

LONDONDERRY, NH PLANNING BOARD
MINUTES OF THE MEETING OF DECEMBER 11, 2019, AT THE MOOSE
HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Mary Wing Sores, Vice Chair; Rick Brideau, Ex-Officio – Town Employee; Giovanni Verani, Ex-Officio – Town Manager; Al Sypek, member; Jake Butler, member; Ann Chiampa (alternate member); and Roger Fillio (alternate member)

Also Present: Town Planner Colleen Mailloux; John Trottier, P.E., Assistant Director of Public Works & Engineering; Associate Planner Laura Gandia and Beth Morrison, Recording Secretary

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He appointed A. Chiampa to vote for C. Davies and R. Fillio to vote for S. Benson.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES: N/A

B. REGIONAL IMPACT DETERMINATIONS: N/A

C. DISCUSSIONS WITH TOWN STAFF:

Town Planner Mailloux told the Board that she has received some phone calls today from residents regarding trees being cut down at the Woodmont subdivision (WC-4 & WC5) on Gilcreast Road. She explained that they are in compliance with the approved PUD Master Plan, as they have taken out the third row of trees and are replanting them in the spring. M. Soares asked what the recourse would be if they inadvertently take out more trees than they are supposed to. Chairman Rugg said that he does not believe there are any provisions for recourse and would have to get the Code Enforcement Officer involved. He told the Board that Peter Commerford an alternate member of the Board has decided not to seek reappointment to the Planning Board and the Southern New Hampshire Planning Board, where he is also an alternate member. He thanked Peter for his service on the Planning Board.

III. Old Business

- A. Application for formal review of a lot line adjustment and subdivision to adjust the lot line between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria F. Jones (Owners) and subdivide the adjusted parcel to create 9 residential lots, 23 Wilson Road,

Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership
(Owner and Applicant) - continued from November 13, 2019

Chairman Rugg read the case into the record noting it was continued from November 13, 2019, as well as several other times throughout the year. Jake Butler recused himself from this case. John Trottier pointed out that the Board accepted the application as complete on June 12, 2019, and stated the applicant is requesting a number of waivers for which Staff recommends the Board defer action on at this time. Town Planner Mailloux told the Board that the last hearing for this case was on October 9, 2019, where the applicant requested a continuance to allow time to further discuss the required improvements to Wilson Road with Staff and the Town Attorney. She said that they did receive a submission on November 21, 2019, that consisted of planned improvements to Wilson Road for discussion with the Board. She noted that no submissions to address the outstanding engineering and design review comments since August 7, 2019, have been received. Paul DeCarolus, Esq. from Gottesman & Hollis, 39 E Pearl St., Nashua, NH, addressed the Board. P. DeCarolus told the Board that the traffic engineer for the project spoke at the last Planning Board meeting noting that the plan with the additional eight lots on Wilson Road is safer than a no build situation. He said that the Board had concerns about what the Fire Department thought of this and the applicant has since filed a letter from Brian Johnson, Division Chief, Londonderry Fire Department on October 29, 2019. He noted that the letter from Brian Johnson stated the Fire Department is in support of modifications to Wilson Road that would provide the 20-foot wide minimum roadway with proper curves to accommodate the fire truck apparatus. He commented that Janus Czyzwowski, Director of Public Works and Engineering, has stated publicly that the problem with Wilson Road is there is not enough road width to make the improvements needed. He said that land from the abutting property owners would need to be acquired to make the improvements. He stated that with the latest Wilson Road improvement plan submitted to the Board the applicant is trying to solve the problem for the Town by having a total of 50-foot right-of-way on the westerly side by moving the lot lines back. He pointed out that there is additional work that needs to be done on the plan, such as drainage calculations and roadway construction details, before the applicant can receive final approval from the Board. He said that the applicant is asking for feedback from the Board tonight, for the issue of building this road to a full Class V town standard, as they believe it is unfair, as the Town has had problems with Wilson Road for years. He told the Board that the applicant tried to meet with the Town Attorney, but the Town Attorney did not want to meet with the applicant.

Bernie Temple, Rokeh Consulting, LLC, 89 King Road, Chichester, NH, addressed the Board. B. Temple told the Board that they have tried to keep all the improvements on the owner's side of property. He reviewed the Wilson Road improvement plan with the Board. He said that they are matching the existing vertical profile of the existing roadway and providing a 20-foot wide paved area with two-foot shoulders on the owner's side. He reviewed sight distance on the roadway with the Board.

Chairman Rugg opened it up to Staff. John Trottier commented that as presented,

the proposed plans would add pavement (varying between 0-12 feet in different cross sections) to the existing pavement of Wilson Road to achieve a total paved width (new and existing pavement) of 20 feet along the frontage length of Wilson Road. He explained that the submitted design is absent of a number of required checklist items needed in order to complete a full assessment of the design, but as presented Staff has determined that the proposed design does not comply with/would require waiver of the following Subdivision Regulations:

- Section 3.09.A- All subdivisions shall have adequate provision for a safe and suitable access....

- Section 3.09.I – Curbing

- Section 3.09.J – Roadside drainage

- Section 3.09.R Table 1 – Pavement Width

- Section 3.09.R Table 1 – Shoulder Width

- Section 3.09.R.5 – Sight Distance

- Section 3.09T – Structural Section

He said it is likely that additional waivers of the following sections of the Subdivision Regulations may also be required; however, without a complete submission, this cannot be ascertained:

- Section 3.09.R Table 1 – Minimum Tangent Length

- Section 3.09R.1 – Vertical Curve

- Section 3.09R.2 – Horizontal Curve

He explained that the proposed construction means and methods (i.e. presumably saw cutting the existing pavement, adding a varying width section of new pavement abutting the existing pavement section) is not a traditionally acceptable construction method and presents long-term maintenance challenges. He stated that Staff does not believe that the proposed improvements are acceptable to provide a safe and suitable access to the site in compliance with the regulations. He said that based on the information available to date, Staff recommends that the Planning Board deny this application. Town Planner Mailloux offered that Brian Johnson, Division Chief for Londonderry Fire Department, is in the audience this evening if the Board has questions. Chairman Rugg requested Brian Johnson speak to the Board regarding the letter written to the applicant.

Brian Johnson, Division Chief Londonderry Fire Department, addressed the Board. B. Johnson told the Board that the Fire Code covers Fire Access pointing out this is a bare minimum used for fire lanes. He told the Board that Londonderry regulations require more than this. He stated that the Londonderry aerial fire truck is 18-feet wide when fully set up, so with a 20-foot roadway this leaves a foot on either side to work off using the aerial truck, which with winter weather is not a safe working environment. He explained that the Fire Department wants 24-feet wide roads on one-way roadways and 28-feet wide roads for two-way roadways. He noted that the Fire Department would like to see improvements on Wilson Road and questions if patching the current roadway would be enough to withstand the weight of the fire trucks.

Chairman Rugg opened it up to the Board for questions. R. Fillio asked about line of sight given the speed of 35 mph on Wilson Road. J. Trottier stated that Staff starts with the design standards and works with the applicant once they have geometry

on a plan to see how close they can get to this. R. Fillio asked about patching of the roadway versus adding a new roadway. J. Trottier stated that there are certain areas of Wilson Road where there is not 20-feet wide and they would be adding pavement to those sections. M. Soares asked B. Johnson about water supply that was mentioned in his letter to the applicant. B. Johnson told the Board that when three homes are added, code considers this a development and they need to supply the Fire Department with a water supply, such as a hydrant system, cistern or residential sprinklers. Robert Deegan, S & H Land Services, 1600 Candia Road, Manchester, NH, addressed the Board. R. Deegan noted that all the houses proposed for this subdivision will have residential sprinklers.

Chairman Rugg opened it up to the public.

Deborah Stewart, 40 Wilson Road, addressed the Board. D. Stewart told the Board that she has spoken at every meeting against the plan and is still against the plan. She said she does not think it would be prudent to have more homes placed on this road given the roadway conditions and traffic concerns.

Ron Stewart, 40 Wilson Road, addressed the Board. R. Stewart told the Board that he observes multiple people traveling down the road at very high speeds, going to the wrong way and box trucks, which are not allowed.

Jake Butler, 86A Adams Road, addressed the Board. J. Butler expressed his opinion that the latest Wilson Road improvement plans are making the roadway wider, safer and easier for a fire truck to maneuver on the road. He expressed his belief that it is wrong to hold this plan to a Class V road standard, as there is currently no one-way road standard in Londonderry. He asked if the Planning Board could come up with a middle of the road solution for the applicant to be able to build. Chairman Rugg told him that if a one-way standard could be created, it would take time and working with Staff, as the Board's duties are to protect the welfare, health and safety of the public. He also said that part of the Board's duties are to protect the fiduciary responsibilities of the Town as well.

Brian Johnson, Division Chief of Londonderry Fire Department, addressed the Board. B. Johnson told the Board that the Fire Department would be more supportive if the roadway was going to be a 22-foot or 24-foot wide new roadway. He said that by adding pavement to one side, does not mean the roadway will withstand the weight of a fire truck.

Charlie Evans, Evans Family Limited Partnership, addressed the Board. C. Evans told the Board that he submitted a proposal to Department of Public Works (DPW) to make Wilson Road one-way only with no through traffic. He said that the traffic study they submitted showed that 90% of the traffic on Wilson Road was through traffic.

Chairman Rugg brought the discussion back to the Board at this point. He noted that Staff is recommending a denial of this application. He said that if the Board did continue the application, he feels there would need to be re-notification to the

abutters, as this application has gone on for a long period of time. Town Planner Mailloux stated that if the Board were to continue this application, she would want the Board to be very specific in what they want Staff and the applicant to do to come to a resolution. Chairman Rugg commented that if this was continued he thought it would be contingent on Staff coming up with specs for a one-way road. Town Planner Mailloux pointed that she does not feel it would be procedurally correct for the Board to continue this application in order to allow the Town time to draft a new regulation, as the application was submitted under the current regulations.

Chairman Rugg opened the discussion back up to the public.

Charlie Evans, Evans Family Limited Partnership, addressed the Board again. C. Evans said that he is looking for the Board to give him some direction on what he can do to make this road reasonable, as it is not going to be a full Class V build out at this time.

Chairman Rugg brought the discussion back to the Board, as there was no further public input. He told C. Evans that the Board does not like to operate in gray areas, as they do not know what the risks might be. M. Soares asked J. Trottier if an applicant has ever been allowed to make improvements to the section they are working on or would an applicant have to improve the whole roadway. J. Trottier told her that it depends on the roadway itself and gave her an example. M. Soares commented that the Board would be setting a precedent, as Wilson Road is a Class V road now. She said that she would be uncomfortable setting this precedent to allow similar situations like this in town. P. DeCarolis respectfully disagreed with M. Soares, as he felt Wilson Road is very unique and has been documented in the minutes of the Traffic Safety Committee for at least 13 years that he is aware of. G. Verani asked if the applicant could withdraw the application without prejudice. Town Planner Mailloux answered that the applicant could withdraw the application. C. Evans stepped to the back of the room to confer with P. DeCarolis and B. Temple. P. DeCarolis told the Board that the applicant would like a 60 or 90-day continuance subject to abutter notification. M. Soares asked what purpose the continuance is for. P. DeCarolis told her the continuance was to submit additional documentation. M. Soares added that the case has been continued four times. A. Chiampa asked what the ramifications would be if the application was denied. Town Planner Mailloux told the Board that the applicant could appeal the Board's decision to Superior Court or go back to design review and submit a new application. A. Chiampa asked if the Town was going to look into designing standards for a one-way road. Town Planner Mailloux said that if the Board believes it is appropriate to have a standard for a one-way road, Staff would work on this.

M. Soares made a motion to deny the application for a lot line adjustment between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria F. Jones (Owners) AND subdivision to create 9 residential lots, 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited

Partnership (Owner and Applicant) as shown on the plans prepared by S&H Land Services dated June 19, 2018, last revised July 16, 2019 as the Applicant has not demonstrated compliance with the following:

1. Section 3.09 of the Subdivision Regulations which states that "all subdivisions shall have adequate provision for safe and suitable access to a Class V or better road or shall make provisions for the construction and dedication of a Class V or better road... where an adjacent existing street from which access is gained is deemed to be substandard, the upgrading of said street shall be provided for, as may be required by the Town of Londonderry Department of Public Works."

2. Section 3.08 of the Subdivision Regulations - Stormwater Management (per the 8-7-2019 engineering review memorandum)

3. Section 3.09.R of the Subdivision Regulations for Roadway Design Standards (per the 8-7-2019 engineering review memorandum)

4. Section 4.6.1.4 of the Zoning Ordinance which requires a Conditional Use Permit be obtained for work within the Conservation Overlay district.

5. Section 4.2.1.3.A.4.j of the Zoning Ordinance which requires lot size calculations to exclude the area of drainage easements when demonstrating minimum lot size.

6. The Applicant has not provided lot sizing calculations to demonstrate that the remainder parcel, proposed Map 16 Lot 9, meets the lot sizing requirements of Section 4.2.1.3.A.4 of the Zoning Ordinance.

R. Brideau seconded the motion.

The motion was granted 5-2-0. The Chair voted in the affirmative.

IV. New Plans/Public Hearings

- A. Application for an amendment to a conditionally approved site for site preparation, grading and drainage improvements, 14 Page Road and 280 Rockingham Road, Map 17 Lots 45-4 and Map 17 Lot 45, Zoned IND-I, Evans Family Limited Partnership (Owner & Applicant)

Chairman Rugg read the case into the record. G. Verani recused himself for this case. J. Butler came back to the Board for this case. Earle Blatchford, Project Engineer, 3 Congress Street, Nashua, NH, addressed the Board. E. Blatchford told the Board he is requesting an amendment to the current site plan and the conditional use permit (CUP), which were granted in April of this year. He said they have obtained the wetland permit and Alteration of Terrain (AOT) permit from the state. He explained that the amendment is for the relocation of the proposed gravel haul road. He noted that they are proposing to have a temporary gravel haul road about 300 feet closer to the signalized intersection, where it is wider on Page Road when the Page Road/Rockingham Road signal was installed a few years back. He

commented that the pavement at this part of Page Road is 24-feet plus in width and is more appropriate for truck traffic that is anticipated for this site preparation project. He told the Board that one of the conditions from the April meeting with the Board was working out any necessary Page Road improvements. He said that they had discussions with J. Trottier about this and having the driveway at the approved location would require widening Page Road about 300 feet with shoulder improvements on both sides. He explained that the applicant would prefer not to do these improvements at this time because when the site is developed in the future, water, sanitary sewer and natural gas would need to be extended to Page Road at the site. He noted that when this happens, it would entail rebuilding Page Road and the applicant wishes not to spend unnecessary money widening Page Road knowing that it will be torn up in the relatively near future. He said that one improvement that J. Trottier requested was 300 feet of shoulder improvements, which are noted on the plan. He said that they have the wetlands permit from the state to put in the culvert for the permanent driveway and they would like to do this so they do not lose this permit, as it took two years to get through the state's wetland approval. He pointed out the plan shows the culvert being installed in Phase 1 of the project with a stipulation that there will be no tree cutting within the right-of-way and no access to Page Road at this location. He told the Board they would be back before them with a new site plan application for a future development at this site with a permanent driveway location for the Board. He said that the amended gravel haul driveway location will have the same 24-inch reinforced concrete pipe that they have on the permanent driveway location. He said that the amended location pulls the intersection about 300 feet further to the west away from the few residential homes on the site preparation phase. He said there are additional 2,900 SF wetland impacts and about 14,000 SF of additional buffer impact. He noted that 7,600 SF of this is part of the CUP amendment. He told the Board that Bruce Gilday, Wetland Scientist for the project met with the Conservation Commission last night to address this.

Chairman Rugg opened it up to the Board for questions. Town Planner Mailloux said that there are no outstanding checklist items and recommends the applicant be accepted as complete.

M. Soares made a motion to accept the application as complete.

R. Brideau seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the 65-day time period had started. Town Planner Mailloux reviewed the Conservation Commission comments stating that while the applicant has not met the third and fourth criteria for granting a CUP, this can be remedied if the temporary access is removed and restored, including the removal of the existing 15-inch culvert on the site when the future driveway access is available. She said Staff included a recommended condition of approval that a restoration plan be provided to the satisfaction of Staff and engineering review for

the removal of the temporary access drive and existing culvert. E. Blatchford pointed out that the existing 15-inch culvert is on a woods road. Town Planner Mailloux asked if E. Blatchford had any reservations on the removal of the 15-inch culvert. E. Blatchford said he did not once the new driveway is established. J. Butler asked how far it is from the intersection. E. Blatchford said it is 200 feet and reviewed the traffic impacts on the site plan. Chairman Rugg asked the time frame as this is temporary. E. Blatchford responded that it depends on several factors, such as a prospective buyer for the site. He noted that they have a five-year plan for this, but said they are fluid in nature.

Chairman Rugg opened it up to the public.

Giovanni Verani, 73 Page Road, addressed the Board. G. Verani asked if a time frame could be put on this. He presented pictures to the Board of the existing site that have multiple jersey barriers, cranes and excavators that have been going on for years and does not believe the applicant has approvals for this. Chairman Rugg noted that code enforcement is involved now. G. Verani said in his opinion, he believes there should be a time frame, for the residents who live on this road and have to view the site daily. Chairman Rugg said a time frame would be difficult. G. Verani reviewed pictures of where the proposed driveway is located with the Board noting an elevation that might block the line of sight for people driving on this road. E. Blatchford also added that they are prepared to address these issues when they come in for the future site plan.

Ray Breslin, Three Gary Drive addressed the Board. R. Breslin asked if the applicant would have to file for a mining permit. Town Planner Mailloux said they would have to file with assessing for the materials that are being removed from the site. She said they are here for a site plan preparation at this site. R. Breslin said there is no current plan for down the road and asked what the future would hold. E. Blatchford said that they are preparing the site now, as it needs to be regraded to be more conducive for an industrial buyer. He noted that this land has been on the market for several years and the applicant needs to rework the land for a suitable buyer. He said that there will be material removed from the site for this. R. Breslin said he believes this should be filed as a mining operation. Town Planner Mailloux commented that the code enforcement officer has made the determination that this is a site plan preparation not an excavation operation. She said that as far as filing for tax purposes that would be handled by the Assessing Department. R. Breslin asked if it was a state permit for mining. J. Trottier said it was not a state permit. R. Breslin asked if Page Road is a town road. Chairman Rugg said it was. R. Breslin said that there are some roads in town that do not meet current standard and stated that the Town should correct this problem. Chairman Rugg said that when the site plan comes before the Board, these issues will be discussed.

John Weigler, Page Road, addressed the Board. J. Weigler asked how many acres on the parcel would be graded. E. Blatchford said 40 acres would be graded noting the total parcel is 200 acres in total. Town Planner Mailloux reviewed the plan with him. J. Weigler asked if there was sewer, water and natural gas on Rockingham Road. E. Blatchford said that there are sleeves currently on Rockingham Road from

when the signal went in, so they will not need to open cut Rockingham Road, but rather use the sleeves. J. Weigler said that he believes the applicant should upgrade the road to the extent of the applicant's property, as there might be more traffic and many trucks due to the future development on the site.

Charlie Evans, Evans Family Partnership, addressed the Board. C. Evans said that the site is not pretty, as it is an industrial site. He said that once the site is done and complete, it will help generate money to the tax base of Londonderry.

John Weigler, Page Road, addressed the Board again. J. Weigler said he is in agreement with C. Evans that the parcel should be developed and get the tax benefit for the town, but reiterated he should widen the road.

Ray Breslin, Three Gary Drive, addressed the Board again. R. Breslin said that this is an ideal location for an industrial property to be developed. He said he has a problem with the road and does not think the applicant should haul away gravel from the site, but use it on the site.

Chairman Rugg brought the discussion back to the Board, as there was no further public input. M. Soares asked about putting a time frame on the site plan preparation. Town Planner Mailloux reviewed the statutes, noting there is a five-year limit based on the AOT permit. J. Butler asked if the improvements would take place regardless. J. Trottier said that the off-site improvements will be done.

M. Soares made a motion to grant the applicant's request for a conditional use permit as outlined in the Staff Recommendation Memorandum dated December 11, 2019.

R. Brideau seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

M. Soares made a motion to approve the amendment to the conditionally approved site plan for preparation, grading and drainage improvements, 14 Page Road and 280 Rockingham Road, Map 17 Lots 45-4 and Map 17, Lot 45, Evans Family Limited Partnership (Owner & Applicant) in accordance with plans prepared by Hayner-Swanson, Inc., dated October 1, 2018, last revised October 22, 2019, with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated December 11, 2019.

R. Brideau seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

432 **1. All of the general and subsequent conditions of the April 3, 2019**
433 **Notice of Decision shall be satisfied.**

434
435 **2. A restoration plan be provided, to the satisfaction of Staff, for the**
436 **removal and restoration of the temporary access drive and existing**
437 **culvert.**

438
439 **V. Other – N/A**

440
441 **VI. Adjournment**



442
443 **Member M. Soares made a motion to adjourn the meeting at**
444 **approximately 8:52 p.m. Seconded by R. Brideau.**

445
446 **The motion was granted, 8-0-0.**

447
448 **The meeting adjourned at approximately 8:52 PM.**

449
450 These minutes were prepared by Beth Morrison.

451
452 Respectfully Submitted,

453
454
455 Name: 
456 Title: 

457
458 These minutes were accepted and approved on January 8, 2020, by a motion made by
459 R. Brideau and seconded by T. Combes.