

Town of Windham

Planning Department
8 School Road
Windham, ME 04062

voice 207.894-5960 ext. 2

fax 207.892.1916

MEMO

DATE: June 5, 2019

TO: Planning Board

FROM: Amanda Lessard, Planning Director *AL*

Cc: Jenn Curtis, Planner
Wayne Wood, PLS, Wayne T. Wood & Co.
Development Review Team

RE: 19-11 Perkins Subdivision – 5th Amended Subdivision Plan
Planning Board Meeting: June 10, 2019

Overview –

The Perkins Subdivision located off Brand Road was a subdivision originally approved by the Windham Planning Board in June 1976 and last amended in December 2004. The application for a 5th amended plan has several proposed changes:

1. Randy Perkins is applying for approval to divide his property to create one additional building lot (87A-7) for a new residential dwelling.
2. Dana Anderson and Matthew Braley are looking for approval to move their common property line (between lots 87A-3 and 87E) in order to achieve the proper building setbacks to an existing garage located on the Anderson lot.
3. Adjustments to the previously shown location of Perk's Peak Road and turnarounds to reflect as-built locations. This affects the portion of the road across the Braley lot and along the proposed lot and moves the turnarounds.



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

History of approvals -

- June 1976 - The original subdivision was approved by the Planning Board in June, 1976. Lots are shown on Brand Knight Road, along with the remaining “Land of A.R. & B.A. Perkins.”
- February 24, 1997 - The subdivision came back to the Planning Board for the creation of a 120,000 square foot lot labeled “Proposed Conveyance to Kevin Tibbets, Lot 3,” and also shows a number of divisions that occurred within the original “Land of A.R. & B.A. Perkins” now labeled “Remaining Land of Arnold R. Perkins.” The 50-foot right of way now known as Perks Peak Road is labeled “Nic Alley,” and the 50-foot right of way now known as Tower Road is not labeled on the plan. This plan was signed March 24, 1997.
- December 8, 1997 – Lot 3 was amended so that it became a smaller 90,000 square foot lot. The end of the 50-foot right of way as also changed as part of this plan.
- March 24, 2003 – Planning Board was asked to “acknowledge” and “give applicant guidance and direction” regarding the additional lot and two gift lots created out of the “Remaining Land of Perkins.” No Planning Board vote was taken at that meeting. The applicant incorporated comments from the Board and worked with staff to update the plan to show the 1) Proposed Lot to Arthur Peterson, 2) Gift Lot to Craig Perkins, and 3) the Gift Lot to Randy Perkins, labeled “Back Lot.” Perks Peak Road is labeled on the plan. Since the applicant worked with staff, there are no signatures on this plan. The plan dated February 2003 was received at the Registry of Deeds April 25, 2003.

- November 2004 - Staff approved a change to the plan that moved the turnaround at the end of Perks Peak Road entirely onto the Arthur Peterson lot.

A copy of the last approved amended plan is included with the application. Since then, Lots 87A-5 and 87A-6 were created out of the “Remaining Land of Arnold Perkins” as gift lots exempt from subdivision review.

The Planning Board reviewed an application in October 2009 to amend the right-of-way of Perks Peak Road on Lot 87A-5. The applicant withdrew that application.

The subdivision ordinance states that revisions to approved subdivision plans that create additional lots or dwelling units are to follow the procedures for Preliminary Plan review (§913.B.2). Note that the Board scope of review for amendments to previously approved subdivisions should be limited to the proposed changes.

Tax Map: 19; Lots 87A, 87A-3, and 87E. Zoning District: Farm District (F).

SUBDIVISION REVIEW

Staff Comments:

1. Waivers: None
2. Complete Application: *N/A for Amended Subdivision. Section 913 requires that the application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of Section 900 and the criteria of the State statute.*

~~MOTION:~~ ~~The subdivision application for project 19-11 Perkins Subdivision 5th Amendment is found complete in regard to 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.~~

3. Public Hearing: A public hearing has not been scheduled for this project. The Planning Board must determine whether to hold a public hearing on the application.
4. Site Walk: A site walk has not been scheduled for this project.

Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: The Subdivision application for 19-11 Perkins Subdivision, 5th Amended Subdivision on Tax Map: 19, Lots: 87A, 87A-3, and 87E is to be **(approved with conditions/denied)** with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- No portion of this subdivision is within the mapped 100 year floodplain.
- The proposed amendment will not increase air or water pollution.

B. WATER

- The new lot will be served by a private drinking water well.
- The closest fire hydrant is located on Route 115 at Smith Road, over half a mile from the subdivision.
- The applicant should demonstrate how the proposed subdivision will provide fire protection. The Fire Department typically recommends residential sprinkler systems in new subdivision homes if they are located more than 1,000 feet from a hydrant served by Portland Water District.
- The proposed amendment will not have an impact on water resources within the subdivision.

C. SOIL EROSION & STORMWATER MANAGEMENT

- A soil erosion and sediment control plan will be required as part of a building permit application for the new lot.
- The applicant should demonstrate that the development of an additional lot will not create erosion, drainage or runoff problems either in the subdivision or on adjacent properties.

D. TRAFFIC

- The amended plan proposed adjustments to the previously shown location of Perk's Peak Road and turnarounds to reflect as-built locations. This affects the portion of the road across Lot 87E and along the proposed lot 87A-7 and moves the turnarounds on Lot 87A-4 and from Lot 87A-5 to Lot 87A. The applicant should provide documentation that the turnarounds were constructed to the previously approved road section.
- Per Section 911.M.5.a.5.v the following note must be added to the plan: "All roads in this subdivision shall remain private roads to be maintained by the developer, lot owners or road association, and shall not be offered for acceptance, or maintained, by the Town of Windham until they meet all municipal street design and construction standards."
- The application submissions that that all of the lot owners recently got together and created a formal road association called the Perk's Peak/Tower Road Association in order to handle the routine maintenance and plowing of these roads. The deeds provided in the submission do not reference the recorded road association. The application should provide evidence of this road association.

- The traffic generated by the additional dwelling unit will not create roadway congestion or unsafe conditions on Perks Peak Road.

E. SEWERAGE

- The new dwelling unit will be served by a private septic system.
- A subsurface Wastewater Disposal System Application dated August 13, 2018 prepared by James Mancini, LSE demonstrates that the subject parcel contains suitable soils to support a septic system. The test pit location is shown on the plan.

F. SOLID WASTE

- Residents of the new dwelling will participate in the Town's pay-per-bag garbage program.
- Development of a new lot should not produce an undue burden on the Town's ability to collect and dispose of solid waste.

G. AESTHETICS

- A single family home is currently located on the property. The remainder of the lot 87A is forested.
- There are no documented rare botanical features or significant wildlife habitat documented on the site.
- Limits of tree clearing are shown on the plan and Note 13 states that the 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.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
 - The new lot meets the minimum lot size (80,000 square feet), frontage (200 feet), and setbacks for lots in the F zoning district.
 - Revising the location of the right-of-way along lots 87A-3 and 87E will retain the required road frontage for each lot.
 - Moving the common property line between lots 87A-3 and 87E will allow the existing garage located on the Lot 87A-3 to meet the 40-foot front yard setback required in the Farm Zoning District.
 - Net residential density calculations are shown on the Plan.
- Subdivision Ordinance
 - Standard notes and the standard condition of approval must be shown on the plans.
 - The Tax Map and Lot numbers provided by the Tax Assessor are shown on the plan.

- Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.

- Others:

I. FINANCIAL AND TECHNICAL CAPACITY

- There is no public infrastructure or improvements proposed as part of this application. Costs associated with review of this project are privately finance by the applicant.
- The professional working on the project have demonstrated technical capacity for this project.

J. RIVER, STREAM OR BROOK IMPACTS

- The property is located in the Pleasant River watershed.
- The proposed amendment will not have an impact on any rivers, streams, or brooks.

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 **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **is not** 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 have/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. (N/A)~~
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 May 20, 2019, as amended June 2019, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.