



**Town of Windham**  
**Planning Department**  
8 School Road  
Windham, Maine 04062  
Tel: (207) 894-5960 ext. 2  
Fax: (207) 892-1916  
[www.windhammaine.us](http://www.windhammaine.us)

## PLANNING BOARD MEMO

DATE: May 15, 2023

TO: Windham Planning Board  
FROM: Steve Puleo, Town Planner  
Cc: Amanda Lessard, Planning Director  
Michael Keeley Applicant  
Christopher Taylor, PE. Sebago Technics, Inc.

RE: #23-11 – Amended Meadowbrook Subdivision – Final Plan Review – Michael Keeley

Planning Board Meeting: **Scheduled for May 22, 2023**

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### Overview –

The application is to amend the subdivision approval of the 19-unit Meadowbrook Subdivision dated July 1982 to permit the development of one duplex. The amended subdivision will bring the total dwelling units to 21 units. The proposal is to construct a curb-lane road next to the existing duplex located at 20 Whites Bridge Road to access land behind the structure for the construction of one duplex building. The lane will be 18 feet wide with a hammerhead turn. The solid waste generated by the residents will be bought to the street and hauled by the Town curbside collection program.



Aerial View of the subject parcel relative to surrounding properties and street network.

The Land Use Ordinance [Section 120-913](#) states that if a revision to a previously approved subdivision plan involves the creation of additional lots or dwelling units, the procedures for Final plan approval shall be followed. The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

Tax Map: 18; Lot: 4-5; Zone: Commercial I (C-1) district in the Presumpscot River watershed.

## SUBDIVISION REVIEW

### Staff Comments:

1. Jurisdiction: The project is classified as an Amended Major Subdivision to add two (2) dwelling units to the existing 19 dwellings, which the Planning Board is authorized to review and act on by [Section 120-903A](#), of the Town of Windham Land Use Ordinance.
2. Title, Right, or Interest: The applicant submitted a Property Deed which appears to reference the subject property and recorded at the Cumberland County Registry of Deed dated July 27, 2017 and found in Book: 36805 Page:20.
3. Complete Application: *Amended Plan*.

~~**MOTION:** The application for project #23-12 – Amended Meadowbrook subdivision Final plan review is found complete regarding the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.~~

*E. Krikken made a motion to approve the application is complete for review, C. Etheridge second the motion. The board voted 6-0.*

### 4. Waivers:

*Limitation of Waivers. The granting of a submission requirement waiver or site waiver may not conflict with, nor negate, any State Statutory requirements for the subdivision of land. Per [§120-908B](#) The Board is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements. Per [§120-908C](#) The Planning Board may waive the requirements of Section 120-911 Performance and Design Standards, when the applicant demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in [§120-908C\(2\)](#).*

#### ~~a) [Chapter 120 Attachment 2Appendix B](#) – Performance Standard Curbed Lane, Curb Type:~~

~~The applicant is requesting a waiver for the curb type to be “slip form” concrete in place of granite.~~

~~Staff supports the request.~~

~~**MOTION:** [I move] to approve the waiver request of [Chapter 120 Attachment 2Appendix B](#) – Curbed Lane, Curb Type from granite to slip form concrete.~~

*E. Krikken made a motion to grant a waiver from the requirement to allow “slip-form”, K. Brown second the motion. The board voted 5-1 (Yost).*

#### ~~b) [Chapter 120 Attachment 2Appendix B](#) – Performance Standard Curbed Lane, Curb Radius:~~

~~The applicant is requesting a waiver for the curb radius from a maximum curb radius of 4 feet to 15 feet.~~

~~Fire Chief supports the request to allow the fire trucks to turn in the turnaround.~~

~~**MOTION:** [I move] to approve the waiver request of [Chapter 120 Attachment 2 Appendix B – Curbed Lane, Curb Radius](#) to allow maximum curb radius from 4 feet to 15 feet.~~

*E. Krikken made a motion to grant a waiver from the requirement of the maximum curb radius of 4 feet to 15 feet, C. Etheridge second the motion. The board voted 6-0.*

~~**e) [Section 120-911M\(5\)\(b\)\[5\]\[d\]](#) – Performance Standard Hammerhead requirement**~~

~~The applicant is requesting a waiver formal hammerhead turnaround. The dead end road is only 225 feet, and a turnaround has been incorporated into the design to accommodate onsite parking.~~

~~Staff supports this request.~~

~~**MOTION:** [I move] to approve the waiver request of [Section 120-911M\(5\)\(b\)\[5\]\[d\]](#) to allow the curb lane turnaround to be incorporated into a expand parking behind the existing structure.~~

*E. Krikken made a motion to grant a waiver from the requirement of a hammerhead on the curb lane and be incorporated into an expanded parking behind the existing structure, C. Etheridge second the motion. The board voted 6-0.*

~~**a) [Section 120-910C\(3\)\(b\)](#) – Submission Requirement Landscape Plan**~~

~~The Applicant is requesting a waiver from the requirement to submit a landscape plan for review. The site will be landscaped with a mix of grass and plantings. The project will add a single duplex building which typically does not require Planning Board approval. The only subdivision ordinance required performance standard relative to landscaping is [Section 120-911E\(1\)\(b\)](#) street trees.~~

~~Staff do not have a recommendation for this waiver request.~~

~~**MOTION:** [I move] to approve the waiver request of [Section 120-910C\(3\)\(b\)](#) to omit a landscape plan as part of the amended subdivision plan.~~

*R. Yost made a motion to grant a waiver from the requirement to submit a landscape plan with the final plan review, S. Moulton second the motion. The board voted 4-2 (Govini and Krikken).*

5. Public Hearing: No public hearing has been scheduled for this project.

6. Site Walk: A site walk has not been scheduled for this project.

Findings of Fact, conclusions, and Conditions of Approval for the

**Windham Planning Board,**

**MOTION:** The amended subdivision final plan application for project #23-12 - Amended Meadowbrook subdivision on Tax Map: 18, Lot: 5-4 is to be **(approved with conditions/denied)** with the following findings of fact, conclusions, and conditions of approval.

## FINDINGS OF FACT

### 120-911 – AMENDED SUBDIVISION REVIEW

#### 120-911A – Basic Subdivision layout

##### (1) Lots

- (a) The size of the parcel is 32,017 SF and there is no minimum lot size nor net residential density requirement in the C-1 zoning district.
- (b) The proposed development will have multiple dwellings on a single parcel.
- (c) Further lot divisions are prohibited.
- (e) Map-lot numbers are provided.

##### (2) Utilities

- (a) The applicant is proposing to extend all utilities underground from the Whites Bridge Road ROW.
- (b) Public water will be extended from Whites Bridge Road.

#### 120-911B – Sufficient Water

##### (1) Water supply

- All dwelling units will be served by public water from an existing water main on Whites Bridge Road.
- An Ability to Serve letter dated January 25, 2023 from the Portland Water District approving the public water service for the addition of duplex building. PWD has approved two 1.5” domestic/fire service from Whites Bridge Road within the proposed road.
- The closest existing fire hydrant is located on Whites Bridge Road. Existing hydrant locations are less than 1,000 feet from the development.

#### 120-911C - Erosion Control and Impact on Water Bodies

- The applicant has provided a surface drainage plan showing the direction of stormwater runoff.
- Soil erosion and sediment control plan must be submitted as part of the Final Plan.
- No portion of this subdivision is within the mapped 100-year floodplain.
- This subdivision is located over a significant sand and gravel aquifer.
- This project is in the NPDES (National Pollutant Discharge Elimination System) urbanized area as designated by the Environmental Protection Agency for the Town of Windham. The site disturbance is less than an acre and annual stormwater maintenance reporting to the Town is not required, but the Environmental and Suitability Coordinator recommends they should be following an inspection and maintenance plan as required in the ordinance.
- The property is in the Presumpscot River watershed.
- The project will not adversely impact any river, stream, or brook.

#### 120-911D – Sewage Disposal

##### 2. Private systems.

- (a) The development will be served by one private subsurface wastewater disposal system. The applicant has provided evidence that the proposed subsurface disposal system is designed to handle the flow of 720 Gallons per day for 8 bedrooms (the existing 2-unit building plus the proposed 2-unit building).
- The site evaluator, Gary Fullerton from Sebago Technics has certified in writing that the test pit meets the requirements.
  - Soil test pit analysis were included with the applicant and show test pit locations on the plan.
  - The two buildings are connected to a 2,000-gallon septic tank and pipes to the disposal field.

**120-911E – Impact Natural Beauty, Aesthetics, Historic Sites, Wildlife Habit, Rare Natural Areas, or Public Access to the Shoreline**

- The applicant will provide more information relating to the natural resource impacts for the final review.
- The property does not have shoreline frontage.
- The applicant will show the limits of tree clearing for the final plan review for the duplex buildings. A note needs to be added to the subdivision recording plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- The property is currently developed with a single-family dwelling and is otherwise wooded.
- There are no documented rare botanical features or significant wildlife habitats documented on the site.
- Street trees are required at least every fifty (50) feet ([Section 120-911E\(1\)\(b\)](#)). **Per Planning Board, the applicant is proposing to plant two Japanese zelkova trees along Whites Bridge Road and install three Serbian Spruce trees between 8' and 10' tall along the rear elevation of the new duplex building.**
- The applicant is not proposing a tree along White Bridge Road and would need to request a waiver of that section.
- The existing tree line is shown on the final plan.

**120-911F – Conformance with Land Use Ordinances**

**Comprehensive Plan:**

- The plan does meet the goals of the 2017 Comprehensive Plan. The property is in the Growth Area.

**Land Use Ordinance:**

- The lot meets the dimensional standards of Commercial District I (C-1), see [Section 120-410E](#).
  - Front setback for principal building on all other streets but Route 302 0-20-feet. Front, side, and rear setbacks are shown on the plan.
  - Net residential density calculations are shown on the plan.
  - No parking is located in within the structure's front setback.
  - Buildings must be oriented parallel to the front lot line. The existing building is oriented towards Whites Bridge Road and the proposed building is oriented to the proposed curbed lane.



- The development is subject to the following [Article 12 Impacts Fees](#), to be paid with the issuance of a building permit: North Route 302 Road Improvements Impact Fee, Recreation Impact Fee, Open Space Impact Fee, Public Safety Impact Fee, Municipal Office Impact Fee.

#### Subdivision Ordinance

- Standard notes and the standard condition of approval and approved waivers must be shown on the plans.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the final plan submission.
- Draft condominium or homeowner association documents must be provided with the final plan submission and must specify the rights and responsibilities of each owner with respect to the maintenance, repair, and plowing of the subdivision streets, open space, and stormwater infrastructure, if the dwellings are to be sold as condominiums.
- The plan shows all parcels in common ownership within the last 5 years.

#### Others:

- [Section 204-24](#) Street Naming and Addressing: Following consultation with the Assessing Department, a proposed road name for the subdivision access drive must be shown on the Final Plan.
- [Chapter 201 Article II](#) Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area.
- [Chapter 101](#) Growth Management Ordinance: Growth permits are required prior to the issuance of a building permit for the construction, creation, or placement of each new dwelling unit within the Town of Windham.
- The final plan submission should describe how solid waste generated by residents at the site is to be collected and disposed of and how stumps and demolition debris will be disposed of.
- For the final plan review, the applicant shall provide the “Grading Easement” with the abutting Apple Tree Self Storage.

#### **120-911G – Financial and Technical Capacity**

(1) The estimated cost of the proposed project is approximately \$910,000, the applicant did not provide a construction cost worksheet with the application. For financial, the applicant has provided a support letter dated March 6, 2023 from James M. Whelan, Vice President of Saco & Biddeford Saving Bank.

(2) The has shown applicant’s technical capacity by completing several residential developments in the Greater Portland area. The applicant has retained the services of Sebago Technics, Inc. Survey, Inc, Architect Deirdre Pio, and Mainly Soils. The consultants have performed as technical advisors and designed many subdivision and site plan reviews in Windham.

#### **120-911H – Impact on Ground Water Quality or Quantity**

- No adverse impacts on ground quality or quantity are anticipated.

#### **120-911I – Floodplain Management**

- The subject property is not in a mapped FEMA Floodplain boundary.

#### **120-911J – Stormwater**

- The applicant is proposing a stormwater quality and quantity treatment design by using a grassed under-drained soil filter to provide storage and treatment for the increased stormwater runoff caused by the new impervious and landscaped area created by the new development.
- The design ensures the MDEP Chapter 500 Basic standards, General standard, and Flooding standards are being met.
- A Best Management Practice (BMP) plan has been included report. The applicant shall include the BMP plan as part of the Condominium Documents.

#### **120-911K – Conservation Subdivision**

- The applicant is not proposing a Conservation Subdivision.

#### **120-911L – Compliance with Timber Harvesting Rules**

- The applicant states the site was not involved in timber harvesting activity. All tree removal will be limited in scope and minimal.

#### **120-911M – Traffic Conditions and Street**

- A new 225-foot-long Curb Lane will serve the development, per [Chapter 120 Attachment 2 Appendix B](#). The applicant has requested waivers from the standards to allow “slip-form” concrete curbing and increase in the curb radius to 15-feet and that intersection.
- Town-approved Street names shall be shown on the final plan.
- The project is subject to the North Route 302 Road Improvements Impact Fee of \$386.65/trip through this Whites Bridge Road and Roosevelt Trail, [Section 120-1204](#). Traffic analysis conducted by the applicant states the project will generate two additional vehicle trips, however the applicant has not determined impact to the North Route 302 Capital Improvement District in the peak commuter hour.

### **CONCLUSIONS**

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **will not** cause unreasonable soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision **will** provide for adequate sewage waste disposal.
7. The proposed subdivision **will not** cause an unreasonable burden on the municipality’s ability to dispose of solid waste.
8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

9. The proposed subdivision **conforms** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **does have** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **is** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed subdivision **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands within the proposed subdivision **have** been identified on the plan.
15. Any river, stream, or brook within or abutting the subdivision **has** been identified on any maps submitted as part of the application.
16. The proposed subdivision **will** provide for adequate storm water management.
17. ~~If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision **do not have** a lot depth to shore frontage ratio greater than 5 to 1. (N/A)~~
18. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
19. ~~For any proposed subdivision that crosses municipal boundaries, the proposed subdivision **will/will not** cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. (N/A)~~
20. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

#### CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated March 16, 2023, as amended May 8, 2023, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, and supporting documents and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with [Section 120-913](#) of the Land Use Ordinance.
2. Homeowner's Association Bylaws, Convents, and Documentation for the care and maintenance of the private road and open space areas shall be recorded in Cumberland County Registry of Deed (CCRD) prior to the pre-construction meeting and a copy of the recorded documentation shall be submitted to the Planning Department for verification.
3. Prior to the issuance of building permits, the applicant shall provide to the Town Planner the recorded and executed Grading Easement with Apple Tree Self Storage.
4. Prior issuing the building permits, the applicant shall record the approved plan in the Cumberland County Registry of Deeds (CCRD), per [120-915B](#).
5. At the time of applying for a building permit, the applicant shall pay the North Route 302 road improvement impact fee of \$773.30.