

DEERFIELD PLANNING BOARD
DEERFIELD, NEW HAMPSHIRE
SEPTEMBER 23, 2015

MINUTES OF MEETING

PRESENT: Board members Fred McGarry, Kate Hartnett, Richard Pitman, William Perron, Peter Schibbelhute. Alternate member David Doran. Planning Consultant Gerald Coogan. Secretary Jane Boucher.

7PM Chair Fred McGarry called the meeting to order.

APPROVAL OF MINUTES

William Perron moved to approve the minutes of June 17, 2015. Peter Schibbelhute seconded. The following corrections were made to the minutes:

Page1: Add #6 to Issues: "Concept of municipal involvement to access of pit. Definition of municipal involvement means problems with snow storms, trees down, etc."

Page 2 Correct Action items #1: "Mr. Rollins should engage...."
"...plan so that it is clear to all...."
"...in which Mr. Rollins is working."

Page 2 #4 Delete "...maybe show it on the plan as an "as built".

Page 2 #5: Correct to read "Remind Mr. Rollins of the...."

Page 3 Add to paragraph 1" 4)Definition of municipal involvement means problems with snow storms, trees down, etc."

Chair McGarry called for a vote on the motion. Voted in favor with Richard Pitman abstaining.

Peter Schibbelhute moved to approve the minutes of September 9, 2015. William Perron seconded. The following corrections were made to the minutes:

Page 2: Paragraph 7: Replace Sentence 2 with "The applicants wants them to each have their own lot."

Page 3 Line 1: Delete "He had no objections and replace with "...that he saw no restrictions in the Zoning Regulations to prevent this."

Page 3: Paragraph 1: Correct to read "...said his concern..."

Page 3: Paragraph 3: Correct to read "...the 2015 Budget..."

Page 3: Paragraph 6: Correct to read "...Design Guide as well as the..."

Page 3: paragraph 7: Correct to read "Chair McGarry said that..."

Chair McGarry called for a vote on the motion. Voted in favor with Richard Pitman abstaining.

APPROVAL OF MANIFEST

Kate Hartnett moved the Richard Pitman seconded to approve the manifest in the amount of \$40.28 (Upton and Hatfield) and a

time sheet for Jane Boucher for 18 hours. Voted in favor.

7:15PM APPLICATION FOR PUBLIC HEARING; MAJOR SUBDIVISION; DAVID PELLETIER; MIDDLE ROAD

David Pelletier, Scott Frankiewicz, and abutters Nate Archer, Harold Archer and James Spence were present

Chair McGarry read the notice of public hearing by which David Pelletier, 40 Trenton St., Manchester, NH will make application for a Public Hearing to consider approval of a Major Subdivision for property located on Middle Road, Deerfield, NH (identified as Tax Map 413 Lot 17) consisting of 34 acres and owned by the applicant. The intent of the application is to create eight new lots each consisting of one + acres.

Gerald Coogan reviewed his memorandum regarding the proposed subdivision. A copy is attached to these minutes

William Perron moved to accept the application. Peter Schibbelhute seconded. Voted in favor.

Scott Frankiewicz, Brown Engineering, presented the proposed plan noting that they had been before the Board for conceptual meetings in July and August. They are proposing to create eight new lots with frontage ranging from 41 feet to over 600 feet on one lot. Steve Keach has approved the Yield Plan for eight lots. The road comes in approximately 250 feet to the cul de sac. He added that they are requesting two waivers; one for Side and rear setback"Within 50 feet of an abutting property line and one for Front setback" within 100 feet from the edge of the right of way.

Mr. Frankiewicz noted that they are proposing a 30,000 gallon cistern to be located on the property for fire protection. He added that he will be applying for State Subdivision Approval and will address comments made by Steve Keach.

Chair McGarry noted that the Fire Chief has had problems with easements relative to cisterns so that now the policy is that would become part of the roadway right of way.

Chair McGarry read a memo from Road Agent, Mark Young advising that sight distance on Middle Road is adequate.

Mr. Frankiewicz said that the Open Space will be addressed in the document for the Homeowners Association.

Gerald Coogan referred to a letter from Steve Keach providing a review of the proposed project. A copy of the letter is attached to these minutes.

Nate Archer, an abutter, voiced disapproval noting that his lot is 1.3 acres and this proposal will eliminate any privacy he has. He expressed concern regarding any street lights on the property.

Chair McGarry noted that they would not be able to cut any trees on the 25 foot section abutting Mr. Archer's property.

Mr. McGarry asked, if the Planning Board approved the request for waivers, would there be any stipulation in the deeds for Lots 1 and 2 to prohibit any cutting of trees within 25 feet of their property line.

Harold Archer, an abutter, said he has had his house on the market however since prospective buyers have seen evidence of a subdivision, he has decided to take his home off the market.

Fire Chief Mark Tibbetts arrived and noted that he had reviewed the plans for a cistern and had no problem with it. Chair McGarry advised that the Planning Board will be requiring that the location of the cistern will be included in the right of way with no easements.

Kate Hartnett questioned the enforceability of this. Chair McGarry said that the Homeowners Association and the town would be responsible for enforcement. This will be included in the documents for the Homeowners Association.

Richard Pitman moved to approve Waiver # 2 "345.4 D.1 (a)(1)-
Front Setback: Within 100 feet from the edge of the Right Of
Way with the stipulation being
.no building
.no removal of trees
.no parking
.delineation of 100 foot setback.
.Prohibitions will be included in the Homeowners Association
and enforced by the Homeowners Association and the Town.
.To be shown on plan
William Perron seconded. Voted in favor.

At this time Kate Hartnett indicated that based on what she is hearing, she is concerned regarding density issues and uncomfortable with eight lots.

Kate Hartnett moved to continue the Public Hearing to October 14, 2015 at 7:15PM. Richard Pitman seconded. Voted in favor.

8:25PM APPLICATION FOR PUBLIC HEARING; MINOR SUBDIVISION;
SHIRLEY HUTCHINS; CURRIER ROAD
Shirley Hutchins and James Franklin were present.

Chair McGarry read the notice of public hearing by which Shirley Hutchins, 379 Currier Road, Deerfield, NH will make application for a Public Hearing for property located on Currier Road, Deerfield, NH (identified as Tax Map 422 Lot 1) consisting of 41 +/- acres and owned by the applicant. The intent of the application is to create one new lot consisting of 6.077 acres.

Gerald Coogan provided a memo with comments. It indicated that the agent Mr. Franklin, requests 6 waivers.

Richard Pitman moved to accept the application. William Perron seconded. Voted in favor.

Mr. Franklin provided plans for the Board's review.

A letter was received from Bruce Gilday, BAG Land Consultants, which was read by Kate Hartnett. The Onsite Jurisdictional Wetland Delineation Report concluded that "The soils, proposed for development, are quite common throughout the Rockingham County and are suitable for placement of single family residential homes, garages, driveways, wells and subsurface sewage systems."

WAIVER REQUESTS

William Perron moved and Peter Schibbelhute seconded to grant the following waiver;

.Section III-3 Minor Subdivision C-3-b-1 Topographic plan showing two foot contours system. Voted in favor.

William Perron moved and Richard Pitman seconded to grant the following waiver;

. Section III-3 C-3-b-3 Bench Marks.
voted in favor.

William Perron moved and Peter Schibbelhute seconded to grant the following waiver.

.Section III-3C3-b.4 Site Specific Soil Mapping
Refer to letter from BAG
Voted in favor.

William Perron moved and Peter Schibbelhute seconded to grant the following waiver.

. Section III-3 C.3-b-6 test Pits.
Voted in favor.

Peter Schibbelhute moved and William Perron seconded to grant the following waiver

.Section III-3 C.3.b.9 Existing tree lines
voted in favor.

Peter Schibbelhute moved and William Perron seconded to grant the following waiver

.Section III-3 C-3-b- Ledge Outcrops
Voted in favor.

Peter Schibbelhute moved and William Perron seconded to grant conditional approval to Shirley Hutchins for a Minor Subdivision on Currier Road Map 422 Lot 1 with the following conditions:

- . Drill holds to be set
 - . Show distance to Peter Moore Road on Locus
- Conditional approval to lapse in thirty days (October 23, 2015). Voted in favor.

8:45PM APPLICATION FOR PUBLIC HEARING; MINOR SUBDIVISION; SHELLEY TETREULT AND MARY AUSTIN; GRIFFIN ROAD
Shelley Tetreault, James Franklin and Tobin Farwell were present along with abutter Norman Horning.

Chair Fred McGarry read the Notice of Public Hearing by which Shelley Tetreault and Mary Austin, 165 Griffin Road, Deerfield, NH will make application for a Public Hearing to consider approval of a Minor Subdivision for property located on Griffin Road, Deerfield, NH (identified as Tax Map 205 Lot 6 consisting of 22.48 acres and owned by the applicants. The intent of the application is to create one new lot consisting of 6.654 acres.

Gerald Coogan read a letter of review from Steve Keach, KNA. A copy is attached to these minutes. In his letter, Mr. Keach states that "Consistent with the requirements of RSA 674:41, Section IV-1.E of the Subdivision Regulations requires that "All platted lots shall derive driveway access through their own frontage." As presented, the current proposal fails to conform to this regulation."

Chair McGarry said that it is his understanding that if we have a common driveway for lots being served that the Smith Road would extend to the point where two driveways split and there is no longer a common driveway.

Mr. Coogan said he did not feel the application is complete and therefore the Planning Board cannot accept it.

James Franklin submitted a subdivision plan approved by the Board in 2009, which he said was the same thing as what is being proposed. He noted that he was extremely upset with this and questioned what has changed in regulations since 2009. Mr. Franklin also submitted a list of 47 private roads as of 2010 in Deerfield.

Tobin Farwell said that they call they call it an easement but they are perfectly willing to call it a private road. He noted that 674.41 does not allow an easement but does allow a private road. Mr. Farwell he realized that there would have to be an association formed to take care of the right of way.

He questioned why they cannot request to have a common driveway off of a private road.

Tobin Farwell referred to RSA 674:41 III 'It does not include a street from which the sole access to the lot is via a private easement or right of way.'

Mr. Farwell noted that 674:41 III specifically excludes a street from which the sole access to the lot is via a private easement. He said that access can be obtained through the Smith Ordinance. Mr. Farwell added that just because we have a common driveway easement that they want to travel on, it is not really the access. Mr. Farwell stressed that the entire frontage of the lot is access, not just the right of way. He asked the Board to accept the application as complete.

Peter Schibbelhute moved and Richard Pitman seconded to accept the application. Voted in favor.

Norman Horning, an abutter, expressed concern regarding further subdivision and future leach fields on the property.

Kate Hartnett asked Shelley Tetreault if she would be willing to include a note on the plan indicating there would be no further subdivision.

Ms. Tetreault replied "Yes" she would be willing to do that.

Chair McGarry said it appeared the consensus of the Board was to show a 200 foot private road to access Lots 6 and 6-1 with a turn around. This will require an easement in the deeds for both lots. A Homeowners Association to be formed for owners of both lots.

Richard Pitman moved and William Perron to continue the public hearing for Shelley Tetreault and Mary Austin to October 14, 2015 at 8PM. Voted in favor.

9:30PM APPLICATION FOR PUBLIC HEARING; MINOR SUBDIVISION/LOT LINE ADJUSTMENT/ROBIN JODOIN, DAWN MESSINA; RAYMOND ROAD
Robin Jodoin, Dawn Messina, Jared Messina and James Franklin were present.

Chair Fred McGarry read the notice of public hearing by which Dawn Messina, 89A Raymond Road, Deerfield, NH and Robin Jodoin 93 Raymond Road, Deerfield, NH will make application for a Public Hearing to consider approval of a Lot Line Adjustment and Minor Subdivision for property located on Raymond Road, Deerfield NH (identified as Tax Map 418 Lots 85 and 86) and owned by the applicants. The intent of the application is to create one new lot (Lot 86-1) consisting of 11.682 acres. 2.367

acres from Lot 85 to be conveyed to Lot 86-1. 1.770 acres from Lot 85 to be conveyed to Lot 86-1. 0.936 acres to be conveyed from Lot 85 to Lot 86. Lot 85 would then consist of 41 acres. Lot 86 would then consist of 5.026 acres. New lot 86-1 would consist of 11.262 acres.

Richard Pitman moved to accept the application. Peter Schibbelhute seconded. Voted in favor.

James Franklin said that they are trying to clear confusion in deeds that have resulted from numerous conveyances without benefit of surveys being recorded or benefit of Planning Board action. He provided copies of maps showing property in it's entirety. Mr. Franklin also provided a compiled deed worksheet outlining the property. He said the ultimate goal was to create a new lot so that family members will each have their own parcels.

Mr. Franklin said that Mr. Coogan had questioned a driveway having a DOT Driveway Permit. He said that both the landowners position and his position is that the driveway serves Lot 86, which will be Lot 86-1, has existed for a number of years. He provided pictures dating 1962 and 1974 showing the existing driveway.

William Perron moved and Peter Schibbelhute seconded to grant the following waivers:

1. Section III-3 Minor subdivision C-3-b-2 Topographic plan showing two foot contours system
2. Section III-3 C-3-b-3 Bench Marks
3. Section III-3 C-3-b-4 Site specific soil mapping
4. Section III-3-C-3-b-6 Test Pits
5. Section III-3 C-3-b-9 Existing Tree Lines
6. Section III-3 C-3-b-10 Ledge outcrops

Voted in favor.

Chair McGarry read a letter from Patrick Cassier, an abutter, noting that he has no objection to the proposed subdivision.

William Perron moved and Richard Pitman seconded to grant conditional approval to Robin Jodoin and Dawn Messina for a Minor Subdivision and Lot Line Adjustment on Raymond Road with the following conditions:

- . Change to Re-bars set
 - . Set backs on proposed new lot
 - . Distance shown on locus to Route 43
- Approval to lapse in 60 days.

Voted in favor.

The meeting was adjourned at 10:PM.

PLANNING BOARD 9/23/15

Recorded and transcribed by Jane Boucher
Pending Approval by the Planning Board

+
+

MEMORANDUM

September 21, 2015

TO: Deerfield Planning Board
FR: Gerald Coogan
RE: Plan Review – Subdivision Plan for Middle Road, Tax Map 413, Lot 17, 232 Middle Road – David Pelletier

Owner: David Pelletier Construction, 40 Trenton Street, Manchester, NH

Applicant: David Pelletier Construction

Agent: Scott R. Frankiewicz, LLS, Lic # 945, Brown Engineering / Surveying, Northwood, NH

Wetlands scientist: Peter Schauer, Schauer Environmental Services, CSS # 39, CWS # 48

Lot Area: 34.04 acres

Location: 232 Middle Road, Deerfield, NH, Tax Map 413, Lot 17

Project description: The applicant proposes to subdivide the 34.04 acre parcel (TM 413, Lot 17) into eight lots using Section 325 of the Deerfield Zoning Ordinance (DZO) the Open Space Development (OSD) provision. The proposed OSD subdivision will consist of:

1. Proposed Lot 1 – 1.27 acres
2. Proposed Lot 2 – 1.01 acres
3. Proposed Lot 3 – 1.12 acres
4. Proposed Lot 4 – 1.14 acres
5. Proposed Lot 5 – 1.09 acres
6. Proposed Lot 6 – 1.36 acres
7. Proposed Lot 7 – 1.01 acres
8. Proposed Lot 8 – 1.00 acres

Open Space – 24.22 acres

Comment: The Planning Board is familiar with this proposal having met with Mr. Pelletier on two occasions.

Waiver Requests: The agent (Mr. Frankiewicz) requests the following waivers.

The Planning Board can grant waiver requests from provision Section 325 of the DZO.

1. DZO Sec 325.4 D. 1. (a) (2) – Side and rear setback: “Within 50 feet of an abutting property line.”
Reason: Includes a portion of the lot area within the setback. Benefits proposed lots # 1, 2 and 3.
 2. DZO Sec 325.4 D. 1. (a) (1) – Front setback: “Within 100 feet from the edge of the ROW.”
Reason: Allows owner to include within the 100 foot setback. Benefits proposed lots # 1,
- 8.

These two waiver requests are reasonable and recommend favorable Board action.

Comments:

1. See plan note # 5; provide correct information re: conventional subdivision dimensions;
2. Reviewed Checklist for a Major Subdivision; complete
3. Agent provided a Yield Plan; recommend that Schauer Environmental Services review and stamp Yield Plan; KNA to review and provide comments.
4. Drainage Analysis submitted; KNA to review and provide comments.
5. Cistern provided; Fire Chief and KNA to review
6. Road access; seek comments from the Town's Road agent.
7. Agent should provide cost estimate for proposed improvements (i.e. road, cistern, monuments etc) and the form of security; KNA to review;
8. Access to 24 acres of open space; should the owner consider providing a connection via a trail.

Recommendations:

1. Act on the two Section 325 OSD waiver requests and accept the application as complete;
2. Open the public hearing

September 23, 2015

Mr. Frederick McGarry, P.E.; Chair
Deerfield Planning Board
Post Office Box 159
Deerfield, New Hampshire 03034

Subject: **Proposed Subdivision of the Land of David Pelletier Construction Co., Inc.
232 Middle Road (Map 415 – Lot 17); Deerfield, New Hampshire
KNA Project No. 15-0908-2**

Dear Mr. McGarry:

At the request of the Town Planner we have completed a technical review of project plans and supporting materials submitted to your Board by or on behalf of the applicant in the subject matter. To date we acknowledge receipt of copies of the following information, which was the subject of our review:

- An application for subdivision approval, with attachments, executed by the owner/applicant on September 03, 2015;
- Correspondence addressed to your Board, prepared by the applicant's consultant on September 04, 2015, for the purposes of requesting a series of waivers from specific requirements of the Open Space Development Ordinance;
- A Drainage Report dated September 04, 2015;
- Detailed shop drawings (one sheet) of the proposed cistern installation dated January 14, 2015; and
- Proposed subdivision plans (12 drawings) dated September 04, 2015.

Based upon our consideration and review of the foregoing information, we offer the following comments and recommendations at this time:

General Comments

1. As currently presented, it appears the only State project permit required under this application is NHDES Subdivision Approval for each of the eight lots. We recommend this permit be received prior to or as a condition of any approval granted to this application and the resulting permit number be cited on the final plat.
2. We recommend the Fire Department review and comment on this application.

Civil Engineering

Land Surveying

Landscape Architecture

3. In order to satisfy the requirements of Section V-2.A of the Subdivision Regulations we recommend any approval granted to this application be conditional upon the applicant providing the Town of Deerfield with a performance guarantee in an amount and form acceptable to your Board.

Zoning Matters

1. The subject application has been advanced as an Open Space Development pursuant to the provisions of Section 325 of the Zoning Ordinance. On that basis we offer the following:
 - We recommend the applicant submit draft homeowner's association documents required pursuant to Sections 325.2.C and 325.4.H of the Ordinance for consideration and review by the Board and Town Counsel. We further recommend that the final draft of such documents be recorded of even date with the final plat and be referenced in the form of a note on the final plat recorded at the RCRD.
 - The applicant has requested waivers pursuant to authority afforded your Board under Section 325.4.D.2 of the Zoning Ordinance to permit portions of the areas of certain lots to encroach upon required front and side landscape buffers required under Section 325.4.E of the Ordinance. As shown on Sheet 4 of the project plans, the applicant has identified building setback lines which effectively parrot the requirements of Section 325.4.E to the extent they will preclude building construction within the required buffer. On that basis we are not convinced the requested waivers are needed as it appears the applicant's proposal satisfies the requirements of Section 325.4.E despite the fact that portions of the required perimeter landscape buffer may be situated on individual lots rather than open space.
 - The foregoing comment notwithstanding, we recommend your Board assess the quality and adequacy of existing vegetation situated within the perimeter landscape buffer pursuant to the provisions of Section 325.4.E of the Ordinance and advise the applicant accordingly.
 - This proposal meets or exceeds the requirements of Section 325.4.F relative to both gross and net open space allocation. Under the cited Section a total of 17.02 acres of gross open space is required. 24.22 acres will be provided. Further, the cited Ordinance requires a minimum of 8.51 acres of net (non-wet with slopes of not more than 20%) open space. 17.13 acres will be provided. We recommend the text of Note No. 11 on the Cover Sheet to the project plans be edited to read accordingly.
 - Pursuant to the provisions of Section 325.4.B of the Ordinance maximum density in a planned Open Space Development is determined through preparation of a Yield Plan identifying the maximum number of "conventional lots" attainable over the subject tract. Sheet 12 of the project plans serves as the Yield Plan for this application. Based on our review of the same we are pleased to report that it appears

September 23, 2015

Mr. Frederick McGarry, P.E.; Chair
Deerfield Planning Board
Post Office Box 159
Deerfield, New Hampshire 03034

Subject: **Proposed Subdivision of the Land of Mary M. Austin & Shelley A. Tetreault
165 Griffin Road (Map 205 – Lot 6); Deerfield, New Hampshire
KNA Project No. 15-0901-1**

Dear Mr. McGarry:

At the request of the Town Planner we have completed a technical review of project plans and supporting materials submitted to your Board by or on behalf of the applicants in the subject matter. To date we acknowledge receipt of copies of the following information, which was the subject of our review:

- An application for subdivision approval, with attachments, executed by the owner/applicant on August 20, 2015;
- Correspondence addressed to your Board, prepared by the applicant's consultant on September 02, 2015, for the purposes of requesting a series of waivers from specific requirements of the Subdivision Regulations;
- A proposed subdivision plat (one drawing) dated August 21, 2015; and
- A design drawing depicting proposed private way (plan & profile) construction dated August 24, 2015.

Based upon our consideration and review of the foregoing information, we offer the following comments and recommendations at this time:

General Comments

1. As currently presented, it does not appear any State project permits will be required under this application.
2. The subject application is being advanced under applicable provisions of Section 207.1.B of the Zoning Ordinance (aka "Smith Ordinance"); as such the platted private way shall be privately owned and maintained. Accordingly, in order to satisfy the requirements of Section III-6.E (2) of the Subdivision Regulations we recommend your Board receive homeowner's association documents, having form and content acceptable to Town

Civil Engineering

Land Surveying

Landscape Architecture

Counsel, acknowledging private ownership and future maintenance responsibilities for this platted private way. We further recommend: (a) the final draft of such documents be recorded of even date with the final plat; and (b) a note be added to the final plat acknowledging both the existence of such documents as well as the book and page number at which such documents are recorded at the RCRD.

3. Given the applicant's intent to plat and construct a private way, we recommend the following note be added to the final plat: "The way shown on this plat is intended by the applicant and the Town of Deerfield to be platted, constructed and maintained as a private way. Neither the approval or recording of this plat shall be construed as an offer of dedication of this way as a public highway under New Hampshire Law of Dedication and Acceptance."

Zoning Matters

1. Again, the applicant has advanced this application under applicable provisions of Section 207.1.B of the Zoning Ordinance ("Smith Ordinance"). Under this Ordinance, an applicant of a subdivision intended to consist of four or fewer parcels may satisfy applicable minimum frontage requirements of Section 204 of the Ordinance along the lines of a platted private way rather than an existing or planned public "Street/Road" as defined under Section 602 of the Zoning Ordinance. Unfortunately, as presented the subdivision concept advanced under the current application does appear to satisfy applicable requirements of the Zoning Ordinance, Subdivision Regulations or RSA 674:41. Specifically:
 - As shown on the proposed plat, the private way intended to satisfy minimum frontage requirements of Section 204 of the Ordinance is currently platted in the form of an easement over each of the two proposed lots rather than as a separate and distinct right-of-way. In this manner, these two lots essentially front on themselves rather than a public or private way, whereas Section 207.1.B (1) of the Ordinance specifically requires a private way to consist of a right-of-way having a minimum width of 50 feet. Further, Section 602 of the Ordinance defines the word "Frontage" as "the width of a lot measured along its common boundary with the street line". Again, in the current instance the "roadway easement" proposed by the applicant does not conform to this definition since land within the easement is comprised of portions of each proposed lot rather than a separate and distinct right-of-way with which the two proposed lots share a "common boundary".
 - As shown on the proposed subdivision plat, access to each of the two proposed lots from the easterly line of the private way is intended to be provided via a "common driveway easement", which essentially follows the lines of an existing gravel driveway providing access to the existing dwelling on the lot being subdivided. This proposed accommodation is contrary provisions of the Deerfield

Zoning Ordinance and Subdivision Regulations, as well as RSA 674:41.
Specifically:

(a) Under Section 602 of the Zoning Ordinance a “Private Way” is defined as “a privately owned street for which the Town has no obligation to repair or maintain **and which serves more than one (1) lot.**” As such, in order to satisfy applicable requirements of Section 207.1.B of the Zoning Ordinance, the platted private way will need to be extended in length in the easterly direction over the full length of this way that is subject to travel for access to more than a single lot.

(b) Similarly, a review of the respective definitions of the terms “Driveway” and “Road/Street, Private” provided under Section II-2 of the Subdivision Regulations reinforce the notion that a private way intended to provide access to a single property may be properly termed a “driveway”, while a private way intended to provide access to “two or more landowners” must be considered as private road or street. On that basis the full length of proposed private way must be designed and constructed in a manner which satisfies those applicable design and construction standards for streets provided under Section IV-4 of the Subdivision Regulations ... in the current instance, standards for the Local Street – 1 construction.

(c) RSA 674:41, entitled Erection of Buildings on Streets, establishes statutory requirements for streets giving access to a lot upon which building construction is planned. As acknowledged in RSA 674:41, III the requirements of “this section shall supersede any less stringent local ordinance, code or regulation”. Paragraph I of this statute identifies the various classes of streets or ways upon which a parcel may front and derive access in order to be eligible for issuance of a building permit. Paragraph III specifically excludes “a street from which the sole access to the lot is via a private easement or right-of-way”. In the current instance the applicant proposes to provide access to residual Lot 6 over a private easement crossing platted Lot 6-1 in direct conflict of RSA 674:41.

(d) Consistent with the requirements of RSA 674:41, Section IV-1.E of the Subdivision Regulations requires that: “All platted lots shall derive driveway access through their own frontage.” As presented, the current proposal fails to conform to this Regulation.

Planning/Design Matters

1. Given the aforementioned conceptual issues implicit in the current application we have refrained from undertaking a detailed technical review of details associated with the same in anticipation of the project requiring substantial reconfiguration prior to meaningful consideration by your Board.

Mr. Frederick McGarry, P.E.
September 23, 2015

We trust your Board will find the content of this letter report useful in its consideration and review of the subject application. As always, please contact the writer in the event you should have specific questions or further instructions at this time.

Sincerely:

Steven B. Keach, P.E.
President
Keach-Nordstrom Associates, Inc.

MEMORANDUM

September 21, 2015

TO: Deerfield Planning Board
FR: Gerald Coogan
RE: Plan Review – Subdivision Plan for Map 205, Lot 6, land owned by Mary Austin & Shelly Tetrault.

Owner: Mary Austin and Shelly Tetrault

Applicant: Mary Austin and Shelly Tetrault

Agent: James Franklin, LLS, Lic # 733

Wetlands scientist: None

Lot Area: 22.48 acres

Location: 165 Griffin Road, Deerfield, NH, Tax Map 205, Lot 6

Project description: The applicant proposes to subdivide the 22.48 acre parcel (TM 205, 6) into two lots using Section 207.1-B of the DZO (aka “Smith Ordinance”). The proposed subdivision will consist of:

1. Proposed Lot 6-1 with 6.654 acres and
2. Proposed Lot 6 with 15.152 acres

Waiver Requests: The agent (Mr. Farwell) requests the following waivers.

1. Section III-3 Minor subdivision C-3-b-2 Topographic plan showing 2 foot contours
Reason: This is a 2 lot subdivision one is 15 + acres and 6+ acres. There is reasonable amount of room for house and septic etc.
2. Section III-3 C-3-b-3 Bench marks
Reason: There is minor construction for the road. No need for benchmarks.
3. Section III-3 C-3-b-4 Site specific soil mapping
Reason: Given the size of the lots soil mapping is not necessary.
4. Section III-3 C-3-b-6 Test pits
Reason: Given the large area of land there is plenty of room for a septic. A test pit will be performed with the septic design.
5. Section III-3 C-3-b -9 Existing tree lines
Reason: The site is mostly wooded, a tree line will provide little usable information.
6. Section III-3 C-3-b-10 Ledge outcrops
Reason: Given the large lot sizes there is suitable area on site for a septic.

Comments:

Both DZO Section 207.1 B and NH RSA 674:41 I b 2 and III govern this subdivision. The plan shows a 50 foot “Roadway Easement Line” for the first 200 feet and not the private way (aka **Road / Street, Private**) referenced in 207.B. In effect, as designed, a 720 foot gravel driveway will serve the two lots, which appears to be in violation of DZO 207 1.B and RSA 674:41 III. Note definitions from the Town’s Subdivision Regulations:

Driveway: A private way intended to provide vehicular access from a public or private street to a parking space, garage, dwelling or other structure. (Note singular)

Road/Street, Private: A local road or street, not intended for public travel, constructed for and maintained by two or more land owners for the purpose of providing access to a public street.

Items of concern:

1. The access and frontage for both lots is not provided by a private way as required by the DZO. The Road/Street, Private should be a separate platted parcel owned and maintained by the two lot owners;
2. The plan as presented appears to be in violation of RSA 674:41 III as legal access to both lots is provided by a "private roadway easement";
3. The Fire Chief should review private way for adequacy regarding NFPA requirements; additional information is needed regarding the suitability of the driveway easement for emergency vehicles;
4. The driveway appears to have a steep entrance onto Griffin Road; and
5. Submission of road maintenance agreement.

DZO Section 207.1 B states:

207.1 Minimum Frontage

- A. Frontage - Every building lot shall have a minimum frontage as specified in Section 204 provided that where lots are located on the exterior of a curving street, a shorter front dimension may be permitted provided that the width of the lot measured along the front setback line shall be the minimum specified in Section 204.
- B. In the alternative, provided all requirements for lot dimensions of this Ordinance can be met, up to four (4) single family dwellings may be constructed on lots which front on a private way. (aka Road/Street, Private).

If, in the opinion of the Planning Board, considering the topography and land ownership in the vicinity, it is likely that the private way could be extended to serve additional dwelling units in the future, the layout of said private way shall be done in such a fashion that all of the geometric layout specifications of the subdivision regulations for a public street could be met.

If the private way is unlikely to serve more than four (4) dwelling units, it shall be constructed following minimum specifications:

1. The right-of-way shall be at least 50 feet in width to accommodate upgrading of the road should future owners choose to dedicate it to the Town;
2. The roadway specifications shall be graduated based upon standard traffic calculations (e.g.- a private way for one dwelling unit generates 10.1 vehicles per day and thus would require a 12-foot wide gravel way);

3. The private way shall provide adequate access for emergency vehicles to said new dwellings:
4. Both the private way and the arrangements for paying the costs of maintenance and repair of said private way, as well as provisions for turning over said way to the Town as a public street should the Town so request, shall be described in instruments referred to in said deeds.
5. The applicant shall provide the Planning Board with a nonbinding conceptual plan of the parcel. This plan would show the parcel as it would appear if built out to the maximum number of lots allowed by current zoning and would show how such growth could be accommodated.

State Law:

674:41 Erection of Buildings on Streets; Appeals. –

I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:

(a) Shall have been accepted or opened as, or shall otherwise have received the legal status of, a class V or better highway prior to that time; or

(b) Corresponds in its location and lines with:

(1) A street shown on the official map; or

(2) A street on a subdivision plat approved by the planning board; or

(3) A street on a street plat made by and adopted by the planning board; or

(4) A street located and accepted by the local legislative body of the municipality, after submission to the planning board, and, in case of the planning board's disapproval, by the favorable vote required in RSA 674:40; or

III. This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, "the street giving access to the lot" means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e).

Recommendations:

1. Act on the six waiver requests and accept the application as complete;
2. Open the public hearing; review KNA review letter.

Cc: James Franklin, LLS
Tobin Farwell, PE