

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
August 18, 2021**

MEMBERS PRESENT: Bob Belmore-City Manager, Keith Perkins, Alternate, Chris Horton, Jeremy Rhodes, Jason Barry, Ron LeHoullier, Chair, Mark Richardson, David Witham, City Council Representative, Paul Goodwin-Alternate, Paul Robidas

Excused Members: Harold Guptill- Vice Chair

STAFF PRESENT: Michelle Mears, Director Development Services, Dana Crossley Planning Secretary

The Meeting was called to order at 6:30 PM.

LeHoullier appointed Perkins as a full voting member for the meeting

1. Approval of the minutes of the meeting of July 21, 2021

Motion: Barry MOVED to accept the minutes of July 21, 2021.

The MOTION is SECONDED by Horton.

The MOTION CARRIED by an 8-0-1 vote, Robidas abstained.

2. COMMITTEE REPORTS

Land Use Board Reports (ZBA, HDC, Conservation Commission, SRTC, Minor Field Reports): No comments.

City Council Report: Witham stated he had no report.

Strafford Regional Planning Commission (SRPC) Update: Richardson stated he had no report.

LeHoullier stated Richardson's membership as a commissioner of SRPC needs to be addressed as a recommendation to Council for their approval.

MOTION: Robidas stated I MOVE to recommend appointment of Mark Richardson as a SRPC Commissioner to the City Council.

The MOTION is SECONDED by Rhodes

The MOTION CARRIES 9-0.

3. OLD BUSINESS

A. Carlton Spencer Jr & Sherri Bolin are seeking a 5-lot conventional subdivision by special use permit for a property located at 279 Green Street, in the Residential Single Family (R1) District, Assessor's Map 18 Lot 45, SUB#05-2020 PUBLIC HEARING

Mears noted that included in the Board's packet is the second review completed by Horsley Witten (HW), the zoning history of the property, applicant's Attorney's letter regarding the administrative decision, and zoning changes for this area. She stated the application was continued from the July meeting with the following concerns:

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- Drainage, erosion controls and stormwater runoff;
- Street lights;
- History of the zoning;
- Home owners' association documents in regards to the maintenance of bio-retention area;
- Buffer between the road way between lots 18-43; and
- Lot configuration of proposed lot 18-45-01;

Mears noted that representatives from Horsley Witten are in attendance, **Ellie Baker** and **Jonas Procton**.

LeHoullier inquired if the City Attorney had time to review the more in-depth historic minutes regarding this parcel.

Mears stated not at this time.

LeHoullier stated they had come to the conclusion that the variance and conditions of approval moot and was unsure if when they made the decision, they had reviewed the historic minutes.

Belmore stated they did not ask they review the historic minutes it was a matter of law and agreeing with the opinion of the applicant's counsel because it would be moot if there was a subdivision that complied with current regulations.

LeHoullier stated the point of the variance was not the road frontage, the main part but the reason for the condition was the water problems.

MOTION: Witham stated I MOVE to remove the application of Carlton Spencer and Sheri Bolin for 5 Lot Traditional Subdivision from the table and continue review and public hearing.

The MOTION is SECONDED by Robidas.

The MOTION CARRIES 9-0.

Doug LaRosa of Civil Works NE was in attendance to represent the application.

LaRosa stated there was a productive site walk held with discussion of the drainage location and function, reviewed an example of a bio-retention pond constructed in Sunningdale, reviewed access for the Chasse piece and how it was located, street lights. He stated his current understanding is that the applicant wishes to install driveway lights (10' off the right of way) on each lot and then one cobra head at the entrance by Green St. He stated the majority of the comments from the outside review were stated with no further comment. He stated he was concerned that they indicated information would be provided once there was an alteration of terrain permit, this subdivision road impacts approximately 40,000SF which is well below the threshold. He stated they can provide water quality volume and flow, no requirement for these to be performed.

LaRosa stated the applicant is willing to have conditions of approval. He stated one thing that is outstanding is the Special Use Permit, they have provided documentation to why they feel they meet the criteria. He stated additionally it is appropriate because these are fairly small lots, 5-acre lot in total, if taking out 38% of the lot and set aside the wetlands, it would not provide a large conservation benefit. As it sits now it does provide a benefit where, the proposed lot with the bio-retention pond has the majority of the wetlands, currently because of the wetland protection buffer and upland on the other side of the wetlands they are providing a large conservation area in an area that should be protected. Request the Board consider this as a benefit of having larger lots.

LeHoullier opened the public hearing:

Taryn Chasse-Decken, 162 Old Dover Rd. Rochester, representing Mother homeowner of 281 Green Street: thanked the Board members and staff for attending the site walk. She stated late in 2020 she and her mother put together a package when they noticed survey flags going up on the subject property. That package including historic minutes and various documents was submitted to the Planning Department and mentioned she had not been notified of any activity and expressed concern that this lot was not to be further subdivided. City staff informed her that it is typical not to be notified prior to the application going to the Planning Board. She noted they checked the City website for new information for the next 6-7 months. Learned the sequence of events recently, May 4- administrative decision request was submitted by the applicant's attorney Josh Lanzetta of Bruton and Berube, attached to that request were all of the same documents submitted by her mother sans the letter from her mother's attorney Dan Wyskiel. June 7- City Staff (not sure if Zoning staff was involved) with help of the City Manager and City Attorney responded to the request stating that as long as the subdivision is compliant with the City's zoning the 1985 variance and conditions were moot and that any aggrieved parties could appeal the decision to the ZBA within 30 days but do not know how they were to appeal this if they were unaware of it and was not posted on the City site. The project then went back to the SRTC on 7/7 and the abutters were notified approximately 10 days prior to the 7/21 meeting, notices were sent after the 30-day appeal period was over and there was nothing mentioned to the abutters of this administrative decision until the night of the PB meeting on 7/21. Find this concerning because they expressed their concerns of the 1985 decision and submitted package six months early but not notified of the request or decision. Also do not agree with the City's decision and does not think it is clear if the only reason for the stipulation to not further subdivide the lot was because of the variance on the frontage, there had to be a reason the original subdivision went from 17 lots to 11 lots and street coming in on Green ST to Stackpole was abandoned. Requests that City staff do research in the archives and find the minutes to these earlier meetings because thinks there was an issue with water. It does not appear this subdivision fully complies with the City ordinance as stated in the letter since it is a not a conservation subdivision and is not exempt and requires a special use permit. Hoping Rhodes can address that further and the subject of the wetlands that were filled in 2004 without a permit. Concerns of the project itself it is allowed to continue as a conventional subdivision, still not happy with configuration of lot 1, knows they say it is following the land but feel the triangular piece in front of her mother's lot is only there to meet the frontage and lot size requirements does not feel it is in good spirit. Note 6 states that the parcel is subject to rights of use and benefit of the proposed road given to former 18-44 which has since been merged with 18-43, which is her mothers back lot, purchased when that was a buildable lot, yes it has been merged but maybe they would want to un-merge or separate it, feel it is being landlocked and has no frontage. Feel that lot 1 and 2 could be combined to be one lot for maximum yield. Also want to address the water issues, does not think her mother's lot will be better, can not see how it won't make it worse. Lot 1 is currently almost completely covered in trees, cutting the trees and putting in a house and driveway feel there would be additional water coming down to her lot. Also have concern for the people building there feel they would have water in their basements as well. Curious about note 7 that a house may be relocated and the leach field is currently on lot 2, is the house going to be moved on the lot or a different road. Applicant did delineate the line of her mother's property wish it had been done for the site, does not think it is clear how much the road is going to go over onto her property all the trees will be gone, understand he can do that, but would have made more impact if shown on site walk. Heavy equipment was moved during site walk which is not allowed to have contractor yard as a home occupation. It was mentioned at the last meeting the lot that filled in the wetlands is being used as a stockpile area.

Lorraine Beaudoin, 275 Green Street: requested the Board please consider the water issue. Thinks there will be an issue with water, the land is already constantly saturated and there will be a lot of displacement of water with the project. Serious water issues despite bio-retention area, also noise and privacy concerns, would not have bought her property had she known there was going to be a subdivision. Surprised they were not notified years ago that there was a change to allow this.

Sebastian Cody, 273 Green Street: stated he also has concern for the water, has a swale behind his house and there is a history of water in the basement of his home, there is a dry basement system installed due to the water

issues. Concerned this will cause issues for them. Buying the property were told there could not be a subdivision due to the 1985 variance. Upset this is happening.

Mears stated included in the Board's packet is an email that was sent to the City Manager. She read the letter into the record: **Emma Pankey, 273 Green Street:** *Hello Mr. Belmore, I wanted to reach out to you regarding the review of the 5-lot subdivision application at 279 Green St which was discussed at the July 21st planning board meeting. I hope you will share this letter with the chair and other members. I am quite aware that I am late to the game here. I would have liked to have been in attendance at the meeting. The reason for my lateness is that I just purchased my home at 273 Green St on June 24th and was entirely unaware that a subdivision was being applied for. I just found out from a neighbor who was kind enough to walk over to my driveway when I was not home and tell my mother, who was helping me unpack, that the planning board is holding meetings regarding a neighboring property. My mother did not tell me right away and when she did tell me I did not fully grasp what may be happening. I don't know much of what is going on here yet and I'm still unpacking my moving boxes as this is my first home and there is quite a bit to get done. It never occurred to me that I could move in and immediately afterwards an abutting subdivision would be proposed. What I DO know is that when I bought this house less than 2 months ago the realtor told me that the trees behind the house and the wetland area would not be touched. I very specifically asked what was in the trees behind the house and I was told that the land was wet and that it could not be developed. I bought the house specifically for that reason. As you are probably very aware it is hard to find affordable properties with trees and some natural surroundings in this current market and I was happy to find that this property had these things. From reading the meeting notes it is very clear to me that several of my neighbors are very unhappy with the proposal of the subdivision and they offered some sound reasoning. I have lived here for less than 2 months but I found areas where I instantly agreed with their sentiments. I am unsure if the trees behind my property will be affected but it sounds like there are neighbors who will be substantially affected and I hold their frustrations very close to home and not knowing what will happen to mind. I knew this area had water drainage issues because the basement of my home had a new dry basement system installed with new sump pump. Furthermore, at my closing the prior owner, who had lived here since 1999, flat out told me about the water that used to drain into his basement every time it rained. He said he used to be down in the basement shoveling out an inch of water every time it rained. He said he recently installed the dry basement system and that has kept the water out thus far. Even so, I go down in the basement every time it rains to check if everything is working. I wonder if all of the neighbors have a dry basement system and if the proposed changes to the drainage in the area will be too much for my own system to handle. The wetland abuts my backyard I believe and this is where my leach field. Point sourcing water to a wetland will cause drainage issues and the proposed mitigation methods, drainage pond etc, severely degrade the integrity of the neighboring properties aesthetic, functional, and real value. There are many abutting property owners who have lived here and bought homes here under the impression that the land in question would not be developed. Yet here we are. Rhodes stated, simply stating the zoning law has changed and they are not out of compliance is a simple answer to a simplification, if it can be tracked back for the zoning changes, full ZBA minutes from 1985 and 2004, that there can be agreement of all parties that the application meets the law and common decency he would have less concerns. But it is a complex situation, two ZBA decisions and properties being sold with a promise. Add my property to the promise list. Another clue I've discovered since moving in, which leads me to believe that there are drainage issues, is the simple fact that every time it rains there is a river of water running down Green St on the side passing right over the base of my driveway and on down towards Stackpole Rd. My family has talked about it at least a handful of times, stating look at the river of water coming down the road, and I've shown my daughter from our kitchen window so she can see the "river". At the July 21st meeting Barry stated in review of the drainage that they can understand both point of views. He stated the proposal is to redirect much of the water and for that he has happy to see and would see some improvement. He stated he has some concern with the drainage system, specifically the southern side of the road, right about where the basin stops, all the water is going to be funneled east, it would not cross the road but would go to Green St. From my observations from living here in just a short amount of time I undeniably agree. Belmore asked if the water being directed offsite hit the corner of Green and Stackpole. LaRosa stated he did not analyze that far north of the project but generally Green St. runs north to south and does not believe it does. LaRosa's statement here is misleading. Green St does go from north to south depending on which direction you travel. However, the water does not flow uphill to the south. It flows north down to Stackpole Rd down the hill. Belmore stated he is concerned of the impact to that area, specifically the water lines and culvert (heading north towards Stackpole Rd). LaRosa stated from memory it is upslope. I do not believe LaRosa's memory served him here. It is certainly not upslope as evidenced by the hill and by the water that steadily pours north down the road when it rains. In regards to traffic LaRosa stated that they had reviewed the traffic for this site and that each home would typically generate 10 trips per day. With the addition of 4 new proposed homes in the subdivision that would amount to 40 additional trips per day almost opposite of the Clement Rd intersection of Green St where nearly every other driver is speeding. I find myself watching the cars that turn onto Clement Rd from my window or from my lawn and I am always surprised at how busy*

it is. With the new Sunningdale subdivision being so close and now a 5-lot subdivision being proposed in between the existing subdivision it is hard to imagine that the traffic pattern would not be negatively and substantially impacted in the area. Combine this with the already dangerous Clement Rd intersection across the street from the subdivision plan under review and the speed of travel on Green St and I sense overkill. I hope to be in attendance at the site walk in 2 days. Either myself or my partner will need to stay behind with our young daughter though so if I cannot attend then it will be my partner who does. His name is Sebastian Cody. If I don't get to attend then I wish to say thank you now for your attention to this letter.

No other comments were received.

LeHoullier closed the public hearing.

Rhodes stated regarding the 2005 work done in a wetland, that is prior to his time on the Conservation Commission, reviewing prior documentation homeowner filled a jurisdictional wetland then went before the DES and City Boards for after the fact permits which was granted, it removed a jurisdictional wetland on the site. He stated a conservation subdivision would result in smaller lots and a placement of larger amount of land into a conservation state. At the site walk raised concerns that this was not being designed as a conservation subdivision as required by the ordinance (special use permit required to not do a conservation sub), looking for a concrete reason why there is not a conservation sub plan and have not received that information. The statement made that there is an improvement by protecting the wetland on the site which is already protected under wetland rules and would require a CUP to modify, not a concrete reason. The other reason given is that it would preserve the quality of the land to not put it in a conservation subdivision, cannot comprehend the logic behind that statement. Land in conservation status would be better protected than to be owned without restriction. If there was an attempt to draw a conservation sub, would like to know why it is not being presented. Would need better information to why a conservation subdivision is not being presented and at this time would not vote in favor of a special use permit the design does not comply with the City ordinances, and there has been no reason given not to be a conservation subdivision. Would like to know why a conservation subdivision would not work at this site.

Witham noted the Board should vet out the conservation subdivision and special use permit first, the other items do not matter if they do not make it past the special use permit.

Rhodes stated he believes the special use permit is a wall that the applicant needs to get over, the conservation subdivision ordinance states 'shall' not 'may'.

Horton stated he appreciated the abutter participation and for the HW review, feels it was very thorough would have liked to see written responses from the applicant. He is in line with the other Board members who have spoken, do not believe the conventional subdivision plan is unique to the site. Does not feel there has been a concrete case to grant the conditional use permit.

Mears noted the special use permit criteria provided in the ordinance.

LeHoullier stated he does not understand why this is being allowed in the first place, feels it is cut and dry in the 1985 ZBA decision that there would be no further subdivision of this lot. There was a lot of concern with putting the one house lot at the time, the abutters expressed concern at that time of the water issues and in the basement. That is why he wanted to know if the legal opinion had the full minutes of the previous meetings seemed to concentrate on the frontage issue, that was the need for the variance but the big issue was the water which was why the condition was established. To say it is fine because they are going to put a road in is a work around.

Richardson stated it did anger him because it seems like something was left out of the process. Have heard the minutes were given to the City, did the City not look at them or do any research. Something

is amiss when someone is told they could have appealed but the time limit had gone by but not notified feels something is wrong there. The process that this has come to them is a real issue, things seem to be left out and done at the convenience of the developer rather than the people living there. Does not feel the people living there are getting a fair shake outside the required time of noticing, feels it is wrong. Stated in the HW report, though it states no other comment, their comment was made of what they felt should be corrected, does not agree with all of the responses. It now becomes the Board's job to become the arbiter of the report, in particular comments of 1-2-3 of the HW report, stormwater rules say it applies to all.

Belmore stated he thinks the City did its best to do what they are supposed to do, received a legal opinion from the City Attorney who felt they had enough information to make a decision based on case law and state statutes finding the variance would be moot if the applicant met certain requirements. He stated there was nothing in the variance request or motion for approval that spoke about water, the legal opinion was that the lot can be further subdivided if it meets the regulations. It is up to this Board to articulate if the drainage and water plan meets all the conditions and does not exasperate what is already there. The City's Attorney felt they had enough information to give an opinion, it moves on the PB in regards to this, accept the Attorney's opinion or not. He stated he would digress to Director Mears in regards to appealing decisions. To say the City is not following due process is not necessarily clear to him, abutters had the opportunity to contact staff. There will also be an appeal period to this application once a decision has been reached. The water issue is part of the application, think the issue of the conservation subdivision requirements and would agree with what it has been said, unsure why it cannot be done, guesses it is monetarily has an impact.

Mears noted that a staff administrative decision does not require abutter notices.

Witham noted that land owners have certain rights as well that should be considered. Would like to hear from the applicant to why the application is being presented as a traditional subdivision rather than conservation.

Goodwin stated the current land owner would be within his right to clear cut his trees, which would likely worsen the water condition of run off, would that be correct. (Question for HW)

Baker stated in general yes it would be likely.

Goodwin stated with improvements, water mitigation efforts, grading, catch basin, and bio-retention swale it is conceivable if not likely that water flow across the site could be improved across the site under the right conditions.

Baker stated under the City's Subdivision Regulations, the Board is approving the roadway and lines on the map, not looking at what happens on the parcels. The stormwater management is addressing the roadway. If this goes to the AOT permit review, thinks it should, they would have the ability to ask more questions of stormwater management from the lots. The City's standards under the Sub. Regs are much less comprehensive than what is under the Site Plan Review regulations. Under Subdivision Regs have the ability to ask for more specific studies but the standards do not address the individual lots but rather the road. When the applicant is saying the overall stormwater management will improve, the model of outlets would be improved from existing to proposed, not required to look at the lots once they get developed.

Belmore asked for more information on the AOT permit.

Baker stated she thinks it is most likely required, it is required for alteration of 100,000 SF of contiguous, includes all alteration not just the roadway, do not have a real grading plan for this site. She referenced NH AOT Regulations env-wq-1503.12, talks about the area needed for determining requirement of an AOT permit: (a) *Subject to (b)-(d), below, for purposes of determining the need for an AOT permit or the amount of the fee required by RSA 485-A:17, the amount of contiguous area disturbed shall be the sum*

of the square the fee required by RSA 485-A:17, the amount of contiguous area disturbed shall be the sum of the square footage of all areas proposed to be disturbed as part of the total project, including but not limited to areas footprint of all areas proposed to be disturbed as part of the total project, including but not limited to areas associated with:

- (1) Roads and communal parking areas;*
- (2) Permanent stormwater controls;*
- (3) Temporary and permanent methods for protecting water quality;*
- (4) Utility installation, including wells and septic systems if applicable;*
- (5) Temporary stockpiles;*
- (6) Staging areas;*
- (7) Borrow areas; and*
- (8) Foundations and lot grading.*

The areas that will be disturbed for individual lot development shall be excluded from the calculation required by (a), above, only if:

- (1) The project is a single family or duplex residential subdivision where no disturbance on any individual lot will occur until after the construction and stabilization of all other items of construction associated with the subdivision are complete; and*
- (2) There will be no earth moving across lot lines at any time.*

Baker stated she thinks this being a 5-acre lot all the work that would need to be done would meet the threshold.

Belmore for clarification of where Baker was reading from.

Baker stated the Alteration of Terrain Regulations env-wq-1503.12.

Robidas clarified the applicant would have to construct the infrastructure and then the lots.

Baker stated what she read was the calculation of area that triggers the requirement for an AOT permit, in order to avoid an AOT permit he would have to be under 100,000 SF, to exclude the area of the parcels he would have to do only the road construction in one phase without touching the parcels and putting soil across lot lines.

Witham stated he thinks Goodwin makes a good point, the applicant could clear the trees and exasperate the water condition. Stated he wondered if the runoff from the lots could be directed to the roadway drainage but unsure that the roadway system might not be calculated for that.

LaRosa stated that is not correct, the drainage study shows each of the lots as a developed lot and is part of the study showing there is a decrease in the rate of run-off. He stated for AOT, sheet 6 note 9 says that work on lots shall not commence until all roadwork is complete. Each of these lots can, due to setbacks and configuration, get about 10,000SF disturbance for each lot, 4,000SF on existing, we lot and road development would still not meet the 100,000SF disturbance for AOT threshold. The number used in the drainage study was conservative calling them quarter acre lot.

Rhodes asked if there was an attempt to draw a conservation subdivision plan for this lot.

LaRosa stated he visualized that this can be a conservation subdivision but it is not the best use of the land. It is a small area, narrow lots, generally in this situation the rear of the lots would remain open space, small amount of development is on the roadway, large amount of area that is conserved in a traditional subdivision because of its unique geometry and layout it makes the most sense to layout as a traditional subdivision. It is more than an inconvenience to the owner when taking a small parcel and make tiny lots for the benefit of the public where it will not change the benefit of the public, public will have the benefit of the same amount of green space if this was a conventional subdivision or conservation subdivision. The landowner would lose his value in the lots as you make them smaller. It does not have to be oversight from outside commissions when it does not provide additional benefit to the public.

Rhodes stated he believes the assumption has been confirmed the reason for a traditional sub rather than conservation is financial, it was said it was more than an inconvenience to the current land owner to reduce the potential value of the subdivided lot, at this time that is the reason they have been told it was not presented as a conservation subdivision. Does not feel it is a concrete reason to approve a special use permit.

LaRosa stated two reason to grant a special use permit, doesn't cause a safety problem to the health and welfare, can we agree a traditional subdivision does not in this regard.

Rhodes stated he does not agree, by not conserving land by placing into a conservation easement, purchasers of the lots would be free to modify the land as they chose that is only land put to into private owner ship with the City Regulations to follow. There has not been a reason articulated that provides a reason why the land would be preserved or from further development. No reason still provided to why a conservation subdivision cannot be done. Note the language for a special use permit is that the Board may grant the permit. Suggested the applicant show a plan of a conservation subdivision for this lot and explain why it is not applicable for this lot.

Belmore inquired the second reason.

LaRosa stated in his written response provided in their packets, by having a traditional subdivision you are preserving the areas around the wet, it's been expressed by the Board that because wetlands have existing setback requirements it would not count, his contention is that it does count, doing a conventional subdivision took that piece out of the lot with the bio-retention area and adding the three lots to the South, would meet the 38% but it does not help or preserve anything, these areas will remain wooded for the most part. People do not generally clear cut their land right now but could put some deed language in addressing the rear of the lots. A conservation subdivision would not do anything besides now there are smaller lots and value of lots are less which is an impingement on the land owners right. This is an area where all the surrounding lots towards Green Street are traditional lots, a continuation of the pattern of development of the area. Started this project that the City Staff thought this was an appropriate development, was not until the July PB meeting that this was an issue. Feel it is the best value to the land owner and future home owners.

LeHoullier inquired when the applicant bought the property.

LaRosa stated in 1985-1986, from the owners after it was granted the variance, the lot has gone through 7 zoning changes.

LeHoullier noted there for the applicant was aware of the variance when he purchased the lot.

LaRosa stated the property has gone through 7 zoning changes, the lot was granted a variance because the original subdivision plan connected Molly Lane to Green Street that's where the water issue comes in there is a giant drainage way coming down from Sunningdale, that was and is wet, which is why the abutters that it was not developable, applicant was aware there was a variance.

LeHoullier stated the legal team addressed the 1985 variance but nothing mentioned about the Conservation Commission item form 2005, conditions put in on that approval. How will those conditions be addressed.

Mears stated any applicable conditions could be added to this notice of decision.

Rhodes stated there is a reference to a restoration plan and monitoring reports, inquired if there is a record of those, would like to see them.

Mears read to the Board the answers provided by the applicant for a special use permit.

Richardson stated heard the reasons to why they can approve the special use permit, but there are many reasons why they do not have to approve it. This Board is the arbiters of that decision, heard the benefit of the public but the public has expressed how it is not beneficial to them and feels the applicant

is ignoring that. Discussion of the flow from Sunningdale but the problem is much more than the flow to North. Still has some real problems.

Rhodes stated given the concerns raised, no conservation subdivision plan to review, no articulation why that is not an option beyond a financial impact, numerous abutter concerns, missing restoration plan and unsure if there was compliance, concerns if an AOT calculation is coming in the future, issue of adding a deed restriction if the traditional subdivision moves forward, and would ask the applicant if they would like the Board to continue the application in order to address those concerns prior to taking a vote.

Belmore stated he is hung up because the applicant's representative stated they could provide a subdivision that meets the conservation requirements and do not fully understand the reasons why they should not stick to the ordinance, as far as the public benefit does not understand that rationale. If coming back for further discussion could someone get a letter from NHDES that AOT is not applicable.

LaRosa stated he understands members of the Board do not agree that this should have a special use permit, requested the Board vote on it at this point rather than leaving it up in the air. This would provide them a direction of where to go, if it does not meet the special use permit requirements then they can provide a conservation subdivision.

Rhodes stated if they take a vote on the special use permit and it comes out to deny it, brings them to a place that would void what has been done at this point and require them to come back with a new plan that would be considered on its own merits.

Belmore stated what this Board has encouraged in the past is a Conceptual Plan, beyond that now, but could this application be continued and have the applicant come back with a conceptual of the conservation subdivision design. This would allow the Board to be able to make a decision if a conservation subdivision makes sense or not for this site.

Witham stated if asked to vote on this special use permit does not feel he could make a decision tonight because he does not have enough information. Would like to see conceptually what a conservation subdivision would look on this lot, deed restrictions have been discussed and would like to see more information on that. A vote would not be fair to all parties involved.

Mears stated the applicant has brought up an alternative of have a deed restriction for cutting of trees and feels that may be positive alternative to review.

Richardson requested he would like to see the language that was read to the Board in regards to the AOT.

Belmore requested to see something from NHDES if they are willing to provide.

LaRosa stated they could get a letter from DES that if the road is built first the lot development is not included, that is on their plans.

MOTION: Rhodes stated I move that the request of Carlton Spencer & Sherri A. Bolin for a 5-lot conventional subdivision be **CONTINUED** to the meeting of **September 15, 2021** to allow time to address the following concerns:

1. Address the concerns discussed at the meeting;
2. Provide the Board alternate plans (Conservation Subdivision plan layout) to be able to compare the traditional and conservation subdivision layouts;
3. Provide potential deed restriction language;
4. Copy of the NHDES letter from 2005;

The MOTION is SECONDED by Barry.
The MOTION CARRIES 9-0.

A. Any old business that may come before the Board.
No other old business.

5. NEW BUSINESS

A. Peter Houde of the Somersworth Lions Club, is seeking a conditional use permit to construct a 10' x 16' platform on a property located at 125 W. High Street, in the Recreational (REC) District, Assessor's Map 25 Lot 01, CUP#05-2021 PUBLIC HEARING

Mears stated the applicant proposes to install a 10' by 16' ADA compliant platform on ground level with ADA compliant ramp, and 2' by 6' safety roll-off prevention bumper at the front edge to be used as a fishing dock. This is an Eagle Scout Project which will require a building permit. The applicant is requesting a waiver from the requirements to provide fully engineered plans. The Conservation Commission reviewed the application at their August 11, 2021 meeting. The Con.Com recommended approval with no conditions.

Peter Houde of Somersworth Lions Club and Cameron Green, Boy Scout working towards Eagle Scout project were in attendance to represent the application.

Houde stated they are looking to do a 2'x6' pressure treated lumber that will be 10'x16' on the ground, ADA accessible to allow wheel chair accessibility for fishing.

LeHoullier opened the public hearing.
No comments were received.
LeHoullier closed the public hearing.

MOTION: Robidas stated I MOVE that the application of Peter Houde of the Somersworth Lions Club for conditional use permit be **ACCEPTED AS COMPLETE FOR REVIEW**.

The MOTION is SECONDED by Richardson.
The MOTION CARRIES 9-0.

Rhodes stated the two concerns that were raised during the Conservation Commission review was the pouring of footings and potential leaching of pressure treated compounds into the water where it is a fishing site. He stated the applicant had stated they would be using concrete blocks for footings, so no concrete being poured permanently in the ground. The design keeps the wood from touching the water, therefore no impacts to drainage nor water quality on the site.

Waiver Requests:

- 1. Section 9 & 10:** Formal application procedure for a conditional use permit and specifications for plans and documents to be submitted: requirement of full engineered plan set.

MOTION: Robidas stated, I move that the request of Peter Houde of the Somersworth Lions Club, for a waiver from Sections 9 and 10 of the Site Plan Review Regulations for the requirement to provide full plans be **APPROVED**.

The MOTION is SECONDED by Rhodes.
The MOTION CARRIES 9-0.

MOTION: Rhodes stated, I move that the request of Peter Houde of the Somersworth Lions Club, is seeking a conditional use permit to construct a 10' x 16' platform on a property located at 125 W. High Street be **APPROVED**.

The MOTION is SECONDED by Robidas.

The MOTION CARRIES 9-0.

B. Hadley S. & Joyce A. Moores are seeking a lot line adjustment for properties located at 47 & 49 Salmon Falls Road, in the Agriculture (A) District, Assessor's Map 52 Lots 30 & 33, SUB#06-2021

Mears stated this project complies with zoning. Lot 33 is an existing non-conforming lot due to have less than 150' of frontage, this lot line adjustment will make the lot more conforming than it currently exists. All other City dimensional requirements are in compliance for both lots. Project received approval from NHDES for this project.

MOTION: Witham stated I move that the application of Hadley S. & Joyce A. Moores for a lot line adjustment between two properties be **ACCEPTED AS COMPLETE FOR REVIEW**.

The MOTION is SECONDED by Barry.

The MOTION CARRIES 9-0.

Kevin McEneaney of McEneaney Survey Associates was in attendance to represent the application.

McEneaney stated this is a simple lot line adjustment between two lots owned by the Moores. He stated there are houses on both lots, the smaller lots is currently 1.77 acres (47 Salmon Falls) and 49 Salmon Falls is 15.83 acres currently. He stated the request is to adjust the lines at the frontage of Salmon Falls Rd, a 15' wide by 300' deep portion of land to be added from parcel 52-30 to 52-33. The reason for the adjustment is to allow better maintenance and reconfiguration of the driveway areas. He stated they are seeking approval of one waiver from the requirement to survey and show the entirety of the larger lot, no benefit to that, detail showing on the Salmon Falls Rd is sufficient to understand the request. He stated the smaller lot is shown in its entirety. The new lot of 47 Salmon Falls will be 1.66 acres and the larger lot will be 15.94 acres.

LeHoullier allowed for public comment.

No comments received.

Closed the comment session.

Witham stated he is fine with the survey request but clarified it would not create any issues when the deed is recorded to reflect the lot line adjustment at the registry.

McEneaney stated no, the deeds will reflect the line as revised. He stated once the plan is recorded then the new deeds will be recorded and reference the plan. He stated the Moores are intending to sell the smaller lot which is why they are doing this lot line adjustment prior.

Waiver Requests:

1. **Section 6.B.6 of the Subdivision Regulations:** locations, names, and widths of existing and proposed streets, **boundary lines of the subdivision and all lots**, locations of buildings, easements (including required sight triangle easements), rights-of-way, with accurate distances, true bearings, angles and curve data; all dimensions shall be shown in feet and decimals of a foot;

MOTION: Robidas I move that the request of Hadley S. & Joyce A. Moores for a waiver from Section 6.B.6

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of the Subdivision Regulations requirement to show entire boundary detail for the larger lot (52-33) be **APPROVED**

The MOTION is SECONDED by Witham.
The MOTION CARRIES 9-0.

MOTION: Robidas I move that the request of Hadley S. & Joyce A. Moores for a lot line adjustment for properties located at 47 & 49 Salmon Falls Road be **APPROVED**.

The MOTION is SECONDED by Rhodes.
The MOTION CARRIES by 9-0.

6. WORKSHOP BUSINESS

Mears stated she will be working with the City Engineer to update the Subdivision Regulations to ensure they fit in with the MS-4 requirements.

7. COMMUNICATIONS AND MISCELLANEOUS

Horton stated he feels there is good discussion tonight, can the City improve the drainage area or is that State's responsibility.

MOTION: Belmore MOTION to ADJOURN.

Robidas SECONDS the motion

The MOTION CARRIES by a 9-0 vote at 8:10pm.

Respectfully Submitted,

Dana Crossley, Planning Secretary