

**TOWN OF NEW BOSTON**

**NEW BOSTON PLANNING BOARD**

**Minutes of 2020 - Meeting conducted virtually, using ZOOM due to COVID-19 pandemic.**

07/28/2020

The virtual meeting was called to order at 6:35 p.m. by Planning Board Chairman Peter Hogan. Present virtually at the opening of the meeting were Planning Board Vice Chairman Mark Suennen, Ex-Officio David Litwinovich, and regular Board members Ed Carroll and Amy Sanders.

Also present virtually were Planning Coordinator Shannon Silver, Planning Consultant Mark Fougere and Planning Board Assistant Nadine Scholes.

Present in the audience virtually for all or part of the meeting were Michael Dahlberg, Jessica Edwards, Robert Fehsinger, Robert Stearns, Jane Byam, Laura Bernard, Barbara Thompson and Richard Kohler.

Peter Hogan read the public hearing notice.

Due to the current COVID-19, State of Emergency, the July 28, 2020, Planning Board Meeting will be conducted virtually via Zoom, [click here](https://www.newbostonnh.gov/planning) or visit the Town of New Boston, Planning Board page, <https://www.newbostonnh.gov/planning> for the instructions on how to connect to meeting via ZOOM. All public attendees will be muted upon entry and only unmuted when the meeting is opened for public comment.

**EDWARDS, JOSHUA W. (OWNER)**

**Adjourned from May 26, 2020**

**EDWARDS, JESSICA L. (OWNER)**

**KEACH-NORDSTROM ASSOCIATES, INC. (APPLICANT)**

Submission of Application/Public Hearing/Minor Subdivision/2 Lots

Location: Tucker Mill Road & Dougherty Lane

Tax Map/Lot #2/151

Residential-Agricultural "R-A" District

Michael Dahlberg explained that the owners and the Conservation Commission had come to an agreement regarding a Conservation Easement over a majority of the property. The subdivision would create one new 2.296 acre lot on Tucker Mill Road, Tax Map/Lot #2/151-1, with the existing woods road as the proposed driveway. The remainder parent lot, Tax Map/Lot #2/151, would be left with a total of 16.359 acres, and 12.306 acres would be protected with the Conservation Easement and the remaining 4.053 acres as the exclusion area, to include the existing camp with access off Dougherty Lane.

Michael Dahlberg explained that there are no wetlands found within the 2.296 acres of the new lot, all wetlands were excluded and contained within the Conservation Easement. The waivers requested for Certified Erosion & Sediment Control Plan, Soils Map, Traffic, Fiscal, Environmental Studies, and Watershed Outline Drainage are based on the proposed subdivision only creating one new lot with low impact to the neighborhood and town services.

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**KEACH-NORDSTROM ASSOCIATES, INC. (APPLICANT), cont.**

Peter Hogan questioned if further subdivision would be possible of the parent lot. Michael Dahlberg replied no, the 4+ acres has steep slopes and wetlands to the east of the camp that could not be developed and would not allow the lot to be further subdivided.

Peter Hogan noted that the Board needs to act on the waivers requested and asked the Planning Coordinator what, if any, items are missing in order to accept the application as complete. The Planning Coordinator, Shannon Silver replied that the language for the easement is still pending and that would need to go to Town Counsel for review but the Board could decide to make that a condition of approval.

Mark Suennen asked Michael Dahlberg to present some of the details as to how the plan got to be a 2 lot subdivision vs. the 6 lot subdivision plan that was originally submitted. Mark Suennen continued that he assumed the owners would sell the new lot, Tax Map/Lot #2/151-1 and keep the parent lot with the camp. Michael Dahlberg said yes. Mark Suennen questioned who would hold the Conservation Easement on the parent lot. Michael Dahlberg said he believed it would be the Town of New Boston. Michael Dahlberg explained that the Conservation Easement would protect 95% of the shoreland river frontage, along with most of the wetlands and the vernal pool would be included in the easement area. He continued that the Conservation Commission felt this would be the best way to protect the wetlands and the shoreland along the river. There would be a second-place holder to the easement that would enforce the restrictions if there are any violations.

The Board recommended updating the plan to show the one new lot and the parent lot with the Conservation Easement as 2 lots without the line work shown on the exclusion area or do not show the breakdown of the acres for exclusion area on the parent lot separate from the Conservation Easement acreage, since that is all going to be known as one lot. Michael Dahlberg understood what the Planning Board was asking him to fix that could be confusing on the plan.

Peter Hogan opened for public comment.

Robert Sterns questioned if the location of the driveway on the lot could be moved from where it is shown on the plan in the future. Michael Dahlberg said yes, and that he only used this particular location because there is an existing woods road.

Peter Hogan asked how the Board felt on granting the waivers.

Mark Suennen read the letter received July 28, 2020, from Keach-Nordstrom, requesting the following waivers: Certified Erosion & Sediment Control Plan, Soils Map (HISS), Traffic/Fiscal/Environmental Studies and Watershed Outline Drainage, and he opined that the Conservation Commission had clearly identified the areas of concern with the easement and does

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**KEACH-NORDSTROM ASSOCIATES, INC. (APPLICANT), cont.**

not see the need to require the Environmental Study or the Watershed Outline Drainage plan. Amy Sanders agreed to grant the waivers Mark Suennen mentioned and she also believed the waivers could be granted for a Traffic Study and the Soils Map.

Robert Sterns questioned the need for a Traffic Study because there has not been a traffic evaluation done for this area in a long time and there have been many new lots created causing an increase in traffic. Mark Suennen replied that if the Board required a Traffic Study, that would only be for the increase from the one new lot being created, which would have very minimal impact. Robert Sterns disagreed and believed that the traffic had been impacted over the years with lots being added here and there along Tucker Mill Road and Dougherty Lane. Mark Suennen reiterated that a Traffic Study would only provide the data for the increase from the one lot being created and that information would not provide any other traffic increases from the other lots that were created previously.

Amy Sanders continued that she would be in favor of granting waivers for the Traffic, Environmental and Fiscal Studies and also would be in favor of granting the waivers for both the Soils Map and the Watershed Outline Drainage.

Amy Sanders questioned how the Board felt about waiving Certified Erosion & Sediment Control plan and also asked how the Planning Coordinator felt about not requiring this plan at the time of subdivision. The Planning Coordinator, Shannon Silver explained that normally the Board preferred this plan be submitted for the Board to approve at the time of subdivision. She continued that the Board had in the past allowed the plan to be submitted at time of building but even then, the plan would need to be reviewed and approved by the Planning Board prior to issuing a building permit. She recommended the Board require that plan be submitted with the subdivision and that could be made as part of conditions for approval.

Michael Dahlberg agreed to provide the Certified Erosion & Sediment Control Plan for the new lot as part of the conditions for approval.

Mark Suennen **MOVED** to grant the waivers for the Soils Map, Traffic, Fiscal Impact and Environmental Studies and Watershed Outline Drainage, as identified that the subdivision is only creating one new lot and has been reviewed by the Conservation Commission for all drainage and watershed concerns. Ed Carroll seconded the motion. All were in favor and the motion **PASSED**. 5-0, Roll Call Vote: Peter Hogan-yes, Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-yes.

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**KEACH-NORDSTROM ASSOCIATES, INC. (APPLICANT), cont.**

Mark Suennen **MOVED** to accept the application as complete.  
Amy Sanders seconded the motion. All were in favor and the motion **PASSED**, 5-0 Roll Call Vote: Peter Hogan-yes, Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-yes.

The Board reviewed and discussed the active and substantial improvements. Michael Dahlberg presented installing the driveway entry within 2 years and installing a foundation within 5 years. The Board accepted.

Mark Suennen asked Michael Dahlberg how long would be needed to complete the conditions precedent identified for approval. Michael Dahlberg stated 90 days. Mark Suennen suggested the deadline date of October 31, 2020. Michael Dahlberg agreed.

Mark Suennen **MOVED** to approve the Minor Subdivision Plan/2 lots, for Joshua W. & Jessica L. Edwards, Tax Map/Lot #2/151, Dougherty Lane & Tucker Mill Road, in the Town of New Boston, NH, subject to:

**CONDITIONS PRECEDENT:**

1. Submission of a minimum of five (5) blue/blackline copies of the revised plat, including all checklist corrections and any corrections as noted at this hearing.
2. Submission of a suitable mylar for recording at the HCRD.
3. Digital plat data shall be submitted per Subdivision Regulations Section IV-F, 3.
4. Submission of Conservation Easement language, subject to final review and approval by Town Counsel, which cost shall be borne by the Applicant.
5. Execution of a Subdivision Agreement regarding the conditions subsequent, if any.
6. Payment of any outstanding fees related to the subdivision application and/or the recording of documents with the HCRD (if necessary).
7. Upon completion of the condition's precedent, the final plans and mylar shall be signed by the Board and forwarded for recording at the HCRD.
8. Submission of a Pre-Engineered Individual Stormwater Management Plan and ISWMP bond worksheet for Tax Map/Lot #2/151-1, for the Planning Board's review and approval. At the time a building permit is applied for, if critical areas are to be disturbed beyond those shown on the Pre-Engineered Individual Stormwater Management Plan, revised Individual Stormwater Management Plan shall be prepared and submitted for approval. In any event, the bonds for the Individual Stormwater Management Plans must be submitted prior to issuance of a building permit.

The deadline date for compliance with the condition's precedent shall be **OCTOBER 31, 2020**, the confirmation of which shall be an administrative act, not requiring further action by the Board. Should compliance not be confirmed by the deadline date and a written request for extension is

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**KEACH-NORDSTROM ASSOCIATES, INC. (APPLICANT), cont.**

not submitted by that date, the applicant is hereby put on notice that the Planning Board may convene a hearing under RSA 676:4-a to revoke the approval.

**ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND SUBSTANTIAL COMPLETION OF IMPROVEMENTS:**

1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/ordinance changes:

**Installation of driveway.**

2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39,II, relative to final vesting:

**Installation of foundation.**

Ed Carroll seconded the motion. All were in favor and the motion

**PASSED**, 5-0 Roll Call Vote: Peter Hogan-yes, Ed Carroll-yes,

David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-yes.

**WHIPPLE, FRANK R. (OWNER)**

**WILLIAMS, BRUCE J. (OWNER)**

**KOHLER ENVIRONMENTAL LLC (AGENT)**

**Submission of Application/Public Hearing/Conditional Use Permit/One Wetland Crossing**

Location: Weare Road (NH Route 77)

Tax Map/Lot #5/32-1

Residential-Agricultural "R-A" District

Richard Kohler presented and explained that the application for the Conditional Use Permit is relative to the recent subdivision of Tax Map/Lot #5/32. This lot, Tax Map/Lot #5/32-1 was recently purchased by the current owners Frank Whipple and Bruce Williams. At the time of subdivision, Sandford Surveying & Engineering had submitted Pre-Individual Stormwater Management Plans (ISWMP) for the 2 new lots created. The ISWMP for this lot, identified the building area towards the front of the lot. Frank Whipple and Bruce Williams would like to build in the rear of the lot, which requires crossing over the wetland, which has an old existing crossing. He noted that he had reviewed the existing stone crossing with the Board during the site walk earlier this year for the subdivision application. He explained that he also had several conversations with MaryAnn Tilton at the NHDES Wetlands Bureau and had discovered that this was previously a logging road built back in the 1930-40's. The construction of the existing crossing is still in good condition. He had been advised by NHDES that the existing crossing could be upgraded/updated without requiring a permit from the Wetlands Bureau.

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**KOHLER ENVIRONMENTAL LLC (AGENT), cont.**

Richard Kohler noted that the direction of water flow is south to north and there is not a significant flow through the crossing, even during the wetter months. There is an existing buildup of boulders on the south side and he proposed adding boulders on the north side to replicate the south side, as well as adding an overflow culvert along the westerly limits of the wetland with the invert of the culvert to be set at the same elevation as the crown of the existing culvert for additional protection if the existing culvert ever overtopped. Richard Kohler noted that with the proposed upgrades there would not be a need for a dredge and fill permit because the upgrade would only impact the wetland buffer. The existing woods road would allow access to the building site and the new location for house development was designed to not impact any other critical areas found on the lot.

Richard Kohler explained the methods used to currently stabilize the area around the wetland during construction and noted that he had been observing the area for any erosion after recent rainstorms.

Mark Suennen confirmed that the proposed plan would be to install an overflow culvert for additional protection in the event the existing legacy culvert were to overflow. Richard Kohler agreed.

Mark Suennen questioned if the original ISWMP submitted for Tax Map/lot #5/32-1, would not be valid entirely or would the details of that ISWMP be modified to include the 15" culvert as detailed and the new house location. Richard Kohler said that the driveway from the road had been constructed as originally designed and that ISWMP plan design would still apply up to the previously proposed house development location towards the front of the lot. The driveway would now continue through the old proposed garage/house location on the original ISWMP plan to the new proposed house location in the rear of the lot. Mark Suennen asked Richard Kohler what the development plan in the critical areas within the wetland buffer is. Richard Kohler went over the stabilization methods and best management practices he has used during the construction of the driveway up to the crossing and noted that the new location chosen for the house was not within the critical areas and would not require a stormwater plan or any additional permitting.

Mark Suennen reviewed the criteria for the CUP application as follows,

- a. The propose activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers.
- b. The proposed activity will have no substantive negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources.

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**KOHLER ENVIRONMENTAL LLC (AGENT), cont.**

c. The proposed activity or use cannot practicably be located elsewhere on the site to eliminate or reduce the impact to the wetland or its buffer.

d. The proposed activity utilizes applicable best management practices.

Mark Suennen noted that he believed all the evidence presented clearly utilizes best management practices. He clarified with Richard Kohler that the justification for response to item b. stating 'no additional impact to the wetland' could be updated to state 'no significant impact', and finally he would accept that there is no other reasonable location with less impact to the wetland known. Richard Kohler replied that was correct.

David Litwinovich confirmed that the explanation on item b. would need to be updated and suggested using the language from the application, 'will have no substantive negative environmental impact'. Richard Kohler agreed.

Mark Suennen asked what form the \$1,888.00, CUP bond would be submitted in. Richard Kohler noted that it would be in a form acceptable to the Town. The security bond would come from the property owners and most likely would be in the form of cash.

Mark Suennen questioned how long would be needed in order to complete the conditions precedent and subsequent. Richard Kohler asked for 60 days to complete the precedent items and one year to complete the subsequent conditions. Mark Suennen suggested September 30, 2020, for the condition's precedent and September 30, 2021, for conditions subsequent. Richard Kohler agreed with the dates suggested.

Mark Suennen **MOVED** to accept the application as complete.

David Litwinovich seconded the motion. All were in favor and the motion **PASSED**, 5-0 Roll Call Vote: Peter Hogan-yes, Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suennen-yes.

Mark Suennen **MOVED** to grant the Conditional Use Permit and approve the plans of Frank R. Whipple and Bruce J. Williams, to upgrade an existing wetland crossing, as part of driveway construction to access a house site, on property on Weare Road (NH Route 77), New Boston, NH, known as Tax Map/Lot #5/32-1, as the four conditions for granting the permit have been found to exist, subject to the following conditions:

**CONDITIONS PRECEDENT:**

1. Submission of the financial security in the amount of **\$1,888.00**, and in a form acceptable to the Town.

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**KOHLER ENVIRONMENTAL LLC (AGENT), cont.**

2. Any revisions to the site plan as decided by the Board at the hearing (applicable).
3. Submission of the NHDES Dredge and Fill Permit. (n/a)
4. Submission of an updated ISWMP Plan and ISWMP Bond Worksheet for Tax Map/Lot #5/32-1.
5. Submission of any outstanding fees, if any, related to the application.

The deadline for complying with the conditions precedent shall be **SEPTEMBER 30, 2020**, the confirmation of which shall be an administrative act, not requiring further action by the Board. Should the conditions to approval not be fulfilled by the deadline date, and a written request for extension is not submitted prior to that date, the applicant is hereby put on notice that the Planning Board may convene a hearing under RSA 676:4-a to revoke the approval.

**CONDITIONS SUBSEQUENT:**

1. Completion of the site improvements as related to the one wetland crossing for driveway construction, as shown on the approved construction design plan by **SEPTEMBER 30, 2021**.
2. In order to receive a certificate of occupancy, a "Conditional Use Permit compliance statement" must be filled out and stamped by a professional engineer or Certified Professional in Erosion and Sediment Control (CPESC) who has certified that he or she has the requisite experience and certifications to meet the design requirements, including expertise in site grading, site drainage, erosion control, hydrology, and soils or by a person specified by the board. The form must indicate that the professional has inspected the affected area(s), and that the Conditional Use Permit and plan has been complied with.
3. In order to release the performance bond, the requirements of Section 204.6.E.9.a, above, must be met and the qualified professional must attest that the affected area(s) have been adequately, and verifiably stabilized. The applicant shall forward a copy of the "Conditional Use Permit Compliance Statement" to the Planning Board in order for the Board to release the performance bond.
4. No certificate of occupancy shall be issued without the Conditional Use Permit Compliance Statement issued in writing to the New Boston Building Department.

David Litwinovich seconded the motion. All were in favor and the motion **PASSED**, 5-0 Roll Call Vote: Peter Hogan-yes, Ed Carroll-yes, David Litwinovich-yes, Amy Sanders-yes, Mark Suenen-yes.

**Miscellaneous Business and correspondence for the meeting of July 28, 2020, including, but not limited to:**

1. Distribution of the June 9, 2020, meeting minutes, for approval at the August 25, 2020, meeting, with or without changes. (distributed by email)

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**Miscellaneous Business and correspondence, cont.**

- 2.
- Approval of the May 26, 2020, meeting minutes, with or without changes. (distributed by email)

David Litwinovich **MOVED** to approve the May 26, 2020, meeting minutes, as amended. Ed Carroll seconded the motion. Motion **PASSED**. 5-0, Roll Call Vote: Ed Carroll-yes, David Litwinovich-yes, Peter Hogan-yes, Amy Sanders-yes, Mark Suennen-yes.

- 3.
- Endorsement of a Notice of Decision Cover Sheet, for The Walter H Houghton Revocable Trust, Tax Map/Lot #5/32, Weare Road (NH Route 77), by the Planning Board Chairman.

The Planning Coordinator, Shannon Silver noted that all items for endorsement will be left in the Planning Board box outside of the Town Hall.

- 4.
- Endorsement of a Notice of Decision Cover Sheet, for Kevin Oliver & Lois D. St. John, Tax Map/Lot #10/4, Butterfield Mill Road, by the Planning Board Chairman.

- 5.
- Endorsement of a Driveway Permit, for Kevin Oliver & Lois D. St. John, Tax Map/Lot #10/4-1, Butterfield Mill Road, by the Planning Board Chairman.

- 6.
- Email with attachments, dated July 3, 2020, to Planning Coordinator, Shannon Silver, from Ross (Amy) Norwood, re: Site Plan and operation changes for Canine Commitment, Tax Map/Lot #12/67, 733 Bedford Road, for the Board's discussion.

The Planning Coordinator, Shannon Silver explained that the owner presented the changes to the current use, there would be no changes needed to the approved site plan, only the use would change from a rescue to a smaller scale boarding kennel.

The Planning Board discussed and had no issues accepting the email as an addendum to the current site plan.

Mark Suennen **MOVED** to accept the email description as a modification to the existing site plan approval. Ed Carroll seconded the motion. Motion **PASSED**. 5-0, Roll Call Vote: Ed Carroll-yes, David Litwinovich-yes, Peter Hogan-yes, Amy Sanders-yes, Mark Suennen-yes.

- 7.
- Email dated July 6, 2020, to Planning Board Chairman, Peter Hogan, from SNHPC Executive Director, Sylvia von Aulock, re: New Boston representative alternate, for the Board's discussion.

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**Miscellaneous Business and correspondence, cont.**

David Litwinovich noted that he volunteered for the representative alternate at the Board of Selectman meeting, and they accepted.

8. Letter with invoice attachment, dated July 2, 2020, from SNHPC, to Planning Board Chairman, Peter Hogan, re: Membership Dues for Fiscal Year 2021, for the Board's information.

9. Letter copy dated June 30, 2020, from Dan Kramer, Building Inspector/Code Enforcement Officer, to Brandon Brooks, re: complaint of selling cars from a property located in the 'R-A' district, for the Board's information.

The Planning Coordinator, Shannon Silver noted that the prior Building Inspector/Code Enforcement Officer, Ed Hunter, had previously notified the property owner that this type of use was not permitted on a property in the Residential-Agricultural 'R-A' District, and he has continued operating in this illegal manner. Recently, the Building Inspector/Code Enforcement Officer, Dan Kramer, had been back out to discuss recent complaints with the property owner, and Dan Kramer was instructed to get off the property. Dan Kramer then sent the homeowner a letter to cease and desist the illegal use.

Peter Hogan recommended that this matter and other past similar situations should be followed up on that the Town previously had gone to court or had issues with the owner on complying with Town regulations.

10. Email with article attachment, dated July 22, 2020, to Planning Coordinator, Shannon Silver, re: Large-scale solar panels, for the Board's information.

The Planning Coordinator, Shannon Silver noted that Lee Brown had provided some material, re: large scale solar regulations from other Towns in New Hampshire for commercial/large scale use and recommended that New Boston included something in Zoning.

Peter Hogan asked if New Boston had anything that would prevent large scale solar. The Planning Coordinator, Shannon Silver noted that Zoning does not speak to it at all and at a larger scale, most likely would need to apply for a variance. Mark Suennen agreed and noted that solar could be added for all districts, including Commercial.

Mark Fougere said that he could provide examples from other Towns that added large scale solar into Zoning. The Board agreed to review large scale solar with Zoning Amendments later in the year.

Mark Suennen stated that SNHPC has opened the window to submit projects to the 10 year plan and would be accepting submissions until mid-September.

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**Miscellaneous Business and correspondence, cont.**

The Planning Coordinator, Shannon Silver mentioned the Road Agent position is open and the Town is accepting applications for that position. She also mentioned that the Building Department Assistant, Jan Caswell had given her notice that she will be retiring and her last day will be July 30, 2020. That position will also be advertised.

David Litwinovich noted that two applications were received for the Road Agent position and the Board of Selectmen are gathering people to create a hiring committee.

Ed Carroll **MOVED** to adjourn the meeting at 8:13 p.m.

Mark Suennen seconded the motion and it **PASSED** unanimously.

Respectfully submitted,  
Nadine Scholes, Planning Board Assistant

Minutes Approved: 09/22/2020