



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Planning Board

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Monday, September 24, 2018

7:00 PM

Council Chambers

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1 Call To Order

2 Roll Call and Declaration of Quorum

*The meeting was called to order by Chair, David Douglass. Other members present were: Drew Mayo, Keith Elder, Bill Walker, and Kaitlyn Tuttle.*

*Planner, Amanda Lessard was also present.*

3 [PB 18-077](#) Approval of Minutes: September 10, 2018

**Attachments:** [Minutes 9-10-18 - draft](#)

*Keith Elder made a motion to accept the minutes of the September 10, 2018 meeting.*

*Seconded by Bill Walker.*

*Vote: All in favor.*

### **Public Hearings**

4 18-21 Gray Road Retirement Community. Major subdivision preliminary plan review. Weld, LLC to request review of a 12 unit residential subdivision in six duplexes. The property in question is located at Gray Road and Swett Road and identified on Tax Map: 9, Lots: 27K and 27E, Zone: Farm Residential (FR) and Retirement Community and Care Facility Overlay District (RCCFO).

*Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained the project:*

- They proposed a 12 unit retirement community with about 800 feet of new roadway.*
- A new watermain would be installed.*
- The possible future buildout had 40 units.*
- A nitrate study had been completed for the two proposed leach fields. The smaller field would have a plume that extended into the roadway. Properties in the area had public water and the plume extended into an area where there were no wells. They didn't think it was a public safety concern.*

*Public Comment:*

*Micki VanSummer, Tucker Drive – How did they know it wouldn't negatively impact the water quality if they got a waiver?*

*Nick Kalogerakis joined the Board.*

*Mr. Roma responded:*

- *Geologists analyzed the likelihood of the nitrate plume area being used for a drinking water supply or the presence of existing uses. There didn't seem to be any evidence of adverse impacts in this situation.*

*Sparky Hurgin read a letter from his neighbor, Steve Quinlan, whose home abutted the project. Mr. Quinlan was alarmed with the project as it was proposed. He stated the area was zoned farm residential which required a two acre lot size per house. They had all lived there, legally bound to that standard with the expectation that everyone else would be as well. The magnitude of the project crammed onto 11 acres, flew in the face of the standard on a scale they could not have imagined. A development of that size was incompatible with the surrounding area and would be detrimental. Problems with traffic on Route 202; degradation of water quality, including neighboring wells; pollution of the stream running through the property; irrevocably altered community character; reduced property values. He thought if the issues were given honest unbiased consideration the conclusion would be the project was far too big. The developer should meet the same standards the community had set forth that they had lived with for so many years.*

*Sparky Hurgin, an abutter –The project threatened not only their properties, wells, property values, but also had negative natural and ecological impacts. The properties were home to a variety of wildlife species; he thought he had found an endangered salamander. Because all their properties were adjacent and non-developed they had provided a safe and natural wildlife habitat. Cutting down all the trees would be a disaster.*

*The plan listed the area surrounding the development as a wetland. Those familiar with the area knew it as a stream. DEP's definition listed two characteristics which he believed were relevant: It contained flowing water at least six months out of the year, and the channel contained aquatic vegetation. He requested independent third party evaluation of the area and a determination of whether it was a wetland or a stream.*

*Mr. Hurgin had noticed the proposed roadway and surrounding land was ledge. Blasting and fill would be needed about 14 feet from the stream and about 50 feet from the wells. Run-off, fertilizer, and pesticides would go into the Pleasant River, an impaired river by DEP standards. Blasting and putting a roadway 14 feet from a water source that fed an impaired river on top of ledge with no means of filtering run-off shouldn't be permitted. He invited the Board to walk with him and review his concerns. One of the nitrate plumes would go into the stream. The dug wells relied on groundwater. All those nitrates going into the groundwater would get into the wells. He would submit photos of the aquatic vegetation for the record.*

*Mr. Roma explained:*

- *The area shown as wetland was a concentrated area that received drainage and fluctuated seasonally. A culvert and vernal pool drained through.*
- *They'd had the wetlands delineated and would have a stream delineation done.*
- *The area had high ledge outcroppings, especially in the area of Swett Road and Route 202. As it moved away from Route 202 it looked like there were deeper glacial till soils. He did not anticipate the need to blast in this phase.*
- *They had done the nitrate studies to address wastewater concerns and analyze concentrations due to leach fields.*

*George Geyer, Swett Road – He had two concerns. Cramming houses in might work*

now, but may be a problem in a year or two if waivers were allowed for the septic systems. The properties should be videotaped if they were blasting.

Madeline Geyer, Swett Road – A third party should be checking the whole thing. It was not the place for all those houses. Their well had been a good well. Would they strip all the land, a buffer between properties? She was used to looking at trees.

Mr. Roma replied:

- There were general standards for blasting. They would comply with regulations. A preblast survey had to do with the charge and type of ledge being excavated. They did not always look at every property.
- The smaller leach field was identified for the waiver request because of the nitrate plume. Generally, the reliability of a leach field was based on maintenance and misuse. Condo projects had active organization to manage maintenance and tended to be the most well maintained. The technology they were using was time-tested for wastewater.
- They were not proposing to cut trees beyond the hammer-head. The lot would not be clear cut.

Amanda Lessard explained

- The minimum lot size in a Farm Residential zone was two acres. However, the project was located in a Retirement Community and Care Facility Overlay District (RCCFO) which allowed a net residential density of 5,000 square feet per unit.
- The site was in an identified growth area which encouraged such development.

Helen Hurgin, an abutter – She said it was not the right property for the overlay. They had respected the stream for 35 years, had left all the trees. Water was flowing there. They'd had to build a bridge to get to the other side. She worried about the Pleasant River. Assuming there were lawns, would the fertilizer go into the river? It was already threatened. They needed to look if this was the right place to do that; she didn't think it was.

Mr. Roma responded:

- The condo association would do fertilizer applications in the spring and fall.
- Wetlands had the ability to remove some nutrients.
- It was generally not a concern in stream watersheds.

Margaret Pinchbeck, Nash Road, speaking as someone who had nitrates in her well – She had two dug wells. During the spring thaw surface water would run into the well. The water had a terrible smell. Nitrates tied up oxygen in blood and could be bad for babies, causing something called blue baby syndrome. They should be sure the septic systems were far away from existing wells and the wetlands so nitrates did not go into the stream.

Sparky Hurgin – He thought the residents would like a clarification on whether or not the stream was a stream.

There was no more public comment. The public hearing was closed.

5 18-22 River Gate Estates Amendment. Jeff & Deanna Barrows to request an amendment to an approved subdivision for a lot line adjustment between Lots 5 and 6 for a 1,398 square foot land swap and to divide Lot 5 into two separate parcels. The properties in question are located at 31 and 37 Rousseau Road and identified on Tax Map: 2A, Lots: 1-5 and 1-6, Zone: Farm (F).

Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- Originally a lot split and roadway extension had been proposed. They now proposed an equal land swap which would provide adequate frontage for both lots and eliminated the need for the road.
- Clearing limits on the lots would be in effect for five years.
- There would be no road construction. There were not any areas where steep slopes or close adjacent structures would be impacted.
- There would be an easement over the new lot to benefit the existing driveway.

Sarah Bronson, a Windham resident – She clarified that the application would create one house lot.

Steve Higgins, Rousseau Road – It was his property that was most impacted. He thought it was an excellent idea and saw no serious impact on the abutters.

There was no more public comment. The public hearing was closed.

## **Continuing Business**

Bill Walker made a motion to take the agenda items out of order.

Seconded by Nick Kalogerakis.

Vote: All in favor.

- 6      [PB 18-078](#)      18-21 Gray Road Retirement Community. Major subdivision preliminary plan review. Weld, LLC to request review of a 12 unit residential subdivision in six duplexes. The property in question is located at Gray Road and Swett Road and identified on Tax Map: 9, Lots: 27K and 27E, Zone: Farm Residential (FR) and Retirement Community and Care Facility Overlay District (RCCFO).

**Attachments:**    [18-21 Gray Road Retirement Community Prelim 09-20-2018](#)  
[Peer Review Gray Rd Retirement 09-13-2018](#)  
[Peer Review Gray Rd Retirement 08-17-2018](#)  
[2018\\_9\\_4 Gray Road Retirement Community Response to Comments](#)  
[Gray Road Retirement - SUBDIVISION PLAN SET 09042018](#)  
[Gray Road Retirement Community - Plan Set 2018\\_7\\_23](#)  
[Gray Road Retirement Community - Preliminary Subdivision Application 2018\\_7\\_23](#)

The Board commented:

- More clarity was needed regarding the stream vs. the wetland.
- Could run-off to the Pleasant River be minimized?
- Could you blast 14 feet from a stream; it was a concern.
- Could the foundation drains from units 4, 5, and 6 be pumped into a treatment pond?
- Could the septic be brought down a little bit to move the nitrate plume back away from the foundations and wetland.
- What was drainage length of treatment for stormwater? How likely was it to get to the river? What would the water travel through?
- What effect would blasting have on dug wells? What was Plan B if something happened to someone's well?
- Could there be connectivity to the proposed park?

- *Would the town take over the road eventually?*
- *Could blasting fracture bedrock under the wetland? How would it affect the geography of adjacent land?*
- *If the septic field couldn't be moved there should be an alternate plan.*

*Mr. Roma responded:*

- *A little over 1,500 square feet of the road had to be filled because of slope which would encroach on the wetland. This amount would not require a DEP permit.*
- *Part of the project would drain to the Pleasant River, part would drain to Black Brook or Colley Wright Brook. The last three units were on the other side of the drainage divide.*
- *There would be two stormwater filtration basins. They would install curbing, catch basins, and a formal drainage system to move water to the filter basins for treatment. Buildings would have stone lined drip edges to filter stormwater and would be connected to the storm drain system. They were collecting from all the developed area that there was*
- *They may relocate a septic system so the nitrate plume went toward the public water side.*
- *The town would not take over the road.*

- 7      [PB 18-079](#)      18-22 River Gate Estates Amendment. Jeff & Deanna Barrows to request an amendment to an approved subdivision for a lot line adjustment between Lots 5 and 6 for a 1,398 square foot land swap and to divide Lot 5 into two separate parcels. The properties in question are located at 31 and 37 Rousseau Road and identified on Tax Map: 2A, Lots: 1-5 and 1-6, Zone: Farm (F).

**Attachments:**    [18-22 River Gate Estates Amendment Lot 5 09-20-2018](#)  
[Rousseau Road - Resubmission 2018 8 6](#)  
[River Gate Estates Amended Subdivision Plan](#)  
[River Gate Estates Amend ESC Plan & Details](#)

*Bill Walker made a motion that that the subdivision application for 18-22 River Gate Estates Amendment on Tax Map: 2A, Lots: 1-5 and 1-6 was to be approved with conditions 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.*
- *This subdivision is not located over a significant sand and gravel aquifer.*

**B. WATER**

- *The new lot will served by a private drinking water well.*
- *An existing fire hydrant is located on River Road at the Rousseau Road intersection, approximately 1,200 feet from the proposed amended lot.*
- *The applicant should identify how fire protection will be provided for the new dwelling.*

**C. SOIL EROSION**

- *A surface drainage plan must be submitted as part of the Final Plan.*
- *An erosion and sedimentation control plan shown on Sheet D-1 dated September 20,*

2018 prepared by DM Roma Consulting Engineers was submitted with the Final Plan.

- Building envelopes, a tree line and any wetlands on the property are shown on the plan.
- Any runoff created by development of a new single family home on a large flat lot will not adversely impact abutting properties.

#### D. TRAFFIC

- The traffic generated by the development of one new dwelling unit will not create roadway congestion or unsafe conditions on either Rousseau Road or River Road.
- An access easement over the existing Lot 5 for the benefit of Lot 4 is shown on the plan and is currently undeveloped.
- By way of a 1,398 square foot land swap between Lot and Lot 6, access and frontage for the new lot will be provided on Rousseau Road, a paved private road.
- The existing driveway for Lot 5A is shown in an access and utility easement over the proposed lot.

#### E. SEWERAGE

- The new dwelling unit will be served by a private septic system.
- In letter dated June 28, 2018 Alexander Finamore, LSE stated that the test pit on the subject parcel contained suitable soils to support a septic system. The test pit analysis is included with the final plan submission. The pit location is shown on the plan.

#### F. SOLID WASTE

- Residents of the dwelling will participate in the Town's pay-per-bag garbage program.
- Development of these lots 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 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 11 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 Ordinance:
  - Both lots meet the minimum lot size (80,000 square feet), frontage (200 feet), and setbacks for lots in the F zoning district.
  - Net residential density calculations must be 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 must be shown on the Final 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 has demonstrated technical capacity for this project.

#### *J. RIVER, STREAM OR BROOK IMPACTS*

- The property is located in the Inkhorn Brook watershed.
- The project will not adversely impact any river, stream, or brook.

#### *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 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 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 July 7, 2018, as amended September 20, 2018, 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.

Seconded by Keith Elder.

Vote: All in favor.

- 8      [PB 18-080](#)      18-18 River Road Condos. Minor subdivision final plan review. RMILLS LLC to request review of 4 unit (2 duplex) residential subdivision. The property in question is located at River Road and identified on Tax Map: 5, Lot: 1-1, Zone: Medium Density Residential (RM) and Farm Residential (FR).

**Attachments:**    [18-18 River Road Condos Final 09-19-2018](#)  
[Peer Review River Road Condos 09-13-2018](#)  
[2018 9 4 River Road Condominium Additional Information](#)  
[River Road Condos Sub Plan Set 09042018](#)  
[R Mills River Road Condominiums Ability to Serve Determination - 2018](#)  
[River Road Property Condominiums - Details \(9-5-18\)](#)  
[River Road Property Condominiums - Grading and Utility Plan \(9-5-18\)](#)

Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- The project was four condominium units.
- They would install a water meter for public water, rather than extending the watermain.
- Their attorney had researched the claim of an existing right-of-way to adjacent properties. The attorney had reviewed all documentation and deeds and determined that the right-of-way no longer existed.
- They would add street trees, one every 50 feet.
- Assessing had to approve the road name.

*Mr. Roma agreed to add a couple of trees along the main road.*

*Bill Walker made a motion that the minor subdivision final plan application for project 18-18 River Road Condos was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria are not fully addressed.*

*Seconded by Nick Kalogerakis.*

*Vote: All in favor.*

*Bill Walker made a motion that the minor subdivision application for 18-18 River Road Condos on Tax Map: 5, Lot: 1-1 was to be approved with conditions 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.*
- *This subdivision is not located over a significant sand and gravel aquifer.*

**B. WATER**

- *All dwelling units will be served by public water from an existing main in River Road.*
- *The closed existing fire hydrant is located on River Road just to the north of the proposed subdivision across from the intersection with Jones Hill Road. Existing hydrant locations are less than 1,000 feet from the development.*
- *An Ability to Serve letter dated September 7, 2018 from Robert Bartels, PE, of the Portland Water District approves a new 2-inch service from the water main in River Road.*

**C. SOIL EROSION**

- *An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated July 23, 2018, has been submitted as part of the Final Plan. Notes and details are shown on Drawing D-1.*
- *This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance if the area of development is greater than one (1) acre. See Condition of Approval #2.*
- *A stormwater management plan has been submitted as part of the July 23, 2018 Final Plan submission. The proposed development will create approximately 15,950 square feet (0.37 acres) of new impervious area and 44,320 square feet (1.02 acres) of proposed lawn and landscaped area. The project proposes to treat the 60,270 square feet (1.38 acres) of new developed area with two (2) underdrained filter basins and a meadow buffer. The plan notes a small increase in peak flow rates at Study Point 2 during the 2-year storm but does not anticipate any increase in flooding or downstream erosion as a result of the 0.05 cfs increase. The applicant will be responsible for the maintenance of the stormwater facilities until a homeowners' association is created. Note 12 on the plan states that the meadow stormwater buffer must not be mowed more than twice a year.*
- *This project requires Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit by Rule. A note should be added to the plan that a Maine DEP Stormwater Permit by Rule is required prior to the start of construction.*

- *In an email dated July 30, 2018, Town Engineer Jon Earle P.E., noted that minor subdivisions do not require water quality calculations and a waiver for the increased peak flow is not necessary as the impact does not have a significant impact on the abutter or for erosion at this location.*

#### **D. TRAFFIC**

- *Per Section 911.M.5.a.6 (pg 9-58) access drive standards for condominium subdivisions shall meet the major private road standard (right-of-way width is not applicable).*
- *The sketch plan application states that driveway access will be built to the Minor Local Street Standard and is requesting a waiver from the requirement to build a cul-de-sac. A waiver is not required as this is an access drive, not a road, and is not subject to Section 550.C, which states that no new private road shall be permitted to directly access a public street.*
- *The site is accessed off of River Road, a paved public street. Sight distance for the new subdivision street should be shown for both directions along River Road on the Final Plan.*
- *In an email dated June 29, 2018, Town Engineer Jon Earle, PE stated that the proposed entrance is located inside of the urban compact line and the Town will issue an entrance permit. He also noted that that this section of River Road was paved in 2014 so the 5-yr moratorium on road openings will expire in 2019.*
- *The July 23, 2018 final plan submission states that the based on the ITE Trip Generation Manual the proposed 4 residential dwelling units are expected to generate 3 peak hour trip-ends and 25 daily vehicle trips.*
- *The July 23, 2018 final plan submission states that the sight distance at the proposed roadway intersection looking right is generally unrestricted to the signalized intersection with Gray Road, and looking left is approximately 620 feet to the top of a roadway crest just beyond the crosswalk for the funeral home.*
- *A road plan and profile, prepared by DM Roma Consulting Engineers, dated July 23, 2018, shown on Sheet GU-1, was submitted as part of the Preliminary Plan. The road cross section is shown on Sheet D-1.*
- *In an email dated July 30, 2018, Town Engineer Jon Earle, PE questioned how thick the base gravel will be below the proposed loam & seed top surface for the secondary shoulder, and requested that sight distance described in the narrative should be shown on the plan and that a River Road pavement restoration detail meeting the Town's standards as River Road is under moratorium until 2019.*
- *In an email dated September 13, 2018, Town Engineer Jon Earle, PE stated that the September 4, 2018 submission did not address his previous comments.*

#### **E. SEWERAGE**

- *The development will be served by one common private subsurface wastewater disposal systems.*
- *A subsurface wastewater disposal system design prepared by Alexander A. Finamore, LSE dated July 1, 2018 show that a private septic system can be supported on site. The test pit location is shown on Sheet GU-1 of the final plan set.*

#### **F. SOLID WASTE**

- *Residents of the single family dwellings will participate in the Town's pay-per-bag garbage program.*
- *Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste.*

#### G. AESTHETICS

- *The approximately 6 acre property is a field and the majority is relatively flat, sloping towards the abutting Central Maine Power transmission lines.*
- *There are no documented rare botanical features or significant wildlife habitat documented on the site.*
- *Street trees are required at least every fifty (50) feet (§ 911.E.1.b). No street trees are shown on the final plan dated July 23, 2018. Limits of tree clearing should be shown on the plan. A note should be added to the 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 existing tree line is shown on the final plan dated September 4, 2018. No street trees are shown on the plan.*

#### H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2017 Comprehensive Plan.*
- *Land Use Ordinance:*
- *The front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR. The development is proposed within the RM zone and utilizing Section 404 the Land Use Ordinance that states that where a land use district boundary line divides a parcel the regulations applicable to the less restricted portion of the lot may be extended 50 feet into the more restricted portion of the lot.*
- *The lot meeting the dimensional standards of the Medium Density Residential (RM) District (minimum 20,000 square feet on public water and 100 feet of road frontage).*
- *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.*
- *Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.*
- *Draft condominium association documents were 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.*
- *Existing easements should be shown on the plan. The July 23, 2018 final plan submission states that there are no known existing easements on the property. There is an access easement described in the deed for Map 5 Lot 1A (Book 31647 Page 89), the vacated Powder House Subdivision, that was granted to provide access over the roadway shown on the vacated Alexander Estates Subdivision.*
- *Attorney Michael Lane of Preti Flaherty states in a letter dated September 4, 2018 that after research in the Registry and reviewing the relevant deeds and plans, he concludes that there are no such easement or rights of way on the property.*
- *Others:*
- *Street Naming and Addressing: A proposed road for the subdivision road approved by the Assessing Department must be shown on the Final Plan.*
- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area. An Inspection, Maintenance & Housekeeping Plan was included with the Stormwater Management Plan.*

*I. FINANCIAL AND TECHNICAL CAPACITY*

- In accordance with Section 914, the applicant must provide a performance guarantee for an amount adequate to cover the total construction costs of all required improvements.*
- The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity*

*J. RIVER, STREAM OR BROOK IMPACTS*

- The property is located in the Presumpscot River watershed.*
- The project will not adversely impact any river, stream, or brook.*

*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 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 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 June 18, 2018, as amended September 4, 2018 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.

2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. Any person owning, operating, leasing or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year

Seconded by Nick Kalogerakis.

Vote: All in favor.

## **New Business**

- 9      [PB 18-081](#)      18-27 Heritage Village Amended Site Plan. Rich Family Limited Partnership to request review of a 3,900 square foot expansion of Building A for medical office use. The property in question is located at 4 Commons Avenue and identified on Tax Map: 14, Lot: 10A-1, Zone: Commercial 1 (C-1).

**Attachments:**    [18-27 Heritage Village Sketch 09-19-18](#)  
[Peer Review Heritage Village 09-13-2018](#)  
[2018\\_9\\_4 Heritage Villag Site Plan Amendment Sketch Plan](#)  
[Heritage Village Site Plan Sketch Plan](#)  
[Heritage Village revision 11-2005](#)

Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- The proposal was an addition that would be about 10 feet off of the right-of-way for Route 302, as allowed by recent ordinance amendments.
- The parking lot would be expanded along Commons Avenue.
- The leach field would be relocated under the parking lot.
- Existing landscaping along the building would be replaced with something comparable.
- An existing DEP permit would be amended.

Amanda Lessard said this would be the first project since C-1 and C-2 zoning amendments. In addition to a reduced front setback parking requirements had been eliminated.

The Board Commented:

- There was some concern regarding the close proximity to Route 302 because of speed and increasing use.
- There were other places to locate the addition; it should not be between the existing building and Route 302.
- In order for the applicant to meet current zoning they had the addition in front of the existing building. The Board's job was to look at it from the perspective of the ordinance and determine if the applicant had adhered to it.

Mr. Roma said locating it anywhere else would require variance from Zoning Board of Appeals.

David Douglass made a motion to have a sitewalk.

Seconded by Kaitlyn Tuttle.

Vote: Three in favor. Nick Kalogerakis, Keith Elder, and Drew Mayo opposed. The motion failed.

Bill Walker made a motion to schedule a public hearing.

Seconded by Drew Mayo.

Vote: 5 in favor. Keith Elder opposed.

- 10      [PB 18-082](#)      18-28 Nash Road Subdivision. Minor subdivision sketch plan review. Daigle Financial & Development LLC to request review of a 4 lot residential cluster subdivision. The property in question is located at 3 Nash Road and identified on Tax Map: 9, Lots: 34, 34-B1, and 34-B2, Zone: Farm (F).

**Attachments:**    [18-28 Nash Rd Sketch 09-19-2018](#)  
[Peer Review Nash Rd 09-11-2018](#)  
[2018 9 4 Nash Road Sketch Subdivision Plan Daigle Financial & Development](#)  
[Nash Rd Property Subdivision - Sketch Plan \(2018-9-4\)](#)

Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- The project had originally been designed and submitted as a private roadway extension. The roadway was now proposed at the location of the current driveway because of site distance.
- The ordinance required a certain length of tangent between curves for a major public road standard. This created an issue with the road geometry. The curves were needed to avoid creating a nonconformity with the setback for the existing house. They would request a waiver of the geometric horizontal alignment of the road.
- The roadway was relatively short and would serve four lots. There were no houses located along the cul-de-sac. The grade dropped off at the end of the road. Construction of a hammer-head would be better. They would request a waiver of the requirement for a

*cul-de-sac.*

- *There was public water approximately 400 feet away from the site on Windham Center Road. The subdivision road would be 500 feet long. It was not economically feasible to run a waterline for new house lots. Could the Board discuss a waiver request for the requirement not extend water?*

*The Board Commented:*

- *The waiver of the waterline extension needed some more thought.*
- *There was no concern about the waiver for the tangent.*
- *Without the cul-de-sac a fire truck would have to back out of the road.*
- *Driveways should not be located near the hammer-head.*
- *What was the Fire Chief's opinion regarding the waterline extension?*
- *If the waterline was not extended the houses should have sprinklers.*
- *Was the open space usable?*
- *The satellite photo showed a pond.*

*Mr. Roma replied:*

- *The open space was walkable. It was wet in lower areas. There were mature trees and not much undergrowth.*
- *There was a small pond.*

*Consensus of the Board was to allow public comment.*

*Public Comment:*

*Margaret Pinchbeck, Nash Road – The developer had clear cut the whole thing. Where the old road went in there was no erosion control and a lot of erosion. Didn't the separate lots need to be merged into one before they could be made a subdivision? The lot lines didn't follow the lines of the original lots. She would like to see the water line extended and a hydrant. If it was just to save money she did not see a reason for a waiver of public water. She was still getting debris in her well from the quarry blasting. People who lived there had to be made aware of what was there. They would feel the blasts. She didn't think enough buffer had been left.*

*Micki Van Summer, Highland Cliff and Tucker Drive – If public water was available why not do it. Colley Wright Brook and Black Brook were both impaired and right down the street. They had to look at the future. With more development there would be more problems with water quality.*

*Dennis Hawkes, an abutter – The pond was his. He was more concerned than the Board could imagine. Everything would run-off into the pond. Eventually it would go to the streams. There was a ton of wildlife and lillies there. It had been in the family for generations.*

*There was no more public comment.*

*The Board requested that the applicant put erosion control measures up immediately.*

*Mr. Roma stated:*

- *The applicant had put the erosion control measures up.*
- *Lots 1, 3, and the existing house drained toward Nash Road. Lot 2 drained toward the pond.*
- *Combining the original lots had already been addressed by the Code Enforcement office. The lot lines didn't follow the original lines because it was a new subdivision with*

*new lot lines.*

*Bill Walker made a motion for a sitewalk.*

*Seconded by Nick Kalogerakis.*

*Vote: All in favor.*

*Bill Walker made a motion for a public hearing.*

*Second?*

*Vote: All in favor.*

- 11      [PB 18-083](#)      18-29 Babbidge Farms Subdivision. Major subdivision sketch plan review. Sebago Heights, LLC to request review of a 13 lot residential cluster subdivision. The property in question is located at Falmouth Road and identified on Tax Map: 13, Lot: 44, Zone: Farm (F) and Stream Protection (SP).

**Attachments:**    [18-29 Babbidge Farms Sketch 09-19-18](#)  
[2018\\_9\\_4 Babbidge Farms Sketch Subdivision Plan Application](#)  
[Babbidge Farms Subdivision-Sketch Plan \(2018\\_9\\_4\)](#)

*Bill Walker recused himself from the project because a family member owned abutting land and was in negotiations with the developer.*

*Dustin Roma, of DM Roma Consulting Engineers, was present representing the applicant. He explained the project had been before the Board before.*

- *They had made alterations to what was previously proposed because of the Highland Lake moratorium and ordinance changes.*
- *Phosphorous calculations were revised based on a 1,000 foot roadway and 13 lots.*
- *The roadway would intersect Falmouth Road in the same spot as previously proposed. It provided adequate site distance.*
- *There were no proposed wetland impacts.*
- *Public water would be extended through the project; a hydrant would be installed.*
- *Stormwater calculations were done.*
  - o *There would be three stormwater filters. One, near McIntosh Brook, would treat stormwater from project and pick up water from Falmouth Road.*
  - o *Some forested stormwater buffers would be located to the rear of the cul-de-sac lots.*
  - o *Each lot would have limits on clearing and impervious area.*
  - o *They would obtain a DEP stormwater permit.*
- *In addition to DEP and Board review the Town has would require an independent engineering firm for third party review.*
- *Their intent was to turn the road over for public acceptance.*
- *Approval was required from Portland Water District.*
- *The plan exceeded the open space requirements.*
- *A right-of-way over the existing woods road would go to the back of the property.*
- *No land disturbance was proposed within in 100 feet of McIntosh Brook.*
- *There were ample soil profiles throughout the property.*

*The applicant had waiver requests:*

- *High intensity soil survey – There were test pits throughout the site. The lots would*

*be served by public water. A nitrate analysis had been completed. Open space and wetlands would interrupt any groundwater flow from the property. They did not anticipate any abutter impacts from nitrates. Results of the nitrate analysis would not affect septic system locations on the lots.*

- Sidewalks and shoulder performance standard – They were balancing public safety and maneuverability, and protecting the watershed. He thought the project was a good candidate for a 24 foot pavement roadway width with gravel shoulders, loamed and seeded. They were asking for waiver of the road width requirement so as not to have to widen the pavement and to add a sidewalk.*

*Drew Mayo made a motion to have a site walk and a public hearing.*

*Seconded by Nick Kalogerakis.*

*Vote: All in favor.*

*The Board commented:*

- More detail about the road and stormwater was needed.*
- Keep septic away from anything that would feed Highland Lake.*
- What were the cutting limits on the lots?*
- Not inclined to give way on any safeguards.*

*Mr. Roma responded:*

- They had to provide road frontage for the lots. If they increased the road length the phosphorous would increase also.*
- Property owners couldn't cut unless the DEP permit was amended.*

## **Other Business**

### **12 Adjournment**

*Nick Kalogerakis made a motion to adjourn.*

*Seconded by Bill Walker.*

*All in favor.*