J. Driscoll gave a brief description of the application.

Representing the owner (Young Road, LLC, Paul Thibodeau), is Chris Berry from Berry Surveying & Engineering and Attorney Justin L. Pasay from DTC Lawyers.

Chris explained to the Board that they don't have a lot of new items to present. Chris explained that the Board asked for open space documentation for the project and to define on-site areas for the open space. Attorney Justin Pasay and his office are taking care of the documentation for the request. Chris explained it was defined on the subdivision plan the areas that would be open to the public. This would include the existing trail down to Young Road and other smaller areas of the open space that would be exclusive to the landowners within the subdivision.

Chris explained to the Board that they would be amenable to provide some additional parking but currently there was no parking on the site. Chris explained that so they can avoid parking on the roadways, they have proposed a small parking area that would hold for cars so that they would not back out to Young Road, but they would pull out front forward and has appropriate site distance in both directions. Chris explained that there was one lot in the subdivision that didn't have direct access to the open space (Lot 8-17). Chris explained that they provided an access easement over Lot 8-16 to gain access to the open space all the other lots have access.

J. Cappiello asked about the environmental impact report it said it specifically says that it does not look at rare, threatened or endangered species has not been done on this property.

Chris explained that it wasn't done as part of that process at the time it was not required if the project does go to additional State permitting then that would be reviewed at that time at State level.

J. Cappiello explained that it was in the ordinance under **7.6.4 (Subdivision Regulations) Fish and Wildlife**.

Chris explained that you could ask for Environmental Impact Assessment was provided two or three months ago and there were no questions raised at that time.

J. Cappiello explained that she was asking the question now about why that wasn't done.

Chris explained that it wasn't required for the project and the Board didn't specifically ask for it.

Attorney Spector-Morgan explained that J. Cappiello was asking for it now.

Chris explained that they can do it they have had these reports for months now and now the Board asked for additional information when there hasn't been no discussion on the report since.

J. Cappiello explained that she was interested.

A. Knapp explained that looking at the report from the Town engineer, and there was a note about the AoT, if this was determined that it was needed at all. A. Knapp explained that State and local permits are filed appropriately with that especially based on looking at the road, the driveways, and the cuts.

Chris explained that they agree that if the alteration of train bureau comes back and requires that they follow Permit they would have to file the permit.

A. Knapp asked about the watershed analysis one of the pieces that the engineering is the Town engineer called out was that was by looking at the analysis it includes the entire Richardson Pond. A. Knapp explained that by looks at 1,000 plus acre watershed was opposed to the impact of developing 20 acres or the developable land that's being there. A. Knapp explained that was more directly related to their impact and something they would like to see that's something that should be presented to the Board before they make a Notice of Decision.

Chris explained that the Barrington Subdivision Regulations require they provide an analysis that determines that they don't have an impact or deleterious impact on downstream water bodies. Chris explained that it doesn't tell them how they provide that information to the Board and doesn't tell them how they would provide that analysis to CMA's review. Chris explained that doing a global analysis was sufficient for meeting the requirements and the regulations in the Town of Barrington. As you take the analysis and cut them smaller and smaller they may have different results. Chris explained that in their comments to CMA any other analysis that they would do that would look at downstream impacts would also look at the total impact within the watershed. Chris explained that their analysis point was Richardson Pond as their Boundary line so they would look at the water that flows through that and includes all the offsite areas. Chris explained that he doesn't know that the regulations require, and he doesn't know that general engineering practice requires that they do a finite analysis on smaller areas within the watershed.

A. Knapp explained that the regulations do require that under their stormwater management plan.

Chris explained that the stormwater regulations require that they have sediment erosion control analysis and stormwater analysis for areas that are 20,000 s.f. or more. Chris explained that they have provided all the information that would be required under that ordinance.

A. Knapp explained that under the regulations of Subdivision **7.2.1 Drainage & Erosion**, describes this requirement.

Chris explained this was provided as part of their project based on the development of the lots.

A. Knapp explained that on the larger scale should be based on the development of the lots, as pointed out by the provided sediment erosion control plans.

Chris explained that they provided erosion control plans are all based around site specific features that they've provided site specific sediment erosion control devices on each of the lots. Chris explained that they are not going to develop each one of the lots so that they can provide every single piece of sediment erosion control

device that they would do as part of standard construction. Chris explained that this was a residential subdivision that creates subdivision plan. Chris explained that they have provided what the ordinance requires that they provide on this type of project.

A. Knapp explained that the ordinance specifically calls under Section **7.2.2 Land Tracts** that the applicant shall submit such plans to the Board for any tract of land being developed where one or more of the following conditions are proposed or present standard agricultural timber harvest practices are exempt from this regulation. A. Knapp explained that specific notes in their edition are proposed, or it doesn't say that it must be at that time.

Chris stated that he didn't understand what that was.

R. Allard explained that you said that their plans were just for roads, and the construction you're down the road.

Chris explained that was not what he said. Chris explained that they have site specific sediment erosion control and stormwater details for the areas of construction that they have specific detail for. Chris explained that they have general sediment erosion control details within the plan set on each one of the lots to show how somebody could do that in the future. Chris explained that they are not negating the fact that was required between the lots.

A. Knapp explained that under our erosion and sediment control plan and the stormwater management plan, it says the purpose of this plan was to address the effects of the proposed, not the developed, the proposed development of the existing stormwater drainage System. A. Knapp explained the capacity plans would often be required in conjunction with erosion and sediment control.

Chris explained that they have provided that information.

A. Knapp explained that they are asking for the impact on the 20 specific lots that are 20 specific acres that are.

Chris explained that he felt that there talking about two separate topics. He explained that they are bringing this back to trying to force an applicant to do a stormwater analysis on a highly specific area and mixing that with sediment erosion control features that they do show on a plan.

R. Allard asked about stormwater management.

Chris explained that the stormwater management plan was essentially a sediment erosion control plan they have that shown on their project site and on all the lots within the subdivision. Stormwater analysis was a global analysis that they conducted those are two separate things.

A. Knapp explained that you are also impacted under the Subdivision regulation Section **7.3.1 Thresholds for Plan Requirement and 7.3.1 (3) disturbed environmentally sensitive areas**.

Chris explained that was another reason that they show these sediment erosion control devices.

A. Knapp explained that the project was not the 1000-acre watershed.

Chris explained that was not what the section was referring to. Chris explained that there are mixing two portions of the ordinance.

A. Knapp explained that this was called out by the Town Engineer.

Chris said that he disagreed.

J. Driscoll asked Chris, you said you are showing on sheet 66.

Chris explained that was the actual construction details, but the rest of the plan set does show sediment erosion control features on each one of the lots within the subdivision.

Attorney Spector-Morgan explained to Chris that she felt A. Knapp was asking but you haven't provided what A. Knapp requested. Attorney Spector-Morgan explained that the Board would like a response.

Chris asked how they want a response other than design out each one of these building lots, grade them out and then analyze them for stormwater. Chris asked why this has never been required as part of that same section?

A. Knapp explained that he felt that the Board could fairly or effectively comment on any other potential or proposed project that has been before the Board. A. Knapp explained that it is a review of the project that was before the Board and the known sensitivity of the land that's here and what they are requesting for this specific project.

R. Allard stated that this project was different.

Chris explained that most of the subdivisions that they conduct in the Town of Barrington don't have builder at the time of the lots being sold, and don't have these requirements to grade out to show site features on how a lot was built out.

R. Allard explained that in the Subdivision Regulations under Section **7.3 A Management Plan** it says development or eventual development. It seems to contemplate that the developer was responsible for the homes that are down the road. R. Allard explained that was not the intent of the regulations.

Chris explained that there was a misunderstanding of what stormwater management plan was essentially a sediment and erosion control analysis of the site to make sure that they do not have runoff leaving the project. Chris explained that they have provided the details within the plan set and a stormwater analysis was. That there is a misunderstanding of mixing those two things together, they are not the same thing.

R. Allard asked what he thought **7.3** refers to.

Chris explained sediment erosion control.

Attorney Spector-Morgan explained that **7.3.4 Plan Approval and Review** does have specific plan requirements and talk about what you (Chris) believe was not included. Attorney Spector-Morgan suggested that the Town Engineer weighs in and tell them what he thinks was not included.

Josh Bouchard CMA Engineer explained that the approach that was used was not typical, usually a watershed analysis would be focused on the area itself being developed. Josh explained that by looking at the overall watershed impacts of this specific project are insignificant, or they are minor, if they even show up at all. Josh explained that typically you would look at the area itself being developed and treat and manage stormwater so that you can pre imposed flows are the same in all the flows. This was unusual in that it was not a typical method.

Chris explained that was not what the attorney asked them to do, and he explained that if they move through the ordinance, they can determine are they falling short then they would be happy to correct.

J. Driscoll asked to show stormwater management on the driveways, looking at driveway for Lot 8.8 and 8.9, which continues down to Lot 9 and 10 it does show the topography that allows them to reach the 10% grade. J. Driscoll explained that it doesn't suggest anything else. He expressed the concern would be if that 10% driveway was nothing at the end of it. J. Driscoll explained there was an entrance to two houses but all the stormwater that was going down that driveway with any pollutants that may be on the driveway. It shows that the end you have a 12' drop to the regular terrain and he doesn't understand how anything's controlled or even attempted to be controlled.

Chris explained that on plan sheet 23 to 68 and that same plan shows silt sock, silt fence, plan sheet 16 is the sediment erosion control details. Chris explained that all the control the amount of flow coming off from that surface. Chris explained that if you look at plan sheet 24 same thing stormwater controls for all the grading shown on all the lots within that plan. Chris explained that the proposed joint driveway grading all of sediment erosion control that they required on that driveway and the lots.

R. Allard asked on plan sheet 24 there is a long drive where it goes down and what was controlling the flow of the end of it.

Chris explained that they have siltation control shown down the entire perimeter. Chris explained that it's shown around the end of the proposed hammer head at the end all the way back up it shows sediment erosion control details on each one of the lots all the way down. Chris explained there is a line called SF that talks about slope stabilization methods and each one of those controls.

R. Allard asked if that was the construction?

Chris said yes.

R. Allard asked what about afterwards.

Chris explained that once the areas are stabilized there's no reason for stormwater controls on.

J. Driscoll asked about the long driveway the runoff was show would go into the tree line there on either side.

Chris explained that the control was during construction and then post construction. Chris explained that the stormwater runoff has no sediment in it because it's stabilized stormwater runoff that comes off from those areas would filter down through the woods.

J. Driscoll asked if that was true at the end with a hammerhead was to the two bottom lots.

J. Driscoll asked if there was any comment from the engineer.

Josh (Engineer) explained that Chris was showing erosion control at the end of the driveways. He explained it drains down the driveway it does hits erosion control and silt fence.

R. Allard asked for construction or after construction asked if just during construction.

Josh said during construction.

R. Allard asked what happened after construction and there was a bunch of impervious surfaces.

Chris explained that not necessarily every piece of stormwater must be detained some way before it's discharged.

R. Allard explained that there are some long driveways.

Josh (engineer) explained that the one he was looking at was 10%.

R. Allard explained his concerns on the long driveways particularly where you know if you're going to have erosion off the driveway going down to the pond.

Chris explained that Richardson Pond was a prime wetland.

J. Driscoll explained that his concern was once the driveway was put in and any particulates filter off.

R. Allard explained that if there was going to be a lot of rain.

Josh (engineer) said that he thought there would be something in the driveway for both constructions. Josh explained constructing a portion of the infrastructure now and the developments happening afterwards when the lots are sold off. Josh explained that this usually would be though the entire project.

R. Allard explained that was what was in the regulation where is said development and eventual development.

R. Allard explained that he thinks that would be holding the developer responsible for that stuff after they are sold. R. Allard explained that there must be some way to make sure that they don't put on the homeowners.

Chris explained that during construction they are doing and that was the whole point of the 20,000 s.f.

R. Allard explained that he was saying after the construction when the driveways are done and what happens to the water going down those driveways asked who's responsible for that.

Chris explained that was the homeowner's responsibility just like to manage the stormwater development and eventual development.

R. Allard explained that he doesn't think you can pass it on isn't that part of the developer response.

Chris explained that you can design ponds and design treatment cells. They captured the flow that was their responsibility asked how that was any different. Chris explained to the Board that they keep saying that they are passing things onto the homeowner eventually they must manage all of these.

R. Allard explained that was usually the HOA.

Chris explained that there was no HOA to manage to get one of these lots.

R. Allard explained that the HOA was a requirement.

Chris explained that there was an HOA for the open space but an HOA in the sense of who's going to manage stormwater, each one of these lots.

R. Allard explained that in where the ponds and stuff that collected from the whole development, the responsibility of the issue away and we've seen that before that this project doesn't have it.



Chris explained that he thinks you have a lot more common ownership of infrastructure on those projects that require. Chris explained that this was a frontage subdivision that's spread out across the frontage, that's the difference.

A. Knapp explained that the requirement of our Conservation Subdivision was that there must be a homeowner solution.

Chris explained that he misspoke when he said they wouldn't have an HOA they hadn't contemplated having an HOA manage the stormwater on each additional homeowner. Chris explained that they did complete managing the open space as part of the Open Space Subdivision. Chris explained that the homeowner was ultimately responsible, the homeowner was going to be responsible for their driveway along with the flow that comes off that with any erosion that might take place.

R. Allard explained that where they are selling the lots, it's not the regulations to say that the developer was responsible for developing interventional development. He explained that they can walk away from the responsibility.

Chris asked if they were saying that there's to be an HOA that's developed within this subdivision that was to manage each one of the driveways.

R. Allard explained that they are talking about the added impervious surface, the impact of stormwater was going to happen from that.

Attorney Spector-Morgan explained that what the Board was talking about was the developer's responsibility to design and install these stormwater management tools and then yes it would be the homeowner's association to maintain those tools. Attorney Spector-Morgan asked the Board if that was what she was hearing.

R. Allard said yes.

Attorney Spector-Morgan explained that what Mr. Berry was saying was that makes sense when those facilities are on a common area or in a condominium where there aren't individual lots. Attorney Spector-Morgan explained that where that's happening on individual lots, it does make sense that the individual homeowner would be responsible for maintaining any systems on their individual lot.

A. Knapp explained that he would agree with that once the lots have been sold and developed. A. Knapp asked how the sit farrow was there waiting for a developer to purchase or a developer to purchase them or a homeowner to purchase them. A. Knapp explained that they have to have a method to be maintained in common and maintained appropriately by through the developer with assurances of the homeowner's association over the top of it.

Attorney Spector-Morgan asked A. Knapp what he was envisioning was that the developer here was going to all these driveways and then later someone's going to come in and build a house. Attorney Spector-Morgan explained that it's not the driveway and the house is going to be built simultaneously was that the plan. Chris explained that the plan was to install the aprons to ensure that the aprons are constructed per and sure that they have adequate site distance and then future owners of the lots are to develop the driveways.

Attorney Spector-Morgan explained that the driveways should be designed with some stormwater management



plan particularly the ones with the steep slope. Attorney Spector-Morgan explained that when the driveway was installed that was installed with it.

R. Allard explained that he thinks that the engineering should be done so that the owner knows it but they're responsible for putting these things in place, that should be a condition. R. Allard explained that they should understand those requirements are so it should be designed so you can't sell something, and they say you are responsible. R. Allard explained that if he bought this land if he was responsible for stormwater management and that should be something that he should be told what he was required to do.

Chris had no response and explained that he had given his response.

A. Knapp explained that the last time that the Board met, he specifically raised that item in their conversation about the homeowner's association, and it had not been provided. A. Knapp explained that it has since been provided with a declaration of covenants and restrictions. A. Knapp explained that **Section 6.3.5 Homeowners Association Required (Zoning Ordinance)**.

Attorney Justin Pasay explained that he had questions about the stormwater and segmentation. Attorney Pasay explained to the regards to the proposal for the form of ownership referenced his response was an attempt to address some of the many concerns that were raised at the January hearing **Article 6, Section 6.3.5 (Zoning Ordinance)** Mr. Knapp set a condition of approval the applicant for a Conservation Subdivision shall be required to provide for the establishment of a homeowner's association or similar entity to manage and perpetuity all land and improvements within the subdivision that are to be owned in common. Attorney Pasay explained that when you read that in conjunction with the requirements in the Subdivision Regulations, which lay out the different options for how a Conservation Subdivision can manage the open space that's being proposed. The regulation specifically call for the owner of the land holding on to the interest which was what's proposed here, he thinks gets to a situation where you're addressing the uniqueness of this property.

The property was a frontage subdivision and felt that was a lot of the conversation that's being hung up. Attorney Pasay explained that when you think about requirements like erosion control and sediment control plans, stormwater management contemplation. Attorney Pasay explained that in a subdivision you usually talking about a new subdivision road, and here you are talking about frontage lots on an existing road already. In the context for **Section 6.3.5 (Zoning Ordinance)** they are proposing a similar entity. Attorney Pasay explained, as proposed right now, there's no infrastructure like detention ponds or retention ponds where there needs to be an entity that exists where collectively everybody contributes to it. They would take care of the infrastructure, which was what was happening in a lot of traditional subdivisions. Attorney Pasay explained that this was not the case here, and that's why the association felt unnecessary because of the nature of the proposal. They decided to design it like across the street so there's a declaration of covenants and restrictions which outlines the uses of each of the individual 23 lots. Attorney Pasay explained that it also references the 31-acre open space that's proposed to be conveyed in an easement conservation easement to the Town to be managed by the Conservation Commission as well as the eight acres or so, which would be essentially for the exclusive use of the lot owners. Attorney Pasay explained to the Board that there's no infrastructure there that requires an association to manage or take care of. There's no infrastructure in the public open space that requires an association to take care of or manage it.

Attorney Pasay explained the obligation of the individual homeowners who own the individual sites would be to managing the stormwater was their property. The reason the Board sees in the proposed conditions of approval a requirement that before a building permit was issued. Attorney Pasay explained that a stormwater management plan was developed for each individual lot. Attorney Pasay explained that the essence of the regulations which they have been talking about when it comes to erosion control which relate to construction and development being addressed by the plans already provided.

Attorney Pasay explained that then there's a requirement for the owner of the property when developing and before a building permit was pulled to provide a stormwater management plan for that individual lot. Attorney Pasay explained that if there's infrastructure associated with that and that it doesn't make sense for there to be an association managing to or contributing fees to maintain it. Attorney Pasay explained that it would be the obligation of that owner, which he thought was consistent with all our individual experience if you own a single-family lot.

R. Allard questioned how many backlots, as they were calling it a frontage subdivision and explained that this was not a frontage subdivision. R. Allard explained that this has eight backlots and it's not accurate to call this a frontage subdivision. He disagreed because it only allows two backlots.

Attorney Pasay explained that he understands the point they are referencing the fact that it's a frontage subdivision to try to draw the distinction between the types of conditions and considerations which usually go into. They are doing a conservation subdivision and the types of considerations which go into a traditional frontage subdivision for a road that already exists. Attorney Pasay explained that the bottom line was that this was a conservation subdivision. Attorney Pasay explained that it was approved in the substantial similar format of the way that it's before this Board right now by the Zoning Board of Adjustment for this specific layout. The difference was that there were three less curb cuts than the plan that was before Zoning Board of Adjustment in January of last year.

R. Allard explained that they are talking about here was subdivision regulations which they have purview over not the Zoning Board of Adjustment. R. Allard explained that these are subdivision regulations that they are talking about. He explained to say the Zoning Board made a decision, it's a done deal, isn't accurate. R. Allard explained that he agrees that they have subdivision regulations that they decided on.

Attorney Pasay explained that part of the spirit of their letter in responding to and gets to the point the discussion they just had **Article 7** of the Barrington Subdivision Regulations which includes the grading erosion, sediment control plan requirements as well as the stormwater Management requirements. They point to **Article 13** where there are specific design standards.

Attorney Pasay explained that the position of the applicant would be that the plans provided in the discussion that's been had with CMA Engineers indicate a compliance with those provisions. Attorney Pasay asked if that was not the view of the Board, it would be helpful specifically looking at the design standards and **Article 13** what's not met. That was the applicant can look at that and determine either way maybe this was already met or not met.

Attorney Spector-Morgan explained that was what the Board was trying to do and the conservation that they had ahead of time. Attorney Spector-Morgan explained that they hit a lot of topics. She explained the Homeowners Association for the common areas. She appreciates there's not a lot of common areas and they're hoping the Conservation Commission would take an easement to the open space that's open to the public but there was open space that was reserved just for the individual lot owners. Attorney Spector-Morgan explained that there needs to be a Homeowners Association or similar entity and doesn't have to be called a Homeowners Association needs some sort of entity that maintains that open space including the other open space in the event the Conservation commission doesn't want it.

A. Knapp explained that in the Declaration of Covenants it specifically kicks the responsibility to the Town and can't do that.

Attorney Spector-Morgan explained that it gives the option.

A. Knapp explains that the Declaration of Covenants specifically says it would be the responsibility of the Town.

Attorney Spector-Morgan explains that it says the Town may but need not.

A. Knapp read the following for the HOA documents submitted by the applicant.

Under costs and liabilities on also under the town agrees to bear all costs and liabilities for any kind related to the operation, operations and maintenance of the property, and to defend hold harmless and release the grantor from and against any and all actions claims, damages, liabilities, or expenses that may be asserted by any person or entity, including the public at large related there too. A. Knapp read under Conservation Easement deed that was attached to the back end of the documents supplied.

Attorney Spector-Morgan explained that she did not look at the Conservation Easement deed.

A. Knapp explained that it specifically calls that out that the Town agrees to bear the responsibility.

Attorney Spector-Morgan explained that if a Conservation Easement was taken over the property that would make sense.

A. Knapp explained that it also notes under the maintenance of the easement shall be the sole responsibility of the Town.

Attorney Spector-Morgan explained that if the Town takes the Conservation Easement. Attorney Spector-Morgan explained that she wants to touch on the backlot issue that was an issue that has not been previously identified. The Conservation Subdivision regulations both in the Zoning Ordinance and in the Subdivision Regulations provide that if the Conservation Subdivision Regulations did not specifically address something they default to conventional subdivision requirements that does limit it to two backlots. Attorney Spector-Morgan explained that they would need a variance and a waiver to have this many backlots. She also talked about stormwater management.

A. Knapp asked about the documents related to the Declaration of Covenants. It refers to #7 signs and it says notwithstanding paragraph above declarant reserves the right to plan signs on the property advertising lot and home sales and preferred builder. The number and size of the sign shall be the declarant sole discretion. A. Knapp explained there was a sign ordinance and zoning. A. Knapp explained that it should be noted in compliance with the Barrington sign ordinance.

Attorney Pasay explained about the interplay between the Subdivision Regulations and the Zoning Ordinance Asked what provision they were talking about.

Attorney Spector-Morgan explained that its **Section 6.3.3 in the Zoning Ordinance** and **Article 10, Section 10.2 Compliance with Regulations**.

Chris explained that they discussed with the Code Enforcement officer in the past Conservation Subdivision and the termination that these are not backlots.

Attorney Spector-Morgan explained that she understands that was his determination.

J. Driscoll explained that when they went to the Zoning Board of Adjustment for **Article 4.1.3 Back Lots**

to allow through the front buffer. J. Driscoll explained that they acknowledged that they are backlots.

Attorney Pasay explained that he thought the variance was from **Article 6, Section 6.2.6** which was the 100' Buffer requirement and then **Article 4, Section 4.1.3** there's labels that the Special Exception was that what you're referring to?

J. Driscoll explained that was called the back relief from the backlots to allow for shared access points and shared driveways through the front buffer.

Attorney Pasay explained that he needs to get smart on the discussions that they had with he had with the Building Inspector/Code Enforcement Officer because he can share those administrative determinations which have been made and not appealed. Attorney Pasay explained that they need to see how that impact the plan moving forward.

J. Driscoll explained that Chris had said **Article 11** should not be brought into this discussion but on page 8 of there letter you do cite **Article 11, Section 11.2** to regulate shapes and site layout. J. Driscoll explained that by pulling part of **Article 11** and acknowledging it was relevant they must go through all the Town **Article 11**. J. Driscoll explained that **Article 11.2.4 (1)** Maximum two back lots per subdivision period.

Attorney Pasay explained that **Article 11. 2** appears in the letter it was addressed a comment made by the Planning Board.

Attorney Spector-Morgan asked the Board if they wanted to talk about the building envelope?

A. Knapp explained that he addressed last time when they talked about subdivision only. A. Knapp explained the subdivision they talked about **Article 5, Section 5.3.2 (18) Building Envelope**.

Attorney Spector-Morgan explained that they had a consultation with the Council before the meeting and she was able to understand a lot of the Board's concerns that she hadn't understood before the meeting. She asked the Board to identify all the concerns that they had so that the applicant could go back and address those or make a decision.

Attorney Pasay explained that they want to know what specific provision they are talking about and where They have not met or complied with that regulation? Attorney Pasay explained that maybe they have a different opinion on whether they have or not.

Attorney Spector-Morgan explained that they should do a letter summarizing at the end of this wither Vanessa or her can draft it summarizing all the issues they've identified.

A. Knapp asked to make a reference to the should be linear potential building envelope class that represents regulatory and environmental restraints and the placement of dwelling unit structures. A. Knapp explained that when they were talking about our building envelope, they had a broad idea but no clarity in placement.

Chris explained that on each of the lots they show the lots and shows how structures could fit on those on the loop.

Attorney Pasay explained that there's no wetland indications there that you would want to be concerned with.

R. Allard explained that was one of the requirements for the subdivision.

Attorney Pasay explained if they are showing the setbacks of the individual lots in the zoning district that they are in presumably the house can go there if there not in the setbacks that was the envelope.

R. Allard explained that for him where it says it represents regulatory and environmental events can they get a septic system and well in.

Chris explained that they show 4000 s.f. leaching areas.

A. Knapp explained that there were a couple of concerns that they had, and he guessed it's probably best to give them as a note on it. A. Knapp explained that when he looks at the septic design goes to the State approval there are some significant slopes that have to be contended with and when septic trucks come in some cases driveway was more than 20' higher than where the septic and leach field on these systems.

Attorney Pasay explained that seems like a developer concern if there's a regulatory implication to what you're saying Mr. Knapp that would be helpful to see in the regulations.

A. Knapp explained that when you look at the lot layout that they are specifically talking about the building envelope these lots are designed to utilize adjacent lots to meet the loading. A. Knapp explained that the well and septic when you look at how the placement of a structuring connection with the septic system this was going tie in with this it makes it so that it can't be done. It can't meet that based on the location of how this was set up.

Chris explained that we're showing a well 4,000 s.f. area for bleaching area proposed home. Chris asked how we're utilizing adjacent lot to meet they are showing the 4,000 s.f. reaching area at the back of the site as part Of the subdivision approval septic system in the front of the lot as part of a home site design and asked why that matters.

Attorney Spector-Morgan explained that she believes what Mr. Knapp was referring to in terms of using other sites was the well radiuses appear to go off the sites and she knows that's often file. She explained she that was seeing all the leach fields they look like they're all on the sites.

A. Knapp asked if they could get them all there and we're trying to base that assessment on the Town regulations on what we're being shown for the proposed plan.

Attorney Spector-Morgan asked Mr. Knapp what information would you be looking for to demonstrate? She explained that they need to do test pits and get State septic approval.

A. Knapp explained that the height of the driveway was down.

Attorney Spector-Morgan asked if he was concerned about the pumping.

A. Knapp said that was correct and was concerned if they can meet the pumping standards. Attorney Pasay explained that they would have Paul talk to a contractor about this and asked if otherwise able to put **Section 5.3.2 (18)** issue done. Attorney Pasay explained to the Board if there was a regulation in the ordinance to dress this concern, they would look at it.

A. Knapp explained that his concern is that there have been other projects that have been forced to come back for Zoning Board afterward as of the way they were prepped and designed.

Attorney Spector-Morgan asked Mr. Knapp what variance he was concerned they might need?

A. Knapp explained that he didn't know exactly but it may be tied to the function placement along with the well and the driveway regulations.

Attorney Spector-Morgan explained to A. Knapp that you could design the best subdivision in the world and things happen you get out on the site, and it just can't be built the way you designed it. She explained that she doesn't think there's any amount of planning or approvals regulating you can do that. Attorney Spector-Morgan explained as they discussed she thinks if there's a specific regulation that's not being met the Board needs to identify that. She explained the broader concerns about the buyers knowing what they're getting and things like that may be exceeding your authority.

A. Knapp expressed that in his world he's not allowed to fail like that, so you must prove that it can be done.

Attorney Spector-Morgan asked Mr. Knapp what he was looking for.

A. Knapp explained that he was looking for something to show that the septic would be able to function the way it's designed too and if you must force the movement of a septic field on a lot. A. Knapp asked does it impacts a well radius or another hardship.

Attorney Spector-Morgan asked Mr. Knapp what could they give him that would satisfy that concern? She explained to A. Knapp that if he was concerned, they could send the plan to a septic expert to provide the Board with an opinion.

A. Knapp explained that the Town Engineer was here we can ask him.

Josh (CMA Engineer) explained that if they talked to a septic pump company, they would find out what their limitations are.

Attorney Pasay explained that foundationally nice thing about every subdivision he's ever been a part of was that there's a catch and all condition of approval that says subject to all additional applicable State, Federal Local regulations. He explained that the planning that has gone into this project for the last 18 months ends up yielding a lot, which can't for whatever reason accommodate a well or a septic system simultaneously then what it means no lot and they're got a merged with the lot next door. Attorney Pasay explained to the Board that they comply with the regulations as they appear in the Town Regulations for now. He explained that if there are field circumstances which mean they cannot then there's going to be a tough choice on behalf of the developer because he can't get a permit.

Attorney Spector-Morgan explained that she hears the concerns, and they would go to the Zoning Board, and they're going to say and see the situation this it's a legal hardship and the Zoning Board needs to understand that.

Attorney Pasay explained so action item on that one and it would be in the letter that they are talking about. He explained that they would talk to a septic contractor to just address the grade issue. Attorney Pasay said seems like there's a consensus that they're satisfied with **Section 5.3.2(18)**.

Attorney Spector-Morgan gave the following recap from the Board:

**A. See an analysis of endangered and rare species on the property**

**B. Watershed analysis for this property**

**C. In terms of Sediment and Erosion control and stormwater Plan (what going to happen after development)**

Barrington Planning Board Meeting Minutes/bi

March 5, 2024/ pg. 14 of 26



**D. Homeowners Association**

**E. Backlot issue**

**F. Building Envelope (Was just covered)**

**G. Septic Pump Issues**

R. Allard added:

Page 60 alternative access design (in Subdivision Regulations)

Explained that he knows they received a variance for driveways off the Young Road but Subdivision Regulations.

Page 60 has preferred subdivision frontage Road Alternatives that was one that says to be to avoid and preferred would be put a loop road in or a collector road. R. Allard explained that during public comments they heard a lot of comments about the safety on Young Road, the turns and the elevation changes, lines of sight having two points of access onto that road rather than at this. R. Allard explained that he would like to see a drawing that does it that way and what the impact would be to the property impact to the areas in the back. R. Allard explained he thinks there should be a balance between environmental concerns and safety concerns. R. Allard suggested two points of access versus 9 or 10 was preferred.

V. Price explained that R. Allard was looking at Road Design Standards and Guidelines Figure 4B which was road design standards and guidelines. (Preferred Subdivision Frontage Road Alternative) Section 12.2.1 Road Design.

Attorney Spector-Morgan asked the Board what she was hearing was this was not necessarily a change they are demanding but an option they would like to see you explore to know whether it's possible without impacting the sensitive environmental aspects of the property.

Attorney Pasay explained that he wasn't here for the meetings, but he understood that in October there was a waiver that's been granted addressing the site distance definition to allow for the usage of the Director Association of the State Highway and Transportation officials to accommodate and meet the site distance issue. That was why the curb cut went from 13 to 10 to minimize the greatest extent possible. Attorney Pasay explained that the number of curb cuts again the Zoning Board plan approval was 13 it's now 10. They now have a waiver from the Board in this hearing.

A. Knapp explained that the Zoning Board approval was not for the number of curbs cuts, it was from the three elements referenced in there not the number of curb cuts.

Attorney Spector-Morgan explained that they are not talking about the waiver you granted.

Attorney Pasay explained that he talked about this in the letter, and he appreciates that this Board has jurisdiction over the concerns of things like site lines, curb cuts and public safety. The Zoning Board that was the final arbiter of the Zoning Ordinance in this Town along with every Town in New Hampshire has looked at this and granted variance relief for these frontage subdivision lots on this road. Attorney Pasay explained to the Board that part of that analysis necessarily includes the consideration of whether what was being proposed at the time three more curb cuts would alter the essential character the neighborhood or threaten the public health and safety. And the answer was "no will not".

Attorney Spector-Morgan explained that they were not granting the number of curbs cuts they were granting perimeter waivers and they were granted.

Attorney Pasay explained that one of the **Section 6.2.6** waivers was to have driveways in the 100' buffer as depicted on the plan.



Attorney Spector-Morgan agreed.

Attorney Pasay explained for 13 driveways but now it's 10 driveways.

Attorney Spector-Morgan explained that was an impact to the buffer, not necessarily the impact for the road.

A. Knapp explained that all of them are with the 100' buffer and said whether 1 or 13 that's what the waiver was for.

Attorney Pasay explained that their interpretation of the granting of the waiver was that they are accommodating this alternative standard for site distance, which was addressing the safety concerns related to curb cuts.

R. Allard explained that that the Board has the preferred access road definitions that should be done preferred and what did they should avoid. R. Allard explained that right now you are showing the one the other side was the other side was the one they should avoid. R. Allard explained that he was asking to look at the preferred under the regulations.

A. Knapp explained that even if you look through the plan set where they have Lots 18 through 22, they could easily could accommodate a road. A. Knapp explained that he believes the Town Engineer called that out as well on the fact that it's being split into two driveways as opposed to easily being made into a loop road as referenced under Figure 4B. A. Knapp explained would accommodate this plan and eliminate the risk and hazard coming out onto that area where they could pick up a couple more of those lots accommodate in a better manner.

R. Allard explained that the Conservation Commission talked about maintaining scenic views and felt this was a reasonable alternative.

Attorney Spector-Morgan explained that she was looking at the waiver and it was referencing 4A not Figure 4B.

Attorney Spector-Morgan explained that Section **12.3** points to Figure 4A which was found in the road design section of the Subdivision Regulations when describing regulations for a residential driveway. Attorney Spector-Morgan read that Figure 4A was of the vehicle sitting in a functional intersection with a stop bar and a stop sign. (This was what the waiver was related too)

Attorney Pasay explained that the waiver specific to how you access site distance not how many curb cuts.

Attorney Spector-Morgan explained that she doesn't think it's necessarily dispositive on the issue that's being discussed now.

J. Driscoll asked by putting the road in which those two long 20' apart driveways might also assist and making Lots 19, 20 and 21 not backlots because instead of having 50' frontage on a Class 5 road they'd be on a private road.

R. Allard explained they could loop in there and pick them all up.

J. Cappiello asked about lot shape on Subdivision Regulation **Section 11.2.2 (2) Maximum Extent Possible** all new lots of the rectangle in nature. J. Cappiello explained that many of them are but some of them aren't, so she doesn't know if the attempt was made to the maximum extent possible to meet that requirement.

Chris explained that they pointed out in the past that the Conservation Subdivision allows for creativity.

A. Knapp explained that he had notes under lot shape under Subdivision regulations **Section 11.2.2(1)** read lots should be shaped in a manner to that promotes clarity of ownership, and when you and it specifically notes out that to the maximum extent possible. A. Knapp explained that new lots should be rectangle in nature under **Section 11.2.2(2) and (3)** (Subdivision Regulations) no proportion of the lot created under these regulations shall be less than 75' in width except as provided for in subsection 11.2.4 creation of backlots. A. Knapp explained that they have already commented on the backlots and then when they look at it one does with a 10' section does not create clarity and ownership. It creates more convoluted questions around it, and it creates irregular shapes as noted and called out. A. Knapp explained that they already addressed the backlot piece **Section 11.2.4** (Subdivision regulations) for two backlots per subdivision.

Attorney Spector-Morgan explained that the Board was struggling with in terms of trying to reconcile the various provisions of the Zoning Ordinance and the Subdivision Regulations was that you want the benefits of calling this Conservation Subdivision. Attorney Spector-Morgan explained that it doesn't look like a Conservation Subdivision. Attorney Spector-Morgan explained that Conservation Subdivisions allow flexibility in terms of lot shape and size they would even allow no lots. They would allow a no lot line but if they look at **Figure 2A** (Subdivision Regulations) which talks about poor cluster design and lots to be which was good cluster design.

Attorney Spector-Morgan explained that they don't see many backlots and don't see any that are shaped like flags. Attorney Spector-Morgan explained that she sees regular lots, so it is a regulation that requires to the extent possible. Attorney Spector-Morgan explained that just addressing whether they have made the effort to the extent possible would perhaps address some of the Board's concerns.

R. Allard explained that this plan absolutely blocks the views it puts all the houses in the frontage. Any views to Richardson Pond and that area back there were inaccessible. There's a pathway down there but the views are not. This was why he favors a loop approach because that would maintain some views.

A. Knapp explained that under **Section 1.5.2** which was conflicting provisions, and it specifically notes under there where any section of these regulations' conflicts with another or with any other local regulations or ordinance requirement imposing the greater restriction or higher standard shall apply. A. Knapp explained that this was specifically called out under the validity **Section 1.5.2** in the Subdivision Regulations just to further bring the connectivity to it. A. Knapp other concern was around driveways, and he'd specifically noted than on Lot 18.12 and Lot 18.13 the angle of the driveway was he thought it's like 16.8 or 18% doesn't bisect at the desired 90 degrees which was referenced under the Town driveway standards as well as the Town of Barrington driveway regulations. A. Knapp explained that it looks like it comes in at 20.49 degrees and then from the center line it pitches out to 26.28 which exceeds what the kind of relief setting was around the Town Regulation.

Chris explained that the regulation was 30 degrees.

A. Knapp explained that his other concern was around the slope there was a couple of lots that are between 8 and 10% they have a 4% angle out under the road up at the apron. Where the desired apron was typically 1 to 2 % minimum grade of the desired 2%.

Chris asked if that was in the driveway standards.

A. Knapp explained that it's called out in the Town driveway standard where no residential driveway exceeded  
[Barrington Planning Board Meeting Minutes/bi](#)  
[March 5, 2024/ pg. 17 of 26](#)

10% greater maintain a negative grade of less than 2% till it's beyond the ditch line less than 2%. A. Knapp explained that looking at the pitch in the slope coming off those driveways when they talk about the safety factors of somebody comes into that driveway. In a inclement weather event that's when they slide if they slide off that driveway they are intentionally in significant peril with a two to one or a three to one slope that drops almost 10' down below to a point where they're going to do significant in the interest of the people safety and applicability under **Section 3.5.7** circulation.

Chris explained that under Fire Protection parking and circulation in some situations.

Attorney Spector-Morgan explained that sounds like a Site Plan (Section 3.5.7)

A. Knapp explained that the last time they met he had concerned their Section 2.1.5 the harmony of the land within the Town, the lot shape and configuration was specifically noting the protection of steep slopes, driveways to aid fire and the aspect was as proper spacing and patterns.

Attorney Spector-Morgan explained what the specific concerns are that aren't met.

A. Knapp stated both. A. Knapp explained that he had some direct safety concerns related to road access and the protection and well-being of people they access these lot and he raised that concern. A. Knapp explained that regarding Fire and EMS and sense to that to those sites. A. Knapp explained that he knows they have a driveway they have been presented with driveway sightline information based on the known travel patterns of those roads as well as the speeds on those roads.

Attorney Spector-Morgan explained that her understanding was that the Board also plans to send this over to the Fire Chief now that they have some more specifics that they didn't have before to see if he had any concerns with the driveways. Attorney Spector-Morgan explained that she understands that there was a cistern.

J. Driscoll yes 11.6. the cistern and services 11,000 drivable feet which puts lots 16 through 23 beyond that distance. Would need another cistern or the houses sprinkled.

R. Allard explained that in the engineer comments there are three driveways that should be combined. R. Allard explained that four lots it triggers a road to Town standards he explained that he knows why the applicant was doing that to avoid doing the road.

J. Driscoll explained that he thought the engineer was recommending putting in a road.

Josh stated yes, he explained that there were 2 driveways that were side by side.

R. Allard explained that Lots 18 to 22 are all accessed from the same driveway.

J. Driscoll explained that there are two driveways.

R. Allard asked why there wasn't one driveway.

J. Driscoll explained that they are 20' apart and the two 2' grade separation that makes 3 lots of backlots.

Attorney Spector-Morgan explained that the concerning in 21 rather than having two curb cuts so close together why not have those five lots served by one road.

Attorney Pasay explained that the definition of backlots inclusive that it doesn't have sufficient there was no project requirement conservation there's a Conservation Subdivision that dimensional standards for detached units on individual lots. Attorney Pasay explained that it doesn't appear to be a frontage requirement so there was no frontage requirement.

J. Driscoll asked how it can be a backlot 75'.

Chris explained that it's a 75' buffer.

A. Knapp explained because they're all assumed to be frontage lots and that was represented under item.

Attorney Pasay explained that was conservation condominiums where there's simply no lots at all.

A. Knapp explained that's not this they are mixing two together that are not this and if they look directly under what they were referencing earlier it was not a cluster development, it is a Conservation Subdivision and they all proposed as frontage lots. A. Knapp explained that he noted earlier under **Section 1.5.2** (Subdivision Regulations) conflicting provisions would resort to the more stringent of the two standards.

Attorney Spector-Morgan explained this comes back to the point she made earlier you want the benefits of a Conservation Subdivision without looking like and Conservation Subdivision. That is what the Board is struggling with.

Attorney Pasay explained that he doesn't agree with that characterization, and they don't want the benefits of a Conventional Subdivision. Attorney Pasay explained they want the benefits of various things, if you think about the tensions that are revolving around this case it's one issue. Attorney Pasay asked why or how you get to those interludes and cluster development but requires that in your Subdivision Regulations it a requirement of the 100' buffer that says you can't have a structure or a road. Attorney Pasay explained that it must be an undisturbed vegetated buffer but when you have that requirement for a Conservation Subdivision the only thing to do was to go inside of the lot with a new road. Attorney Pasay explained that what happened here was an in recognition for the property which contains the prime wetlands in about 300-acres of other land owned by the Town. Attorney Pasay explained that the Zoning Board who has the saying on this issue said it doesn't make sense to require 100' buffer in this case because of the units of the property. Attorney Pasay explained that in this case there going say it's ok to have driving back in the 100' buffer and house lots within the 100' buffer. Attorney Pasay explained that he gets that it doesn't look like the figure that was drawn in the Zoning Ordinance, but it was relieved that was obtained by the application.

Attorney Spector-Morgan explained that she would look at this issue of how they can be backlot if there's no frontage requirement. Attorney Spector-Morgan explained that there was a frontage requirement.

R. Allard asked why the front lots of access aren't to the one driveway to one road.

Attorney Pasay explained there's a developer's component. The 23 lots could be accommodated in conservation subdivision and its obvious benefit. There's continuity that proposed case would be other owned property owned by the Town was good.

A. Knapp explained that he appreciated that they brought up the yield plan considering this, and they are not recommending making a motion to reconsider the yield plan or anything at this time. But looking at the information they have a lot more information when the look at their topographics here, which shows our rock formations are steeper. A. Knapp explained that Mr. Allard specifically had real issues with the

yield plan as it was brought up and you know that was an area that they could go back and look at when they talk about yield plan. A. Knapp explained that they are not making a motion at this point.

R. Allard explained that he wasn't there.

J. Driscoll opened public comment.

Dan Ayer, 334 Old Concord Turnpike, explained that he would like to get some clarification of what he heard tonight. Dan asked about the steep driveways he took on, were a nightmare, but there was no rule that you had to pave someone's driveway. Dan explained what he heard was they want in a timely fashion someone to maintain that road stays stable. Dan explained that it sounds to him that they are asking after the natural growth comes in whoever buys the house needs in a timely manner to do something to stabilize that road, for no future problems. Dan explained that mostly 20' off the building was a tank and then it slopes create too close to the property lines, interferes over the nitrogen in the wetlands. Dan explained that they can't force anyone to pave their driveway, but you can because of the slopes and the sediment after stabilizing could ask how they would stabilize.

Paul Panish, 101 Ross Road, explained that he was also a commission with the Conservation Commission. Paul explained that he had comments on J. Cappiello's request for the environmental assessment. Sometime ago the Conservation Commission raised the issue of which had not been addressed in the studies that were done on this property. It has not been addressed since and he would appreciate it if they would that any further environmental studies that are done getting to a very good time of year for those assessments. Paul asked about the attorney letter specifically on **Article 6 Section 6.1** of the Zoning Ordinance on previous comments from the commission and nothing in the update. Paul explained that he appreciated that they added the conservation easements to this. Paul explained that nothing in the updates has changed his opinion that this development makes mockery of the intent of a Conservation Subdivision objective as stated in Zoning Ordinance 6.1. (9). Paul explained that it also ignores key guidelines of the court of which a clustered development which was emphasized throughout the description. This was very clearly demonstrated in Subdivision Regulations in 10.1 authority and purpose where it states the Planning Board may approve the creation of Conservation Subdivision which are also referred to as clusters. Also, in Zoning Ordinance in Section 6 Section 3.2 (3) where it states the Planning Board may also require an applicant to submit a second conceptual development plan and illustrates conventional subdivision layout based on Town's zoning and subdivision standards. Paul explained that the Zoning Board didn't consult with the Conservation Commission, and isn't required to consult with the Conservation Commission for contributions. Paul stated that from past statements they disagree that this plan acts to conserve the characteristics of the problem. Paul explained that he heard personally urge the Planning Board to use whatever discretionary power they have regarding intent or technical features to deny this plan.

Doug Bogen, 21 Lois Lane, Chair of the Conservation Commission agrees with what Paul Panish said. Doug explained that the Conservation Commission hasn't had a chance to look at the latest plans proposal so, he can't speak to whether we'd approve or not. Doug explained that his concerns on the conservation easement and open space prefer a formal easement. Doug explained that the neighborhood association would manage and if not opened to the public they would be concerned about the maintenance of them. They have seen problems in the past with homeowner groups that don't really exist. Doug explained that they would be concerned about the sensitive area around the prime wetlands which was the whole buffer managed by the Homeowners Association.

Len Caverly, 160 Young Road, explained that he has a few concerns he doesn't know how they call these Individual lots. Len asked how you would develop a driveway without encroaching on other lots. Len explained that there was a ruling on the height of a septic tank that you can pump and it's from the bottom of the tank to the level of where the truck was parked that's 15'. Len explained that he doesn't see how a lot of these systems would be able to meet that requirement. Len suggested that fill extensions should be shown on plans not only the driveways for the proposed housing some would be 40 to 50% fill extension. Len suggested showing this on the plan to see how much land was going to be disturbed and how many trees along with the vegetation were going to be destroyed.

Bob Caverly, 150 Young Road, explained that he agrees with the concerns that have been addressed at the beginning, specifically whose responsibility these lots are going to be after the fact. Bob explained if you buy a house and half your yard washes down into Richardson's Pond and you get to replace thousands of dollars' worth of loam. Bob explained that something the lawyer brought up kind of reinforces a point that he's been making this whole time was that he called this a frontage development and it's a Conservation Subdivision on a technicality. Bob expressed that they are getting benefits of a Conservation Subdivision in the form of smaller lots all packed closer together while disregarding all the benefits for the community and the ecosystem. Bob explained that so much in the Conservation Subdivision has been disregarded.

Bob referenced the **Hanover vs Dartmouth** court case that he feels doesn't help that much but he feels like that helps the people that are opposed to this. The supreme Court emphasized that site plan review cannot be reduced to the mechanical process of determining conformity to specific zoning and site plan regulations. Bob explained that they need to look at the intent of this regulation.

Brian Lenzi, 155 Young Road, explained that the number you're looking for the 15' from the bottom was 10.05.1. Brian explained that the number of driveways there are going to be 10% on all of the whole length. Brian explained the footage of each driveway.

J. Driscoll closed public comment.

A. Knapp explained that Attorney Pasay made a comment earlier asking about where the connectivity was in the regulation and it's really under **Section 10.2** under compliance with the regulation. A. Knapp explained second section of it was specifically notes articles as well as other applicable provision contained wherein or contained elsewhere in the Town Subdivision and Site Plan Review Regulations would otherwise be applied to a conventional non cluster subdivision.

Attorney Pasay explained that they would address the technical concerns. The concerns will be addressed in response to a letter from the Town from Attorney Spector-Morgan. Attorney Pasay suggested that the gentleman that referenced the Dartmouth vs Hanover case really saying for the opposite of what it was suggested as stands for. The case of Supreme Court Hanover Planning Board you can't deny applications on ad hoc determinations you have to look at the regulations and if the application meets the regulations the letter of the regulations it ought to be approved.

J. Driscoll asked to make a comment about the width of the lot even at the road. J. Driscoll explained that **Section 11.2 (2)** of the Subdivision Regulations states that no portion of the lot created under these regulations shall be less than 75' in width.



J. Cappiello asked that she could amend she asked for the wildlife endangered species to include the language that they have in **Section 7.6.4** (Subdivision Regulations) which was to address measures taken to preserve and improve on site wildlife habitat.

*A motion was made by R. Allard and seconded by J. Cappiello to continue the the Young Road, LLC to continue April 2, 2024. The motion passed unanimously.*

Roll Call:

A. Knapp-Yay

D. Massucci-Yay

J. Cappiello-Yay

B. Tessier-Yay

R. Allard-Yay

J. Driscoll-Yay

## **A. NEW APPLICATIONS-DESIGN REVIEW**

- 1) **238-44-1&44-v-24-DesignReview (Owner: NHBBC, LLC (LOT 44-1), Virtuous Realty, LLC (LOT 44))**: Request by applicant to construct a 66,867 s.f. light manufacturing facility with office space and parking improvements on 35.9 acres (Map 238, Lot 44-1; and Map 238, Lot read it what) located at Calef Highway and 607 Calef Highway in the Village Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

A. Knapp recused himself.

J. Driscoll gave a brief description of the application.

Chris Berry from Berry Surveying & Engineering represented Turbocam and gave a brief description of the location. Chris explained that they are looking to expand part of their main campus location on Calef Highway (aka: Route 125). Chris explained that they are looking to expand the abutting lot that was subdivided off in the early 2000's. Chris explained that they want to create Lot 44-1 for the purposes of constructing approximately 63,000 s.f. of light manufacturing space with additional office space. Chris explained that they are looking to use the existing intersection they have for the loop road around the proposed light manufacturing facility. Chris explained that this would operate in a one-way fashion once you're beyond the parking array at the front of the site. Stormwater on site was handled through a various number of means.

Chris explained they have small detention cells which then are routed to treatment cells and those are then routed to infiltration cells. Chris explained that they are discharged over land to Mallego brook and there's a large section of this property and the abutting property lot 44 that was covered by an existing conservation easement. There's a section of this parcel that's encumbered by the wetland buffer and a large section of Uplands to the back of the site. There are areas around the wetlands that are uplands outside of the buffers covered in the conservation easement. These are no longer developable under the easement.

Chris explained that this project would require a conditional use permit for use in this zone and which was applicable to the Planning Board along as for the size of the building within the zone 50,000 s.f. was permitted within the zone. Chris explained it applies a conditional use permit within this zone to any builder. Chris explained that they have filed a variance with the Zoning Board of Adjustment to allow for a small retaining wall to be constructed at the front of the site. Chris explained that crash materials at the front of the site would be located within the existing greenbelt on site. Chris explained that the purpose of the retaining wall was a little counterintuitive. Chris explained that had originally designed the site to not require the retaining wall and what that created at the front of the site were some steep slopes that went down into the stormwater cells. What they



found was that they couldn't revegetate the front of their site in the greenbelt buffer. He explained this is due to those slopes that are so steep they were having trouble getting the plantings to stay in that location. Chris explained they determined that if they benched the site and created a small wall, they could create a sort of a green buffer along Calef Highway (aka Route 125). Then they can have another tier above that closer to the building they could create additional tier though this was a better design.

Chris explained that the site does require a 9.6 permit for the impact within 50' of a wetland. The wetland was originally much smaller, but it increased in size through the stormwater management that was done on the original Turbocam site. Chris explained that the site did not manage volumetric controls or probably peak rates to the extent that's required now. As it discharged into the wetlands it grew over time. It now requires a 50' buffer around it. He discussed proposing a roadway through the 50' buffer to help keep the stormwater away from the wetland.

Chris explained the project access was controlled by NHDOT. They have filed with NHDOT a preliminary permit and the requirement of a full traffic analysis, that is still being conducted, with TEP LLC.

He explained there is a portion of a shared component between the parcels so the building size that's needed currently for Turbocam to continue its operation was such that the parking demands can't be satisfied on Lot 44-1. Chris explained that they would be proposing to add additional parking on Lot 44 additional to the existing Turbocam needs additional parking. Chris explained that there would be two applications that come before the board for their revisions for revisions to the existing Turbocam site to increase the parking capacity there.

Chris explained that there are two wells on site. These well are non-transient on public systems that currently service the existing Turbocam site. Chris explained that their sewage disposal system would take place on Lot 44 so that it could all be managed on one site moving forward.

Chris explained that they have reached out to the division of historical resources, and they have hired archaeologists to review the site. He has published a study that there are no areas of interest on this project site. The division of historical resources has approved that study and they have filed it with the Natural Heritage Bureau.

Chris explained there are species of concern in the Mallego Brook, and they have hired a wildlife specialist. That specialist has started their work with Fish and Game to ensure that the protections will be designed for the species concerned. Chris explained that they have supplied a draft of the architectural details from MSA. Chris asked if there are any comments that the Board may have would be good to take back to design team and the applicant.

J. Driscoll asked about Chris's comment about pending another application that was just for parking and has nothing to do with using the recreation field for structure.

Chris explained there's an existing well house on site they are proposing to be revised and constructed to a proper well house size of 20 by 20. Chris explained that most of it was for additional parking for both the existing site and the expanded parking site.

J. Cappiello asked where the public access to the hiking trails in the Conservation Easement.

Chris explained that currently the access was through the Turbocam site. The connection is on Province Road, a connection onto Route 125 and along the frontage of Route 125. Chris explained at the southern end of the building there is proposing a staircase there through a series of retaining walls for access as well. Chris

explained what they would encourage people to do was potentially park within the parking area at the new facility use the sidewalk down to that staircase and then that was designed to connect on to the trail system.

J. Driscoll asked about the rendering of the western front facing was there any HVAC or anything supposed to be on the roof.

Chris explained yes but the HVAC would sit behind a parapet wall so it wouldn't be visible screens from Route 125. Chris explained that they have made improvements to the architecture.

R. Allard asked about the heating and cooling.

A. Knapp explained how it works.

R. Allard asked about the one-way traffic flow in at two-way traffic flow, and how to control the transition.

Chris explained that the transition is two ways to one way.

J. Driscoll explained that they show the proper signage on the plan.

R. Allard explained that he assumed they must bring the material trucks around.

Chris explained that it was best to have two-way traffic at the front of the site, and then transition to one-way throughout the rest of the site. Also, the traffic flow would be one-way from the corner all the way around.

J. Driscoll said that he approved of the landscape planting. J. Driscoll asked about the 6' white spruce for any idea what the growth would be.

Chris explained that they would need to talk to Andy about this, some of these species are going to need to be maintained or they would get unruly. Chris explained that a lot of the species they chose would grow quickly and would grow about 10', and will need to be maintained properly. The landscaping in the front of the site would need less maintenance.

J. Driscoll asked about the subsurface wetland if it will be turf.

Chris explained that it's just grass.

D. Massucci asked if they at the other building at Turbocam they recycled their hot water from their machines to melt the snow. D. Massucci asked if this would be done at this building to eliminate the impact of sand and salt.

Andy Knapp explained that was an item that they are looking at with concrete and looking at glycol research, glycol circulation through the concrete and how they could best manage that.

D. Massucci asked Andy if they would take care of the electric pole. She stated that on Route 9 buildings have so many energies efficient machines they weren't expecting to happen and it's not being able to circulate.

Andy stated that there are now two new poles set out by the road. He explained they now run down into an underground vault, which has a sector cabinet and that diverts power so that power was already prepped for the expectation of the building.

D. Massucci asked how many people work at the main plant.

Andy explained that they have about 340 employees across 3 shifts.

D. Massucci asked Chris if he said 100 new employees in the new plant.

Chris explained that the new plant would hold about 150 and there would be an interim period shuffling of personnel.

D. Massucci explained that would be bringing a lot of people with families that have children. D. Massucci asked if there was any way to build a childcare center on that property to help house those.

Andy explained that not on this site, as this site was fully utilized and can't comment currently. Andy explained that they would be shifting employees.

D. Massucci asked about coming in and out of on the highway and if would there be a second lane.

Chris explained that the traffic engineer was currently looking at the NHDOT requirements. Chris explained that they have hired a traffic consultant to look at what is currently there, as there previously was a deceleration lane into the project site. Chris explained that when the restriping took place on Route 125 this past summer, the lean in the southbound direction was sufficiently sized to allow for people to safely navigate around into Turbocam. Or whether NHDOT would require a full turn into the site.

J. Driscoll opened public comment.

Dan Ayer, 334 Old Concord Turnpike, explained that he likes the business coming in for taxpayers. It helps generate the tax base and explained that he has a rock wall on his property to help with buffering noise.

Doug Bogen, Chair of the Conservation Commission, stated the Board has their written comments, and they recognize that this was a challenging site. Doug explained that they are happy with eh efforts to mitigate the impacts reduce the runoff.

Paul Panish, 101 Ross Road, explained that he did a full analysis using the new (wetland methodology) tool. He agreed with as Doug mentioned, it did imply that their advice would be not to exceed 20' into the buffer and we're removing the buffer. Paul explained that the mitigation methods that are being put in place aren't anything that they have experience with our knowledge of and they should account for factors that tool was not intended to look into.

J. Driscoll closed public comment.

R. Allard explained it can't come up with maximum every single time. He stated that the fact it came up with a lower one in this case, he thought it was good thing for the credibility of the new method (referencing to the Wetland methodology).

*A motion was made by J. Driscoll and seconded by D. Massucci to close the Design Review for Turbocam. The motion passed unanimously.*

Roll Call:

D. Massucci-Yay

J. Cappiello-Yay

B. Tessier-Yay

Barrington Planning Board Meeting Minutes/bi

March 5, 2024/ pg. 25 of 26

R. Allard-Yay  
J. Driscoll-Yay

**6. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD**  
(none)

**7. ADJOURN**

A. Knapp returned to the Board.

*A motion was made by J. Driscoll and seconded by D. Massucci to adjourn the meeting at 9:06 p.m.*  
The motion passed unanimously.

Roll Call:

A. Knapp-Yay  
D. Massucci-Yay  
J. Cappiello-Yay  
B. Tessier-Yay  
R. Allard-Yay  
J. Driscoll-Yay

The next meeting date is for work session on March 19, 2024, at 6:30 PM.

**\*\* Please note that all votes that are taken during this meeting shall be done by Roll Call vote. \*\***