



(Approved March 15, 2023)

**Meeting Minutes
Zoning Board of Adjustment (ZBA)
January 18, 2023, at 7:00 P.M.**

1. CALL TO ORDER

T. Hardekopf called the meeting to order at 7:04 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members Present: Tracy Hardekopf, George Bailey, Cheryl Huckins, Paul Thibodeau, Andre Laprade

Staff Present: Town Planner: Vanessa Price, Zoning Administrator: John Huckins

4. PUBLIC HEARING CONTINUED FROM DECEMBER 21, 2022

- A. [240-8-GR-22-3Var/Spec Except \(Owner: Norma Bearden\)](#) Request by applicant for the following variances Article 6, Section 6.2.6 Perimeter Buffer to allow 14 proposed driveways to access through buffer along Young Road, Article 6, Section 6.2.6 Perimeter Buffer to allow proposed subdivision to reduce the front perimeter buffer, Article 6, Section 6.2.6 Perimeter Buffers to allow the front buffer to contain individual house lots and Special Exception to Article 4, Section 1.3 to allow shared access point and shared driveways on a 65.55 acre lot on Young Road in the General Residential Zoning District. BY: Christopher Berry, Berry Surveying & Engineering: 335 Second Crown Point Road; Barrington, NH 03825.

T. Hardekopf gave a brief description of the application.

P. Thibodeau recused himself from the case.

T. Hardekopf asked the applicant, Mr. Thibodeau, wanted to proceed with his application, as there are four seated ZBA members to hear the case, meaning that at no time could he come back and appeal because of the reduced number of board members present.

Mr. Thibodeau agreed to move forward with the application.

Christopher Berry, with Berry Surveying and Engineering, is representing the applicant Paul Thibodeau. Mr. Berry explain his application to the board and he wanted to explain the project with a few of the planning ideas that go into conceiving a project of this type and size, then describing the variance and the special exception request, ending with closing comments and remarks addressing concerns from the residents and abutters of the project.

T. Hardekopf addressed the audience and the Board, by letting the public know the Zoning Board of Adjustment's role in the Town of Barrington is not to tell the landowners how to use their land. It was also not their role to limit the building of the number of projects in the Town. The Zoning Board of Adjustment is beholden to the Zoning Ordinance that have been approved by the residents of this town. The ZBA was to hear cases in a quasi-judicial capacity listening to fact, not fiction, not opinion, just fact. It is not the ZBA's job to limit what is happening for growth in the Town of Barrington. This seems to be the understanding of the public, that's not the ZBA's role. T. Hardekopf explained that a variance, special request or an administrative appeal (this was if you didn't like what the Zoning Administrator decision).

T. Hardekopf explained that there were several comments on how the member of the Zoning Board of Adjustment would be able to function in hearing a case. T. Hardekopf explained the members who sit on this board, recuses themselves, when appropriate, because they took oath of office to uphold the Constitution for the State of New Hampshire and the Town of Barrington's Zoning Ordinance. T. Hardekopf explained to the public that they can have an opinion one way or another about public service. They are all volunteer appointed to people sitting here and take the oath of office.

Mr. Berry continued with the application for Paul Thibodeau, the landowner for Tax Map 248, located on Young Road and describing the site conditions. The site is approximately 65 1/2 acres in size and has vast amount of frontage on Young Road with several special features to it. Mr. Berry explained that the applicant asked to show conditions plan for the site that included the topography of the site and the jurisdictional wetlands on site. Mr. Berry explained that they asked for any special features on the site, that would be required for subdivision of the parcel to be identified as part of the project.

Mr. Berry continued to explain that a certified wetland scientist as well as a certified soil scientist, John Hayes, to go to the site and which includes the poorly drained boundary of the wetlands and delineate the jurisdictional wetlands on site the very poorly drained soils on site which determine in this particular case the limits of the prime wetlands #4 that was partially on the project site. Mr. Berry explained that there are some jurisdictional wetlands on the south side of the project site. Mr. Berry explained that they have some jurisdictional, poorly drained wetlands towards the center of the project (showed on the plan). Mr. Berry explained that they have wetlands that enter the site under Young Road. Mr. Berry explained that there's a new box filter (showed the location). Mr. Berry explained that in the center of the site, there's a large wetland system that could be seen from most satellite views of the property. Mr. Berry explained that there was a very poorly drained wetland system that was situated inside of that system, and this generates the limits of prime wetland #4 delineated on the plan with reference several times in the information to the Board. Mr. Berry explained that they are all on the ground delineations and not remote sensed they are delineated in the field then survey located through conventional means, and methods for survey accuracy and mapping standards as provided for a State of New Hampshire ethics and standards also in Barrington rule regulations. Mr. Berry explained that there's a large off-site beaver pond that resides on a partially on the project in question, partially on land that is owned by the Town of Barrington and eased by SELT which reside on Mr. Lenzi property to the south. Mr. Berry explained that area when it ponds high enough, it down drains through the property through a small wetland system then enters the larger complex of the wetland system, then drains down through the property to Richardson Pond. Mr. Berry explained that the topographic features are important and how they work and inter plays with one another are important when laying out the proposed project.

Mr. Berry explained that the slope of the land was generally towards the wetland systems from Young Road. There's a large piece of upland at the back of our property that drains down to that site to the wetland area that was a prime wetland by the Town of Barrington Zoning Ordinance. Additional key features that Mr. Berry discussed was the land ownership of the Town of Barrington, which owns the abutting parcel, both on the eastern side but also along the northern boundary. Mr. Berry explained that parcel has an easement by Southeast Land Trust and was part of a larger complex of open lands that have

been conserved through many efforts by the residents in the Town of Barrington as well as Southeast Land Trust and the Conservation Commission.

Mr. Berry explained that the property across the street was recently subdivided within the last 12-15 years. Mr. Berry explained that was a standard subdivision at that time with the conventional 200' of frontage with a minimum 80,000 s.f. these requirements were used for that type of subdivision. Mr. Berry explained at that time he didn't know if a Conservation Subdivision was available at that time.

Mr. Berry explained that there was a large off-site wetland that does drain down through the property and enters on this property showing the location on the plan.

T. Hardekopf asked how many lots are across the street.

Mr. Berry stated that there were 12 residences, and that property has a wetland at the rear of the site also. Mr. Berry explained to the Board that when that property was subdivided as part of the property, there were improvements made lines of sight were opened and cleared along with a structure removed. Mr. Berry explained that there was a fire cistern installed at the time of that project this was to service that project along with any future development.

Mr. Berry explained to the Board that they looked at this parcel of land and the best way to develop it. Mr. Berry explained that in the process they look at the habitat map provided by New Hampshire Fish and Game. Mr. Berry explained that the center of the parcel was the highest and most critical habitat, the 100' Buffer the rest of the parcel was known as supporting landscape. Mr. Berry explained that it was important to know that the Town of Barrington and Fish and Game has this idea that area was of importance for many reasons. Mr. Berry explained that when they are talking about development around a prime wetlands, there are two buffers that they need to be concerned with.

Mr. Berry explained the first buffer was the jurisdictional wetland. Which is a 50' buffer that is at the limits known as poorly drained jurisdictional boundary. Mr. Berry explained there was also the 100' buffer around the prime wetlands system that sits inside of that wetland. This was for a larger protection around the prime wetlands because of all the nature features that are important to that ecosystem.

Mr. Berry explained they look at areas to develop and areas that sensitive and then they apply the underlying zoning of basics and principles to the lot to determine the underlying yield of the property.

Mr. Berry explained that there were large amounts of supportable lands at the front of the site. Mr. Berry explained that they can develop the front of the property there are large areas of uplands at the rear of the site and the yield plan would propose to develop those areas as part of roadway infrastructure. The roadway infrastructure would be designed to Town standards.

G. Bailey asked about coming across the wetlands if there would be a passageway. G. Bailey asked if, there would be any damage from that.

Mr. Berry explained that was he was talking about was a theoretical yield plan. Mr. Berry explained that, what they are currently proposing does not propose any wetland crossing, any buffer impacts, or propose housing near the wetlands. Mr. Berry explained that this plan has no environmental direct environmental impact to the wetland systems the yield plan would propose a wetland crossing this plan does not.

C. Huckins asked if behind this property Barrington owns the land and it's in conservation easement. C. Huckins asked being a conservation subdivision she was assuming that the wetlands in the back would be, in conservation easement so that would extend and protect larger piece of land.

Mr. Berry stated yes.

T. Hardekopf asked if a road was brought in along the back side you would still need driveways with the

roadway. T. Hardekopf further asked if there would still be an increase the amount of impermeable surface by doing this.

Mr. Berry stated yes.

Mr. Berry explained that this project has a substantially reduced amount of impact on the land. Mr. Berry explained that it opens the amount of land that would be available and contiguous with other areas that are conserved. Mr. Berry explained that it would propose the same or similar amount of housing that the yield plan would propose. Mr. Berry explained that they are not before the Board asking for, a variance to increase density.

Mr. Berry explained that they are before the Board for the availability for them to utilize the Conservation Subdivision in a format that was not conceived when the ordinance was written. Mr. Berry explained that they want to keep the open area free, unpaved, unencumbered by developing affixed to other areas that have the same qualities by placing the development along the front of the project site. Mr. Berry explained that the way the ordinance was written a Conservation Subdivision was not practical on this site without the request for variances. Mr. Berry explained that the reason for that Section 6.2.6, which requires the perimeter buffers, does not discriminate against the front perimeter buffering. Mr. Berry explained for their project design and the open space design, they are providing for a 100' buffer to the south and 100' buffer along the north. Mr. Berry explained that they have open areas and buffers along the rear of the site, but the ordinance really conceives of an open space design where a road was installed and housing units are sprouted off from that interior road.

Mr. Berry explained that this was the best area where they would critically want to preserve that land. Mr. Berry explained that they want to keep that land for development to keep those areas open. Mr. Berry explained that the ordinance was contrary to this specific site and therefore this site was special, contained special features to it, in contrast to the underlying zoning ordinance.

Mr. Berry explained that they understand that Young Road unfortunately has become a cut through. Mr. Berry explained and acknowledged that as soon as they open up site lines on roadways people travel faster.

Mr. Berry explained they are proposing 14 curb cuts on the frontage. Mr. Berry explained that they are taking the same amount of density and placing it all along the frontage of their project. Mr. Berry explained that they want to be careful not to increase the number of curb cuts.

Mr. Berry explained that one of the requests was for a Special Exception to allow for joint driveways but not necessarily come off the front of the lot this was to ensure that the number of driveways was equal in both the yield plan and the proposed conservation subdivision. Mr. Berry showed the examples of how the driveways would be.

Mr. Berry explained the criteria for a Zoning Variance and criteria for a Special Exception are drastically different in terms of criteria that needs to be met. Mr. Berry explained that this project with any approval or discussion with the Board tonight was not the end of the project. There was a lot of planning, a lot of permitting that's required to move through to the Planning Board. They would need to review traffic on the site, site lines for each of the driveways, the effects of potential impervious coverage on the site. Mr. Berry explained items that need to be done: wetland Buffer, unit density, well, and location of sewage disposal areas would still need to come through the Planning Board process.

Mr. Berry explained that they are asking for three variances:

1. Front buffer to take frontage on Young Road they are proposing that the 100' buffer as required be part of the lot but they are proposing a driveway access through the buffer.

Mr. Berry explained that the conservation subdivision does not conceive of the fact that you could have a conservation subdivision along the frontage of the road. Mr. Berry explained therefore having the

driveways go through the front buffer is contrary to the Town Ordinance but not to the layout. Mr. Berry explained that it was not contrary to other layouts that have been approved by the Board in the past and the Planning Board past.

2. Direct relations to trying to ensure that this project contains some additional buffers to some of the wetlands. The critical areas on site Lots 12/13/14 and 15 were requesting a variance to allow for the front structure to be allowed over the front buffer be reduced from 100' to 40'. Mr. Berry explained that a lot was required to have 200' of frontage and required to have a 40' front setback. Mr. Berry explained that the reason was that the area contains steeper slopes, adjacent to wetlands, and adjacent to prime wetlands. He described that the plans show to ensure that the structures are pulled as far forward as and still maintaining the underlying balance in the buffer.

Mr. Berry stated that there have been a few writings to the Board that we're proposing to go in and clear all the buffers on site and propose houses there. Mr. Berry explained the following:

Proposing 100' buffer reduce to 40' in some areas that would have driveway accesses through them. (This was not unlike what was done on Tolend Road and agree that subdivision was a much better layout in designed than what could have been done in a conventional format)

3. Section 6.2.6 requires that none of the physical lots can be within 100' buffer clear along with the lots within the 100' buffer clear. They need to have frontage on a Class 5 road and therefore could not gain access to those lots. Mr. Berry addressed the Board regardless of the number of units was the best approach for this particular project.

Mr. Berry read the five criteria for a variance into the record for each of the three variances.

Variance #1

Article 6, Section 6.2.6 Perimeter Buffer, to allow the proposed 14 driveways to access the proposed lots through the buffer along Young Road.

1. *Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.*

The lot has many special conditions that make the site perfectly eligible and appropriate for a Conservation Subdivision, but for the buffer requirements as they relate to the driveway placements. The site contains a large amount of frontage on a public, class v road which is special to the immediate area, given that it is still open and available for development. No other developable parcel in the area contains 2,871 linear feet of frontage. Due to its special frontage condition and general size, the shape is naturally long and narrow, with over 60% of the developable land being along the frontage of Young Road. Denial of the variance poses an unnecessary hardship to the applicant by denying access to the most valuable developable land on the parcel while the applicant is proposing to use the most appropriate ordinance available given the other special conditions of the property. The intermediate, highly valuable wetlands system is special to this site and prevents a standard, more conventional clustering of lots, internal to the property which the ordinance contemplates. The ordinance does not contemplate parcels of land that have one or both of these special circumstances, and the denial on this basis will force the applicant to develop the site in a conventional subdivision, which is unnecessary but for the variance request. Literal enforcement of the ordinance would disqualify the entire front portion of the parcel from being developed using the Conservation Subdivision and that poses an unnecessary hardship on the owner and applicant.

The underlying purpose of this buffer is to ensure the layout of the subdivision is not generally obtrusive to the surrounding public. Section 6.2.6 of the ordinance discusses these vegetated buffers as a visual screen as being the underlying objective, and we submit that with the project, as designed, maintains enough buffer and maintains the rural feel of Young Road.

2. *Granting the variance would be consistent with the spirit of the Ordinance.*

The spirit of the ordinance is to provide a visual buffer to the general public while providing an innovative land use ordinance to applicants so as to permit creative design around environmentally sensitive areas. This project maintains this spirit through the use of shared access points and shared driveways. The design maintains the same number of access points onto Young Road as a conventional subdivision and maintains the rural aspect of the site and the general area.

3. *Granting the variance will not result in diminution of surrounding property values.*
Granting the variance will not result in a diminution of the surrounding property values whereas the site is located in the General Residential Zone, and is proposing a use that is consistent with the underlying zone and Conservation Subdivision. The impact on the surrounding infrastructure and publicly enjoyed lands is no greater than, and is by some metrics less than, a standard subdivision.
4. *Granting the variance would do substantial justice.*
Granting the variance would do substantial justice because it allows a conservatively designed subdivision on a parcel of land with critical areas that are being further protected through the use of the Conservation Subdivision. There is no detriment to the ordinance or the general public that outweighs the benefit to the applicant in this case. In fact, as it relates to the intent of the Conservation Subdivision Ordinance, the development proposes benefits to both the applicant and the public.
5. *Granting of the variance would not be contrary to the public interest.*
Granting the variance would not be contrary to the public interest because the public took the time to review and vote on an ordinance that allows for development to take place in a reasonable manner while considering many factors, buffering being one of the many factors. However as noted above the ordinance does not contemplate existing infrastructure being used for Conservation Subdivisions. The lack of proposed infrastructure is good for the general public where larger public roads are not being developed to be maintained in the future, where there exists ample public infrastructure which is currently being maintained.

Variance #2

Article 6, Section 6.2.6 Perimeter Buffer, to allow the proposed subdivision to reduce the front perimeter buffer to 40' where 100' is required on proposed lots 20-12 through 20-15. The applicant proposes to increase the buffer to the wetlands on these lots for reasons stated below.

1. *Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.*

The special condition of this area of the parcel are the topographic features in relation to the wetland, prime wetland and associated buffers and Young Road. The area proposed for these four lots provides for nicer developable land area (flatter) towards Young Road with an increasing slope closer to the wetland's buffers and therefore the wetlands. The literal enforcement of the 100' buffer presents an unnecessary hardship to the applicant whereas it forces the construction further from the better developable lands, further from Young Road, which will increase the impacted area on the parcel, placing it closer to the more sensitive areas of the lot. These front areas would be used for the same development and purpose in a conventional subdivision. The 100' buffer in this case will generate the need for longer driveways, graded areas and housing that is placed closer to and directly above the wetlands. Though there are construction means and methods to deal with this special condition of the land, in the context of area sensitivity as it relates to the Conservation Subdivision Ordinance, the better planning approach is to develop the area that is more conducive to and more naturally suited for the residential development. By sliding the development closer to Young Road and providing a 40' buffer, the applicant can provide



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Variance & Special Exception Request
Young Road, Tax Map 240, Lot 8

November 28, 2022
Page 5 of 15

for an additional 25' buffer to the wetlands. This keeps the underlying zoning intact with the residential development congruent with the surrounding areas and provides for the front "buffer" discussed in the Conservation Ordinance. Other areas of the site do not contain this feature, which is why the application is specific and targeted to these proposed lots. The literal enforcement of the ordinance creates the hardship of engineered solutions and disturbances for the applicant which is unnecessary if the variance is granted.

2. *Granting the variance would be consistent with the spirit of the Ordinance.*

The spirit of the ordinance is to provide a visual buffer to the general public. In this particular case the applicant can still provide a buffer, contrast to a basic setback. In addition, these four lots sit lower to the street than a typical lot, which increases the buffering effect of the proposed 40 feet.

3. *Granting the variance will not result in diminution of surrounding property values.*
Granting the variance will not result in a diminution of the surrounding property values whereas the site is located in the General Residential Zone where all abutting lots enjoy a 40' front setback requirement.
4. *Granting the variance would do substantial justice.*
Granting the variance would do substantial justice because it allows for the applicant to have a reasonable use of the land, which is permitted in the underlying zoning while still providing a wooded and topographic buffer, as discussed in the ordinance. The benefit to the applicant, the land and the intent of the Conservation Subdivision far outweighs any detriment to the public and does nothing to undermine the ordinance as a whole.
5. *Granting of the variance would not be contrary to the public interest.*
Granting the variance would not be contrary to the public interest when the entire ordinance is considered. The interest is in developing land that is best suited for that purpose while preserving sensitive areas and area adjacent as a planning and economic balance. This is then coupled with the ideals of softening the impact of development on the abutting land owners and the general public. We submit that this project and proposed buffer reduction balances these needs of the ordinance, the applicant and is in line with the public interest.

Variance #3

A variance to Article 6, Section 6.2.6 Perimeter Buffers, to allow the front buffer to contain individual house lots, whereas the lots are proposed to be frontage lots and are inherently included in the buffer.

1. *Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.*

The special condition of this parcel is again the amount of frontage and the grouping of the developable area against that frontage. These features are expounded on above in the first variance request. As noted above the ordinance does not contemplate its use in conjunction with frontage subdivision and clustering around existing infrastructure. This poses an unnecessary hardship to the applicant, but for the variance, the applicant would not be permitted to develop any of the land against Young Road in a reasonable, conservation



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Young Road, Tax Map 240, Lot 8

November 28, 2022
Page 6 of 15

manner. Literal enforcement removes the land along the considerable amount of frontage from being developed. Without the land being used in the lots, reasonable use and access is cut off which is not the underlying intent of this section of the ordinance. Not allowing use and access to some of the most valuable portions of the property, forcing either a conventional subdivision or development of other lands currently proposed to be conserved poses an unnecessary hardship to the applicant.

2. *Granting the variance would be consistent with the spirit of the Ordinance.*
The spirit of the ordinance is to provide a visual buffer but also a disconnection to the buffer from private ownership. The buffering aspect is not lost simply due to the land being privately owned. Deeded covenants and restrictions are established for this purpose and control, and has been pretty well established in other conservation subdivisions, of the same style, in recent history.
3. *Granting the variance will not result in diminution of surrounding property values.*
Granting the variance will not result in a diminution of the surrounding property values whereas the site is located in the General Residential Zone where all abutting lots freely own the land adjacent to the street on their private lots.

4. *Granting the variance would do substantial justice.*

Granting the variance would do substantial justice because it allows for the applicant to have a reasonable use of the land, which is permitted in the underlying zoning while still providing a buffer and restrictions that ensure its perpetual existence. There is no detriment to the ordinance or the general public in this circumstance, given the special conditions of this parcel that would outweigh the gain by the applicant.

5. *Granting of the variance would not be contrary to the public interest.*

Granting the variance would not be contrary to the public interest when the entire ordinance is considered. The interest is in developing land that is best suited for that purpose while preserving sensitive areas and area adjacent as a planning and economic balance. In the context of a frontage subdivision that is in keeping with the ideals of the Conservation Ordinance, the segregation and grouping aspects of the buffering requirement seem counterproductive to the purpose and intent of the ordinance and is unnecessary. As noted above the buffering aspect of the ordinance can be accomplished in a different yet meaningful way consistent with the purpose.

Mr. Berry read the five criteria for a special exception into the record.

Special Exception #1

A Special Exception to Article 4, Section 1.2 to allowed shared access points and shared driveways for the proposed project.

The applicant is proposing shared access points and shared driveways on longer lots in an effort to reduce the impact on the parcel of land and reasonably reduce curb cuts on Young Road.



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Young Road, Tax Map 240, Lot 8

November 28, 2022
Page 7 of 15

To the five questions relating to Special Exceptions, we offer the following:

1. *No detriment to property values in the vicinity of the proposed development will result on account of: the location or scale of buildings, structures, parking areas, or other access ways; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or unsightly outdoor storage of equipment, vehicles, or other materials.*
 - a. **There will be no impact on values in the area whereas the proposed number of access points is consistent with what would be proposed as part of a conventional subdivision design. The placement of the driveways is proposed to be safe and meet the sight distances prescribed in the subdivision regulations using general engineering and NHDOT calculation methods. There is no change or creation of odors, smoke, gas, dust, noise, glare, heat, vibration or other pollutants, by allowing owners to share a curb cut or an access driveway to the proposed development zones.**
2. *No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.*
 - a. **There will be no increase in potential fire, explosion or release of toxic materials due to the sharing of access points or driveways.**
3. *No creation of a traffic safety hazard or substantial traffic congestion will result in the vicinity of the proposed development.*
 - a. **The application and design reduces the impacts of traffic and congestion on the project site and surrounding Young Road. The purpose is to reduce curb cuts and increase safety along the road.**

4. *No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection, and schools.*
 - a. **The project design is intended to reduce the impacts of development by reducing future roadways and impact on municipal services. The shared aspects of the curb cuts and driveways will have no affect on police, fire or schools.**
5. *The proposed use will not result in the degradation of existing surface and groundwater quality standards, nor will it have adverse effects on the natural functions of wetlands on the site that would result in the loss of significant habitat or flood control protection.*
 - a. **The project design, and the proceeding variance requests are targeted at the purpose of reducing the impact on the land, infrastructure installation, increasing water quality ability through the disbursing of flow over the lots and not channeling in swales and ponds, increasing buffers to wetlands where appropriate, and conserving wetlands and uplands around lands that are most sensitive end ecologically valuable. The shared driveways and curb cuts only further enhance these objectives.**

Mr. Berry commented the following on letters from the public:

Is perceived in the public that we're here asking for permission to increase density on a site?

Mr. Berry explained that was not what they were before the Board for they're here asking to utilize the Conservation Subdivision Ordinance on a parcel of land where it was not conceived in the past.

Mr. Berry explained that the number of units that was proposed was a Planning Board issue not the Zoning Board issue.

Mr. Berry explained the variances that they were requested are the direct and result and effort of Conservation efforts that he brought up as part of his initial presentation.

They're in a direct effort to try and protect the same things that much of the public was concerned about.

Mr. Berry explained the special conditions of this piece of property. Mr. Berry explained that he felt he pointed out earlier in the presentation there are other parcels of land that have been developed that had less frontage less acreage. Mr. Berry explained that their project was less intensive.

Mr. Berry explained that this frontage style Conservation Subdivision has been done before and was done well and they hope to do the same. Mr. Berry explained that the wetlands, the prime wetlands these are on site delineations they've been done by professional with licenses. Mr. Berry explained that the 50' buffer, was fully respected around the wetlands and the 100' prime wetland buffer was fully respected with no vernal pools on the project site. Mr. Berry explained that there are no areas of other sensitivities such as streams that are not on the plan.

Mr. Berry explained that it was indicated that this site contains a flood zone, and the FEMA flood maps, show that this site does not contain flood zone. Mr. Berry acknowledge the fact that water does flow under Young Road probably does at aggressive rate when it rains. The property was not allocated within an aquifer protection zone, although this water likely ends up in the aquifer, they are not in an aquifer protection zone and not in a recharge zone.

Mr. Berry discussed that a habitat assessment was done, and he explained that if you look at the Fish and Game Assessment Charts Center of the property that they are trying to preserve was the highest ranking Habitat. It connects down to Richardson Pond and connect to other areas that are conserved.

They're proposing to conserve that area for that reason.

Mr. Berry explained public safety is addressed at the Planning Board. He explained that the project does provide buffers along the entire front of the project site. The existing vegetation would remain. Berry

explained to the Board that he does not intend to address the direct comments related to his company ability or his subconsultants ability to do their job effectively and appropriately. Mr. Berry explained that they work for all the residents of the Town of Barrington, all the surrounding residents, municipalities and conservation groups.

Mr. Berry explained that concerns with the abutter's landowners, and how to best conserve the land that was appropriate to conserve, how to develop the land best and appropriate to develop.

Mr. Berry explained that was why they are before the Board for the three Variances under Section 6.2.6 and the Special Exception.

G. Bailey asked if the upper property of this project was approved would this proposed easement be held by the landowners.

Mr. Berry explained this would be held by the landowners. Mr. Berry explained that they didn't point out, the potential connectivity to the abutting lands, but it would be protected through typical easement deeds.

A. Laprade asked how many lots they are looking for the buffer to be less than 100'.

Mr. Berry stated four.

T. Hardekopf opened public comment that would like to speak for the project.

Katie Bean, 112 Young Road, explained that their home was located directly across from where the applicant was asking for a reduced buffer variance of 40' on the 4 lots along with 3 shared driveways in the small section of road. Katie explained major concerns with these requests due to the number of accidents that have occurred in the woods in this exact section of the road. Katie explained that Young Road was a very busy cut through road to get to Route 9 and Route 125. Katie expressed that there was a substantial curve and these four lots are downhill from the curve. Katie expressed that they have witnessed numerous accidents in front of their house. The majority was from excessive speed. Katie explained that she was worried if this area was cleared for the multiple driveways and the proposed house. Katie asked how many trees would be left to stop vehicles from ending up in someone's front yard or houses. Katie asked what if people are in their front yard when this happens, she is urging to consider repercussions of approving these requests with 14 shared driveways on a small section of a very busy dangerous cut through road and reducing the buffer to 40' on this worst section of the road. Katie expressed that if trees are removed vehicles would go further off the road. Katie expressed how would the homeowners and their families be protected from these accidents?

Luke Stillwagon, 377 Beauty Hill Road, explained that he represents the seller who was out of State. Luke explained that a community member has accused him of discussion information about the current agreement during a sales call. Luke explained that he can't get into specifics about the agreement in place, but 4C of the letter that was passed out and putting in people's mailboxes around the subject property this was not accurate. Luke explained that this letter seemed to be written to have a negative on the sale of the property. Luke explained lastly that the State of New Hampshire has around 20,000 residential units short of where they need to be as a State. Luke expressed that this would be positive impact on the community.

A. Laprade explained that under variance #1 explained that purpose of this buffer to ensure the layout of the subdivision was not generally obtrusive to the surrounding public. The sections of the ordinance discussed these vegetative buffers and that's a visual screen was being an underlying objective, and they submit that with the project. The project at the site maintains enough buffer and maintains the rural feel of Young Road. They don't believe the scope of this project does not change the rural landscape of Young Road.

Mr. Berry explained that what was in the underline zone. It is a benefit to what was permitted in the underlying zone, the underlying zone would be a 40' front set back, no buffer.

C. Huckins expressed what Katie Bean spoke about so nicely about roads are not something the Board can decide on. C. Huckins explained that they cannot decide on traffic all that traffic would be done at the Planning stages.

Lynn Thibodeau explained that she was speaking for the project on a lot of misinformation on social media, whether intentional or misinformed. Lynn explained that there's a lot of discussion on the project that the Southeast Land Trust would come in and rescue it. Lynn explained that the seller, did approach Southeast Land Trust several times and they have no interest in purchasing the property at all. Lynn explained that this property was looked at by three different buyers they were lucky enough to be the ones that are purchasing this. Lynn explained at no time did any of the neighbors come to them with any questions or concerns other than to post on social media or to put letters in their neighbors mailboxes. Lynn explained that this property was zoned for this, and they are trying to have conservation easement to preserve buffers to 20 plus acres along Richardson Pond, the wetlands that directly borders the pooh trail that would allow access to the public to use more of the land and preserve the wetlands they're so concerned about. Lynn explained that if they did a typical subdivision, like the surveyor explained there would only be a 40' buffer. Lynn explained if people are concerned, about accidents they need to slow down this was not a zoning question. Lynn explained that she lives on Young Road. She lives across the street this was her neighborhood. Lynn explained that ten years ago, people were complaining about was undeveloped land. Lynn explained that they want to develop their land, people want to deny the people to live in the Town of Barrington and own their own property. Lynn expressed that she would think that the neighbors would want to protect that land, developing this land, then somebody coming out of state clear cutting putting up a lot of houses and then leaving. Lynn explained that she supports this conservation subdivision and benefits the people.

Dan Ayer, 334 Old Concord Turnpike, as a previous select person they work with the homeowner. Dan explained that Town officials were able to talk with him and very cooperative and thanked him. Dan explained that he was against saving all the trees. Dan explained that with the salt that was used the trees, are going to die they are more of a safety hazard in time, and they tried to go as wide as they could for that bridge for bicycles and people walking. Dan explained that if the applicant was willing to work with the Town to get rid of some of the trees to open the area up.

V. Price read from what was received in the Land Use office received 11 emails that are not in support of the application:

December 16, 2022

Mr. Ken Grossman shared driveways, reduced buffer enabled building of 23 densely spaced homes were proximity of delegate from wetlands or other wetlands streams not the body of water. Conservation area might render something special exempts and unnecessary not due to hardship to the applicant.

January 18, 2023

Marc Brauch 114 Young Road at 10:06 a.m.

Ms. Beverly Lane 48 Misty Lane
Not in support of the variance

Mr. Brad Bowick
Not support of the application. Due to the development to large and safety

Michelle Byrne

Objection to subdivision

Mr. Thibodeau rescued himself being the applicant.

When she purchased her property in 2015 thoughts were that across the street was conservation land

Melinda Shofner

Not in support of the application

Concerned about the rural character and the wildlife, wetlands.

T. Hardekopf addressed the following concerns that have been brought up:

Traffic, Wetlands, Planning Board, Dept of Environmental Service, Wildlife, Rural character

Density this was not a Zoning Board issues T. Hardekopf explained to the public if there was anything other than what has been addressed for opposition of the application.

Marc Brauch, 114 Young Road, (online) explained to the Board that his first concern was the hardship that the applicant claims for the multiple variances he used the ability to if he does not gain access to the quote valuable. Marc explained that nearly 2,800 of liner foot frontage and if that was denied that would incur hardship. Marc expressed that this was not true the breakeven point for this type of investment that was an Exhibit 5 was estimated at around five houses, and there's plenty of developable lands that exist for this type of scope that negates the access to the piece of land that requires the variances. Marc explained that if that applicant would like to review the nature of the break even analysis he would encourage him to provide actual financial figures to dispute this.

T. Hardekopf interrupted Marc Brauch explained to him that one of the things that was not taken into account at the Zoning Board of Adjustment. T. Hardekopf explained was how much money they developer needs to make to break even, and she would not allow a question like that. T. Hardekopf asked Marc Brauch to move on to another issue.

Marc Brauch explained that the applicant was making his case for quote valuable so he would expect that his attempt at claiming any type of value for fiancés regarding hardship.

T. Hardekopf interrupted Marc Brauch again that the person speaking on behalf of Mr. Thibodeau at no time did the discussion of value or costs come up. T. Hardekopf asked if he wanted to speak on any other issues that have not been discussed.

Marc Brauch stated that he wanted to. Marc explained that he didn't think the validity of the surveying in the integrity of it has been fully covered. Marc said that Berry Surveying Engineering was used during his presentation earlier if done well and done respectfully that no issues would be incurred but they are actually, under scrutiny in Rochester, NH.

T. Hardekopf interrupted Marc Brauch again and explained that this was not a public forum to take Berry Engineering to task on anything. T. Hardekopf explained that they are licensed and functioning doing multiple large projects in the seacoast area. So that was not something the Zoning Board was going to consider currently. T. Hardekopf also addressed the integrity of the Board on founded as well. T. Hardekopf explained to Marc Brauch that it's very difficult for the Board to sit and take the time to hear about how you perceive the surveying company. T. Hardekopf asked if there any other issue he would like to bring forward.

Marc Brauch expressed that he doesn't know if this was out of scope or not, but degradation to the land he's trying to use the terminology that was in the application. Marc expressed that he felt diligence has been done because there doesn't appear to be evidence of an aquifer assessment, and this was also

conducted during historical drought. Marc expressed that he doesn't think the conclusions they had are appropriate and he would also like to address the impression of his questions regarding the integrity of the Board. Marc explained that the Board was all volunteers, and you are more susceptible to conflicts and by asking a series of questions to on record.

T. Hardekopf asked Marc Brauch if they were any other issues that he would like to bring forward in relevance to the actual application besides the rural character, traffic, wetlands, density, or wildlife?

Marc Brauch stated he didn't think so.

V. Price explained that there were other comments online:
Size of lots and other things that are going on during the conversation about selling prices.

Linda Tying asked about in the presentation they mentioned that these were going to be affordable housing.

T. Hardekopf stated there has not been a conversation about affordable housing and the discussion was that the State of New Hampshire were short 21,000 homes and most homes were not affordable.

Lynn Santosuosso, 89 Church Street, explained that she had a couple of comments. Lynn discussed her life history that she totally appreciated what the Board was doing and their job. Lynn explained that she was disabled combat veteran and on a fixed income, and her home was assessed at a higher value and the taxes would be higher. Lynn expressed that she felt that Barrington was growing way too fast and taxing the property pushing people out. Lynn explained that she also has a concern about her well and she was at the top of the hill a small mountain. Lynn's concerned about 23 more houses pulling water out of the aquifer. Lynn asked how many more houses are going to be built on this downhill stream? Lynn explained that they are on a hill and there was going to be runoff into the marsh, into Richardson Pond. Lynn explained that they are not taking into consideration the size of the Police Department and they are going to need a new facility. Lynn expressed that the Fire Department was volunteer how long before they need a full time Fire Department?

T. Hardekopf explained that they got a point of order from a ZBA member, and they need to stay focused on the variance and thanked Lynn for her service.

Michelle Byrne, 120 Young Road, asked to speak that one of Marc Brauch point the facts that he built up cannot discard that Berry Surveying and Engineering are under scrutiny in Rochester, NH for a similar issue involving wetlands as cited in 8.A of Marc Brauch document.

T. Hardekopf explained to Michelle Byrne that she doesn't know what Marc Brauch expertise was and John Hayes did all the review of the wetlands and the water had very little to do with Mr. Berry.

Michelle Byrne expressed that the surveying took place again and she walks along the road every day. Michelle expressed the traffic was dangerous especially in the spring and summer.

T. Hardekopf dismissed Michelle Byrne explaining that they have covered rural character, wetlands, wildlife, density and covered traffic. T. Hardekopf explained what takes place before the Zoning Board and should not go to Planning Board.

Michelle Byrne expressed that was her point.

T. Hardekopf expressed that she respected what she was sharing but besides the five issues did Michelle

Byrne have any new information.

Michelle Byrne expressed that she questions the whole level of integrity of what's going on with this proposal.

T. Hardekopf thanked her for her opinion.

Keith Noseworthy, 50 Young Road, asked if the Conservation Commission approved this plan?

John Huckins Code Enforcement explained that this goes to the Planning Board not the Conservation Commission.

Keith Noseworthy expressed that it would affect the wetlands.

John Huckins explained that this variance would protect the wetlands more than a conventional subdivision. He stated that was the reason to ask for a variance. John explained that the Conservation Commission would comment to the Planning Board as a subdivision. John explained that they are before the Zoning Board asking if they can keep all the houses closer to the road and get more protection to the wetland.

Keith Noseworthy asked if there was a traffic study completed?

John Huckins explained that was part of the Planning Board approval.

Keith Noseworthy asked if NHDOT approved the driveways.

John Huckins explained that the driveways are approved by the Town.

Keith Noseworthy asked if they have been approved by the Town yet.

John Huckins explained that the traffic analysis needs to be done first and needs to be presented to the Planning Board. John explained that the Planning Board would send out to the reviewing engineer.

Keith Noseworthy asked where the approval of the driveway would come from.

John Huckins explained that they would come from the highway department based on criteria site distance speed of the road.

T. Hardekopf expressed that it appears to her that the 12 houses on the other side of the road and felt there wasn't anymore there than what took place on the other side of the road.

Keith Noseworthy explained that he had the Town come out for a second driveway and the Town said he couldn't because of site line. Keith explained that looking at the plan there's going to be two to in the same spot where he was told he couldn't put a driveway.

John Huckins explained sometime being on different sides of the road site distance was different. John explained that this would be done at the Planning Board level.

T. Hardekopf explained that they are before the Board for variance meets the five criteria and meets the spirit of the ordinances whether it was in the public's best interest, and nothing to decrease, the values in the neighborhood along with the special exception to protect the area.

Keith Noseworthy questioned the lot sizes.

John Huckins explained 80,000 s.f. for a conventional subdivision and the conservation subdivision you can go smaller. John explained that with the smaller lots they would be further from the wetlands.

Loren Obrey, 488 Young Road, thanked the Board for their service and explained that his only concern visual down Young Road and having the houses closer he moved there for the rural appeal. Loren expressed that 40' was too close to the road.

John Huckins explained that they could do a conventional subdivision and all the houses would be 40' from the road the conservation subdivision was proposing to do a buffer with trees protecting it.

T. Hardekopf expressed that she was happy to see so many people come out and speak with strong opinions.

Loren Obrey explained that the last point telling people to slow down was not a solution and this was not going to happen.

T. Hardekopf explained to the next speaker the following have been discussed rural, traffic, wetlands, the density, wildlife, and many other issues if you are going to speak present something new.

Linda Tying, 462 Young Road, asked if these parcels would be considered waterfront?

John Huckins explained that they don't have any waterfront.

Linda Tying explained that she was on the cove and that was considered waterfront.

T. Hardekopf explained that she felt this was not relevant to the variances or special exception for the Zoning Board and the land use department can answer for you.

John Huckins explained that if this was granted they would have no frontage on the water if not granted they would.

T. Hardekopf suggested contacting the Land Use office tomorrow they are closed on Friday to get more details.

Bob Caverly, 150 Young Road, stated that people have been here for generations asked about hardship that he knows that financial reasons were brought up, but it was shot down. He asked if this was considered.

T. Hardekopf explained the hardship would it be of the land.

Bob Caverly explained that he was concerned about the environment impact on the surrounding area, and would be less impact to the environment and the surrounding area if there were less houses.

John Huckins explained that was a Planning Board decision nothing to do with the Zoning Board.

Bob Caverly explained that they could stick to all the rules and regulations under a conservation development putting houses in with no variances.

John Huckins explained that then the houses would be built more towards the wetlands.

Bob Caverly asked making a conservation development here and putting 23 houses in and requiring variances for four of them.

T. Hardekopf explained that Lots 12,13, 14 and 15 need additional buffer variances.

Bob Caverly asked if thoughts four houses be eliminated or maybe make those four lots into 2 lots and eliminate the variance.

G. Bailey explained that needs to be made by the Planning Board.

Bob Caverly stated they are there to approve the zoning?

T. Hardekopf explained that they are there for the variances and special exception.

John Huckins explained that Bob Caverly has a problem with one of the variances.

Bob Caverly explained that he has a problem with all the variances. Bob explained that there could be less houses under a conservation subdivision and stay within the rules no variances needed.

John Huckins explained since they are road front lots they would need the variances.

Bob Caverly expressed in Berry Surveying's presentation was to benefit the public and allow the public to use that land.

T. Hardekopf explained that what was stated was to use that Southeast land property would be built into the design along the right side.

Bob Caverly asked to that did not include the open space.

T. Hardekopf explained you walk back to the open space would be conservation. T. Hardekopf explained that the Select Board and Conservation Commission look at all property placed in Conservation they decide how to handle it not this Board.

C. Huckins explained that any time you can reserve a wetland and any additional conservation efforts made to protect that wetland are in the public's best interest.

Chris Berry stated that there's currently a trail from the land that was conserved. They intentionally designed this subdivision to keep that area open and free of lots. Chris explained no one can place a house in the middle of that trail.

Bob Caverly asked if the open space land would be for public also?

T. Hardekopf explained again that Select Board and Conservation decide how to adopt those lands and how they'll be using not the Zoning Board.

G. Bailey suggested that they go to the Planning Board meeting for more information.

T. Hardekopf closed public comment on Map 240, Lot 8.

Variance # 1 Section 6.2.6 Perimeter Buffer

A motion was made by G. Bailey and seconded by C. Huckins to grant the variance #1 Section 6.2.6 perimeter buffers reason to allow the five criteria and was good for the Town connecting conservation easements 100' buffer was good same number of driveway as on others. Granting the variance was in the spirit of the ordinance and does not diminish surrounding property values. Granting the variance would do substantial justice, and that granting the variance was not contrary to the public interest. The motion passed unanimously.

Roll Call:

G. Bailey-Yay

C. Huckins-Yay (Cheryl explained that this was good for the Town the fact they are connecting to two conservation easements. Cheryl explained that the 100' buffer in the front use best as possible.)

A. Laprade-Yay

T. Hardekopf-Yay (Tracy explained that the number of driveways in that space or allowed on the other side of the roadway.

Variance # 2 Section 6.2.6 Perimeter Buffer reduce buffer to 40' where 100' required

A motion was made by C. Huckins and seconded by G. Bailey to grant the variance #2 Article 6, Section 6.2.6 perimeter buffer to allow 40' buffer where 100' was required because of steep slopes in the back, because of it was consistent with the spirit of the ordinance for a conservation subdivision and does not diminish surrounding property values. Granting the variance would do substantial justice, and that granting the variance was not contrary to the public interest. The motion passed unanimously.

Roll Call:

C. Huckins-Yay

G. Bailey-Yay (George explained that he was voting this way because of the alternative that the applicant has. That was his opinion, infringe on the wetlands that's above the houses on the top as shown and protects more.

A. Laprade-Yay (Andre explained that he understands the heartfelt feelings that have been expressed unfortunately you need to separate the emotion from the fact what there discussing here, and everything has been met.

T. Hardekopf-Yay (Tracy explained that she was most in favor of a conservation subdivision verses a traditional subdivision. Tracy explained that she has strong perception of what happens with impermeable surfaces and the impact that it has o wetlands, and she happier that the land was being conserved to the back part of 65 acres.

Variance #3 Article 6, Section 6.2.6 Perimeter Buffers to allow the front buffer to contain individual lots

A motion was made C. Huckins and seconded by G. Bailey to grant the variance #3 Article 6, Section 6.2.6 perimeter buffer to allow the front buffer to contain individual lots, whereas the lots and are inherently included on the buffer, because of it was consistent with the spirit of the ordinance for a conservation subdivision and does not diminish surrounding property values. Granting the variance would do substantial justice, and that granting the variance was not contrary to the public interest. The motion passed unanimously.

Roll Call:

G. Bailey-Yay (George explained the same reasons because they are protecting both properties)

C. Huckins-Yay (Cheryl explained that the land would still have a buffer)

A. Laprade-Yay

T. Hardekopf-Yay (Tracy explained that she was much happier to see protection of the wetlands area.)

Special Exception #1

A motion was made by G. Bailey and seconded by C. Huckins grant the Special Exception for Map 240, Lot 8. The motion carried unanimously.

Roll Call:

G. Bailey-Yay (George explains that it allows less individual points to combine the points to the road.

C. Huckins-Yay (Cheryl stated for the same reason)

A. Laprade-Yay

T. Hardekopf-Yay (Tracy explained that she didn't see this down property values by allowing the Special Exception, no fire hazard and doesn't believe that the driveway would cause substantial traffic congestion. Tracy expressed that she didn't believe that it would add demand on municipal services existing surface and groundwater or the normal functions of the wetlands. Tracy explained that she felt this was better protecting what could be happening on the 65 acres.

T. Hardekopf closed the public hearing.

5. PUBLIC HEARINGS

- A. [251-9-GR-22-Var \(Owners: Tyler & Katie Rand\)](#) Request by applicant for a Variance from Article 19, Table 1 Table of Uses to allow Mixed Use at 132 Ham Road (Map 251, Lot 9) on 1.87 acre lot where it is not permitted in the General Residential Zoning District.

T. Hardekopf gave a brief description of the application.

P. Thibodeau returned to the Board.

Tyler Rand read the following letter to the Board:

Barrington Zoning Board,

Katie and I have been proud to restore the c.1791 barn at 130 Ham Road. Having people continue to enjoy the barn is a dream that is at our fingertips. We live it each day. While it is not for everyone, for us, it is the vast space and simplicity of a historic era that helps put some perspective into our busy lives. At times, the barn has helped bring people and the Barrington community together.

It is our desire to be part of that community, and we feel we have proven this time and time again. It is our desire to be one with Barrington and to give to others what we have. For our community to experience the joy of the barn and to see and live a small part of their lives in a piece of Barrington history. There are not many places where this can happen and the history that barns can bring is slowly diminishing.

For the past 15 years of ownership, it has been a priority not only to share the property with our friends, neighbors, family and community, but also give back to those in need. The barn has helped us do so. Moon Shine Barn provided a solemn space for a Barrington teacher to marry her terminally ill fiancé and has been a meeting space for local Boy Scout chapters and church gatherings. Big Brothers Big Sisters of NH and food drives have been other examples of state wide charities who've used the barn. Moon Shine Barn has even touched national organizations, hosting meet and greets for families who've escaped Afghanistan and have united them with local organizations to help house them during this excruciating war they've experienced.

We do not know what the future holds for Moon Shine Barn or for us. Tomorrow is a mystery as they say. We want to be optimistic and to say, "It will be alright." The barn has more work to do on it to make it weather-tight and finish what we so greatly wished to accomplish. "Good things take time," is a common saying from my Dad and applies to this situation.

With all of this said, we want to withdraw our application for a variance from article 19, table 1 to allow for mixed use at our property on Ham Road. We will not be going to the Planning Board for a conference center. We desire to maintain relations with our neighbors and be a good steward to the road and the town. Our business plan changed dramatically from our initial submitted plan with hope that we could replenish funds needed to keep the renovation in motion. Despite that, we do not believe that we can be successful with both a business and as a neighbor. This no win situation does not promote the barn like we wish.

We want to thank John, Jamie, Vanessa and Barbara from the Barrington town office for all of the hard work and support they've provided. Thank you Zoning Board for your time.

Tyler & Katie Rand

T. Hardekopf asked the applicants that they do not want to carry the case forward. T. Hardekopf wanted To make a motion to return the funds.

John Huckins expressed that it was legal to return the funds.

*A motion was made by T. Hardekopf and seconded by G. Bailey to return the funds.
The motion carried anonymously.*

Roll Call:

A. Laprade-Yay

C. Huckins-Yay

G. Bailey-Aye
T. Hardekopf-Yay

Withdrew their application.

- B.** [239-35-V-26-Var \(Owner: Paul Guptill\)](#) Request by applicant for a Variance from Article 6, Section 6.2.6 Perimeter buffer to allow 2 conventional lots to be developed separate from the proposed conservation subdivision on Mallego Road (Map 239, Lot 35) in the Village Zoning District on 43 acres. BY: Scott Cole, Beals Associates; 70 Portsmouth Ave, 3rd Floor; Stratham, NH 03885.

T. Hardekopf gave a brief description of the application.

P. Thibodeau recused himself from the case.

Scott Cole from Beals Associates represented applicant, Joseph Falzone, the developer of the property. Scott explained that they are before the Board looking to develop a property on Mallego Road, historically known as the Guptill gravel pit. Scott explained that this was for a residential development, they completed a yield plan to tell them how many lots could be viable on the property.

Scott explained that the first plan, the yield plan, they have developed approximately 18 developable conventional lots. Scott explained that Joe would like to do an open space subdivision as Great value providing open space for the Town. Scott explained that the second plan was an open space subdivision which would be a conservation subdivision and two conventional lots. Scott explained that the reason they are doing this was there 18 conventional lots on the yield plan to make it viable project. Scott explained that Joe would need to come to close to that amount. Scott explained per the subdivision, and other regulations, you are only allowed to go so far with the road length. Scott explained that they have provided meaning the zoning and subdivision regulations which gave 15 lots. Scott explained that they would be left a large piece of property and the proposal was to do two conventional lots on the front right hand corner.

Scott explained that it has been brought to the attention that they need a variance from Article 6.2.6 requires that the perimeter of the parent parcel to also it its connectivity must have 100' around the entire perimeter. Scott explained that this limits the amount that the developer can do meeting that criteria. Scott explained that the open space subdivision would be beneficial. Scott explained that they are working with the Town Administrator, the Town and the Conservation Commission. Scott explained that they are before the Board to ask for a variance for just the two conventional lots that are upfront. Scott explained that they would still be providing 100' setback from those two lots and the cluster subdivision would still have a 100' perimeter buffer around it. Scott explained based on the language of Article 6, Section 6.2.6 they must get an allowance to have the two front lots.

Scott explained that Joe has agreed to donate the open space to the Town, Joe was approached by the Town And there are some drainage issues everyone was aware of on Mallego Road. Scott explained the open space subdivision provides area for the Town to put drainage services on the lot. This helps the situation on Mallego Road that provides open space the Conservation Commission likes this better that a conventional subdivision way. With the Mallego Brook behind his was a sensitive and very high valued area.

T. Hardekopf asked if the variance was for the front two lots.

Scott explained that they are there because the two conventional lots are not allowed.

T. Hardekopf asked Scott if he could speak about the snowmobile trails that runs Lots 16 and 17.

Scott explained the way it was now there was a main snowmobile corridor. Scott explained that on the left-hand side of the plan is where the proposed road would come in. Scott explained that there was currently an existing snowmobile trails that accesses Mallego Road. Scott explained that the trail goes through the old pit. Scott explained that there was also a stub trail that goes from the right-hand side and actually comes up through Lot 16. Scott explained that after talking to Josh St. Hiliare, he stated the gentleman at Toy Tech was a groomer for the snowmobile club they access there and go to the restaurant there. Scott explained that Joe has volunteered to continue the trail in its use and that the trail was very important to the Town. They would be relocating the trail through the parent parcel. Scott explained that they are proposing a short distance down Mallego Road down the green strip that was owned by the pit that has a 25' or 50' strip there and go down to the assisting trail.

C. Huckins asked if there was a reason why the two conventional lots were not subdivision off the property?

Scott explained on the first plan the yield plan, an area would need to be compromised or the whole area has to be comprised of the open space plan. Scott explained that if they subdivide those two plans off like they would normally do separately, then technically the yield plan wouldn't work then it would be a whole different scenario.

Joe explained that after the site walk the Planning Board and Conservation Commission preferred the conservation subdivision.

John Huckins explained that more than 60% becomes open space.

T. Hardekopf explained that 25 acres would be open space.

G. Bailey asked where the major access point would be for the open space.

Scott explained to the beginning of where the proposed road would be to the left existing gravel pit road would remain the Planning Board has asked them to supply an additional parking area which they have proposed Scott explained that there would be 8 to 10 parking spaces.

T. Hardekopf opened public comment for the project.

T. Hardekopf closed public comment for the project.

T. Hardekopf opened public comment against the project.

V. Price read they don't want it traffic concerns.

T. Hardekopf explained that none of the land use boards are operating in order to stop people from using their land. T. Hardekopf explained that if they try to stop people from using their land, they would be suing the Town and using up lot of tax dollars.

Rick Webb, 265 Mallego Road, expressed in support of this project for many reasons, as more conservation land used and be utilized by the public.

Ryan Smead, 92 Swain Road, explained that he hasn't dealt with the people, but club members have. Their snowmobile club was 50 years old this year they have pledged to work with them and keep the trail and reroute it. Ryan wanted to express the appreciation from the snow goers to the owner of the property and the developer.

T. Hardekopf closed public comment.

A motion was made by C. Huckins and seconded by A. Laprade to grant the variance from Section 6.2.6 to allow the front two conventional lots has met the ordinance in result in unnecessary hardship in reference to A conservation subdivision, granting the variance would be consistent with the spirit of the ordinance as it was originally written that granting the variance would not diminish the surrounding property values granting the variance would do substantial justice that granting the variance would not be contrary to public interest. The motion passed unanimously.

Roll Call:

G. Bailey-Yay

C. Huckins-Yay

A. Laprade-Yay

T. Hardekopf-Yay

- C. [124-10-GR-23-Var \(Owner: Byard Mosher\)](#) Request by applicant for a Variance from Article 4 Dimensional Requirements, Table 2 front and side setbacks, to allow 14' front setback to the center of array and 3.3' from the front setback to the closest array edge where 40' is required, and 21' from the side setback to the pole mount base and 17' side setback from the closest array edge where 30' is required, at (Map 124, Lot 10) 507 McDaniel Shore Drive on a 0.22-acre lot in the General Residential Zoning District.

T. Hardekopf gave a brief description of the application.

Megan Yulin from Revision Energy represented Byard Mosher. Megan explained to the Byard received a Variance approval in 2020 to construct a pole mounted solar array on his property. Megan explained that he has a new construction home and has encountered several delays over the past years and during the pandemic. Megan explained the solar is a solar array to power the homes electricity needs. Megan explained that due to the small size of the lot there was limited space to accommodate the solar array as they initially presented back a couple years ago. The site thoroughly reviewed for how they could best incorporate solar with minimal disturbance. Megan explained that it was determined that the area of the lot and the best place was between the house and the road. Megan explained that the as built conditions of the retaining wall to construct the solar array, it was determined that the retaining wall was in a different location so they needed to revisit the location in order to not damage the retaining wall the base. They would need 8' to 10' of clearance from the edge of the retaining wall to ensure that the integrity of that was preserved. Megan explained that would mean that the base would be 14' from the property setback line which results in the array edge being 3.3' from the front property line.

John Huckins explained that this was previously granted a variance then when this happened, and because the location changed, they had to come back before the Zoning Board.

T. Hardekopf explained that the solar change was to the front of the road not towards the lake.

Megan explained no glare they have a coating.

T. Hardekopf opened public comment.

T. Hardekopf closed public comment.

A motion was made by P. Thibodeau and seconded by G. Bailey grant that no one should be excluding from solar energy if it's available to them has met the ordinance in result in unnecessary hardship in reference to a conservation subdivision, granting the variance would be consistent with the spirit of the ordinance as it was originally written that granting the variance would not diminish the surrounding property values granting the variance would do substantial justice that granting the variance would not be contrary to public interest. The motion passed unanimously.

Roll Call:

G. Bailey-Yay

C. Huckins-Yay

A. Laprade-Yay

T. Hardekopf-Yay

P. Thibodeau-Yay

- D. 118-67-GR-23-Var (Owners: George J & Ellen M Rose)** Request by applicant for a Variance from Article 4 Dimensional Requirements, Table 2 side setbacks, to allow 18.5' side setback and 18.8' side setback where 30' is required at (Map 118, Lot 67) 437 Mica Point Road on a .54 acre lot in the General Residential Zoning District. By: Christopher Berry, Berry Surveying & Engineering; 335 Second Crown point Road; Barrington, NH 03825.

T. Hardekopf gave a brief description of the application.

P. Thibodeau recused himself from the case and left the meeting room for the rest of the evening.

Chris Berry from Berry Surveying and Engineering representing the owners George and Ellen Rose. Chris explained to the Board that the Roses own a piece of land on Mica Point Road, situated on Swains Lake. Chris explained that the lot was created in 1955 through a subdivision was stamped and signed by Grant Davis who was a land surveyor from City of Dover. Chris explained that they believe that the previous house that was built in 1960 from the information on the tax cards. Chris explained that it looked like the house was lifted over the years and new cement was put in the same footprint. Chris explained that the Roses are undertaking a renovation of the inside of the structure itself to the overhang of the house just a little over 1000 s.f. they are looking to make this there year around home they currently live in Ashland, MA. The existing structure is three bedrooms and the existing internal the home is to be renovated to accommodate a full-time year around living. Chris explained that variance application before the Board was to add a small addition off the north side of the property the purpose was for better access to the building noting that from the photographs supplied that the second floor was living space accessed by a large staircase that goes down into the front lawn. The Roses are proposing bedrooms at the basement elevation which was at grade at the lake level that would be the front level. The front porch would be the new main entrance to the structure, and they would enter the new addition from the north side and the stairs to the second floor. The addition would be used for coats and a mud room then access upstairs into the living space. Chris explained that the variance was for an increase of the building size this allows for a reconfiguration inside the house to be more favorable and allows for additional storage. The proposed

setback to the north side of the boundary was 18 ½' and that was the proposed overhang. They would not be encroaching any closer to the lake than the existing structure exists now. Chris explained that they are not removing any vegetation on the north side or to the lake. Chris explained that they do require a Shoreland Protection Permit and they are going to install two drywells on the site. Chris explained the roof line and that gutters would be installed.

T. Hardekopf asked how much space to the left side between the property and the neighbors.

Chris explained that there was 29' between the existing structure and the northern boundary of the left-hand boundary line.

T. Hardekopf as if the neighbor was far enough from the boundary line, they would not be on top of it.

Chris explained that the special conditions of the property owing to the unnecessary hardship and felt they pointed that out. Chris explained that there was no reasonable place to add on to the structure on the lot and denial of the variance would cause an unnecessary hardship to the applicant, whereas they would not allow for the reasonable reconstruction of the interior home. Chris explained that these lots were created prior to zoning.

Mr. Berry read the five criteria for a variance into the record.

Article 4 Dimensional Standards Table 2, side setback of 30' within the general residential zone.

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicants as defined under applicable law.
The lot has a special condition which makes compliance with the ordinance not practical. This lot is a non-conforming lot of record created prior to the ordinance that happens to be substandard in width and pie shaped. Additionally, the parcel contains an existing modest size home which sits to the southern side of the parcel. Due to these special conditions, the sideline setbacks cannot be met and the literal enforcement of the Ordinance will result in unnecessary hardship on the applicants whereas there is no feasible alternative for the smallest of improvements on this parcel. The northern side was chosen given its proximity to the northern boundary. By not permitting the reasonably sized addition, the internal enhancements cannot reasonably be made and this creates an unnecessary hardship to the applicant.
2. Granting the variance would be consistent with the spirit of the Ordinance.
The spirit of the ordinance is to create a uniformity of rural nature within the town. Given this lot is pre-existing, non-conforming and contains topographic constraints, it is our assessment that the spirit of the ordinance is observed with the proposal's general adherence with the neighborhood in general. Each abutting lot owner has structures that are within the sideline setbacks.
3. Granting the variance will not result in diminution of surrounding property values.
Granting the variance will not result in diminution of surrounding property values. New construction increases surrounding property values and the proposed project will provide for a more functional use congruent with single family living.

4. Granting the variance would do substantial justice.
Granting the variance would do substantial justice because it will allow the applicants to reasonably develop an appropriately sized structure that isn't any closer to the side setbacks than other structures on this site or other abutting structures are to their lot lines. The gain to the applicants far outweighs any potential harm to the ordinance, whereas this neighborhood contains non-conforming lots and structures throughout. No tree removal or buffering is proposed for the project and the site will substantially be the same in the final condition.
5. Granting of the variance would not be contrary to the public interest.
Granting the variance would not be contrary to the public interest because it will allow for a residentially constructed building, an allowed use within a residential zone, that is congruent with abutting development on the same roadway to be reasonably built. Given the special circumstances of the parcel, granting this variance will not erode the public interest within the zoning ordinance.

T. Hardekopf opened public comment.

T. Hardekopf closed public comment.

A motion was made by T. Hardekopf and seconded by C. Huckins granted for the enforce of the ordinance would result in unnecessary hardship as there was no additional spot to add on to or reconstruct to become a year around home in place before ordinances were in place granting the ordinance in result in unnecessary hardship in reference to a conservation subdivision, granting the variance would be consistent with the spirit of the ordinance as it was originally written that granting the variance would not diminish the surrounding property values granting the variance would do substantial justice that granting the variance would not be contrary to public interest. The motion passed unanimously.

Roll Call:

G. Bailey-Yay
C. Huckins-Yay
A. Laprade-Yay
T. Hardekopf-Yay

6. REVIEW AND APPROVAL OF MINUTES

A motion was made by T. Hardekopf to not approve the minutes. Corrections needed to be made from the December 21, 2022, meeting before approval.

7. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

A. Town Planner Updates

- i. New Zoning Application-Being reviewed by legal.
- ii. 2023 Zoning Amendments-are on the website.
- iii. Rules of Procedure
- iv. New Hampshire Planning and Land Use Regulation 2022-2023 edition

8. ADJOURN

A motion was made by T. Hardekopf and seconded by C. Huckins adjourn the meeting at 9:58p.m.

A. Adjourn the Zoning Board of Adjustment (ZBA) Meeting. Next ZBA meeting date is February 15, 2023, at 7:00 P.M.

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