

Concerns about Proposed Subdivision at Frost Lane, Windham Maine

April 12, 2021

The following list is a compilation of concerns and questions from Windham residents owning property directly impacted by the proposed development named Frost Lane Subdivision, to be located on Frost Lane, and identified on Tax Map 13 Lot 51. These concerns come from conversations multiple community members have had with the landowner, John Herzog, about his plans to develop lot 51 and use 51C (which is also owned by John Herzog) as a parking lot to give the residents of lot 51 access to Highland Lake.

1. Worry there is inadequate soil type to handle effective filtering of septic material. The hydrological study indicated that the soils in the area sited for development are largely Group C/D, soils that have slow infiltration ability and thus high runoff potential into Highland Lake, a lake already listed by the DEP as a Lake Most at Risk from New Development. How will this impact the wetlands and the lake?
- 2- Potential impact on Highland Lake given that this wooded, wetlands nature of this plot drains directly into HL –

Direct watershed of a lake most at risk from new development. Lakes most at risk from new development are listed in Appendix A of this chapter. A lake is considered most at risk from new development if it meets the criteria below:

(1) A public water supply; or

(2) Identified by the department as being in violation of class GPA water quality standards or as particularly sensitive to eutrophication based on:

(a) Current water quality,

(b) Potential for internal recycling of phosphorus,

- (c) *Potential as a cold water fishery,*
- (d) *Volume and flushing rate, or*
- (e) *Projected growth rate in the watershed.*

Severely blooming lakes are a subset of lakes most at risk. A severely blooming lake has a history of algal blooms, and the reduction of existing watershed phosphorus sources sufficient to eliminate those algal blooms is expected to be so difficult that the addition of new, incompletely mitigated development sources may prevent successful restoration of the lake.

(Chapter 502, Department of Environmental Protection, State of Maine)

DEP asserts that Phosphorus can be transported miles from its point of origin, hence even if the so called phosphorus abatement measures are installed at construction, what will prevent residents from using phosphorus on their lawns, and who will monitor this in the years following development, particularly since this subdivision is proposed to be considered a private road type subdivision?

3. General concern about increased building on the lake. Moratorium on development in Highland Lake watershed was lifted a few years ago. How has the lake been impacted? There is another large development going in on the south side of the lake and we worry that building (large subdivisions) on both sides of the lake's wetland areas will reduce the lakes ability properly filter the lake and lead to a contaminated lake, which will reduce property values.
4. Concern regarding the proposal to initially build the subdivision road up to town standards and then to make subdivision owners responsible for road as a private road. How will the road be maintained in the future? Will there be a road association to ensure funding when maintenance is required? As neighbors who live on private roads, we know the challenges implicit in terms of maintaining roads so that they are adequate for emergency vehicle and general use. It takes time, money, and people

responsible to schedule the repairs. Will residents know that they will be responsible for winter plowing if deemed a private road? Doesn't a road that is to be built to town standards need a 50 foot right of way? This is not included in preliminary plans.

5. Note that the area on Lot 51 to the east of the proposed development is designated as wetlands and also designated as "open space." This is contradictory, as open space. Does the town plan to create hiking trails, etc. through this open space? Is the developer going to develop trails through this so-called open space? How can an area mostly consisting of wetlands, be categorized as open space?

Open space includes permanently protected public and private lands that provide recreational, environmental, and social value to Windham, as well as informal spaces that are used for recreation purposes. These lands may include: • undeveloped spaces with natural resources, scenic resources & habitats; • places to access rivers, ponds and lakes; • conserved lands that protect water quality; • working farmlands and woodlots; or • developed parks, playgrounds and recreational fields (Windham Open Space Master Plan)

6. Extensive wetlands in the area to be developed. Also perennial streams, and seasonal streams.

See document, SECTION 12 DISPOSAL SYSTEM INSTALLATIONS ADJACENT TO WETLANDS AND WATER BODIES from STATE OF MAINE SUBSURFACE WASTEWATER DISPOSAL RULES EFFECTIVE DATE: January 18, 2011 2014 for rules governing proposed development in wetlands.

7. Neighbors indicate that they have found salamanders in stream beds. This may indicate a vernal pool. Doesn't the developer need to stay 250' from such vernal pools, once identified?

8. Numerous intermittent streams exist in the forested area along with perennial streams – these are not currently delineated in the map of the proposed development. Our understanding is that the developer would need to hire an Environmental Consultant to determine the site of the intermittent and perennial streams. Delineation of these streams could directly impact mandatory setbacks for development
9. Will the proposed homes include a deeded Right of Way to Highland Lake? Where will that right-of-way be located? If this right-of-way is targeted for the finger that sticks out into Highland Lake (and is owned by John Herzog), it seems unclear how potential owners in this proposed subdivision can reach this ROW. Is there intention to utilize the private road, Brentwood Road, which is maintained by the Beach Road Association? There has been not contact between the owner and the BRA in terms of requesting access to the private roads maintained by the BRA.
10. What is the process whereby a developer / land owner gains the right to grant a deeded ROW to (in this case) the residents who own property in a subdivision? Who is the authority who grants this deeded ROW?
11. Also, the depth of Highland Lake is quite limited in the north end, there would be limited ability to launch a motorized craft from such a right-of-way, given the low water levels at this end of the lake. There are no public landings at Highland Lake from which boat owners can launch a motorized craft.
12. The only way that residents from this proposed subdivision could access “the point” currently owned by John Herzog is to have some type of

official easement from the property owners, Emily and Mark Legere. At this point there is no such agreement.

Concerned Neighbors living in the immediate neighborhood potentially impacted by this proposed subdivision:

Tim Gallagher

Rosie Hartzler

Darrell Janoushek

Emily and Mark Legere

Krissy and Tyler Thompson