

**Town of Boscawen  
PLANNING BOARD  
Boscawen Municipal Complex  
FINAL MEETING MINUTES  
Tuesday, February 7<sup>th</sup>, 2023**

**Members Present:** Mark Varney—Chair; Loren Martin—Vice Chair; Barbara Randall; Roberta Witham; Rhoda Hardy; Lorrie Carey—Alternate Ex-Officio

**Members Excused:** Gary Tillman

**Members Absent:** Paul Dickey—Ex-Officio

**Staff Present:** Kellee Jo Easler—Planning and Community Development Director; Kearsten O’Brien—Deputy Planning & Community Development Director; Kara Gallagher—Planning & Community Development Assistant; Alan Hardy—Code Enforcement Officer; Tim Kenney—Fire Chief

**Guests:** Eric Munro—Building & Loan Development, LLC; Spencer Tate—Meridian Land Services; Tim Bernier—T.F. Bernier, Inc; Neil Arruda—Operations Manager of Materials Division for GMI Acquisition, LLC; Nick Golon—TF Moran Inc.; David Caron—Norac Enterprises; Kevin Leonard—Northpoint Engineers;

**Abutters:** Sam Poulin, 76 Water St; Jim Colby, 342 High St; Michael Garvin 287 Queen St

**Public:** Tracy Huckins, Tracy Bartlett, Andrew Morrill, Bill Bevans, Joe Schmidl—Salisbury Planning Board Chair

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Chair Varney opened the Public Meeting at 6:30 p.m.

PCD Assistant Gallagher completed roll call.

**Minutes:**

Mr. Tillman requested one change before the meeting as he would not be present:

- Line 30: Change “7:00 p.m.” to “6:30 p.m.”

**Mrs. Randall motioned to accept the 01.03.23 draft minutes. Seconded by Vice Chair Martin. All in favor. None opposed.**

**Old Business:**

Class VI Roads: Code Enforcement Officer Alan Hardy mentioned that a packet of information was sent to the board members prior to the meeting that discussed whether construction of new structures or new homes is allowed on Class VI roads and/or private roads in Boscawen. He said the town has not allowed this for many years mainly because of life safety, fire department access, etc. But given the need for housing and an enforcement action that had been brought up recently, CE Officer Hardy went before the Select Board about this topic and the Select Board asked him to have the Planning Board discuss the process. In the NH Planning and Zoning Land Use Regulation book, under Chapter 674:41, Erection of Buildings on Streets; Appeals, the Select Board can trigger the process under an individual basis to allow the construction of homes on Class VI and private roads. Towns surrounding Boscawen already do this. In order to allow this to proceed, the Planning Board would advise the Select Board on a case-by-case basis as to their recommendation. He said this will be a long process because there are major issues to discuss, including, but not limited to, safe access to these roads. He said Boscawen has a fair amount of roads in various conditions, and many of them travel east/west versus north/south. He asked how the Board would like to proceed with the conversation. Ex-Officio Carey suggested going on a site walk to check the conditions of the various Class VI and private roads. Chair Varney suggested the Select Board, CE Officer Hardy, Fire Chief Kenney, Police Chief Wyman, and Public Works Director Hollins join the site walk, so that the Board may gather a list of pros and cons. CE Officer Hardy said there may be a hybrid option. The Public Works department cannot maintain a Class VI road without triggering a responsibility to bring the road up to Class V standards, but there is an interim step of using an Emergency Lane Declaration. This has been used on B.E.S.T. Ave and Chadwick Hill Road to allow for maintenance or emergency access of a section of the road. Vice Chair Martin asked if the Board should look at liability waivers. CE Officer Hardy said that would be a part of the process for allowance of construction. The Board will organize a site walk with the mentioned parties to be determined.

Public Hearing-Continuation of an Application for a Major 4-Lot Subdivision Map 94 Lot 23:

PCD Assistant Gallagher read the following: Notice is hereby given in accordance with **NH RSA 676:4, I, D1** and the **Town of Boscawen Land Development Regulations** that the **Planning Board** will meet on **Tuesday, December 6, 2022 after 6:30 PM at the Boscawen Municipal Complex, 116 North Main St**, during a *regular meeting* of the Board to hear an **Application for a Major 5-Lot Subdivision Application submitted and owned by Building and Loan Development LLC of 23 Bush Hill Road, Kinnelon NJ, 07405 with a location of Map 94 Lot 23, 477 High Street, located in an AR zone**. Upon a finding by the Board that the application meets the submission requirements of the Zoning Ordinance and the Land Development Regulations, the Board will vote to accept the application as complete and a Public Hearing on the merits of the proposal may follow. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

Chair Varney stated that the Board will only hear testimony pertaining to the current application for the 4-lot subdivision. Any other discussion regarding future plans of the property will need to wait until a time that an application is submitted.

**Chair Varney opened the continuation of the Public Hearing at 6:43 p.m.**

Vice Chair Martin asked if the town's lawyers had responded to the clarification if this application was for a major or a minor subdivision. PCD Director Easler said it was deemed a major subdivision.

Chair Varney stated that the continuation was due to the need of notification to Salisbury for determination of regional impact. He asked PCD Director Easler if Salisbury had been notified. She said yes. Chair Varney asked if Salisbury had responded. PCD Director Easler said no response had been received. It was up to Salisbury to respond and because there was no response prior to this meeting, it will be considered that there was no comment by the Town of Salisbury for regional impact. The Merrimack County Registry of Deeds may require signatures of the Salisbury Planning Board on the recorded plan, but PCD Director Easler will verify.

**Vice Chair Martin motioned that there is no regional impact. Seconded by Mrs. Randall. All in favor. None opposed.**

Chair Varney asked the applicant if there were any updates. Mr. Tate said there were a few minor updates. He and Mr. Munro attended Salisbury's Planning Board meeting on January 16<sup>th</sup>. The Salisbury Fire Chief had a couple of remarks at the meeting. He seconded comments made by Fire Chief Kenney regarding fire response, access, and mutual aid. The Salisbury Fire Department would likely be the first to respond, so they would like to be included on the future fire design. A draft cistern design was sent out to both Fire Chiefs to illicit comment. The applicants have yet to receive any comments regarding the draft design. Fire Chief Kenney said that he looked over the draft design and his comment was that he is not a licensed fire protection engineer, therefore he is not qualified to state whether the design is sufficient or not. The design would need to meet the requirements of NFPA-1 and will require approval and a stamp from a licensed FPE.

**Chair Varney asked if there were any comments by abutters for or against.**

Tracy Huckins of Loudon, felt as though the applicants asked for waivers on a majority of the requirements for a major subdivision. She asked for clarification of whether the applicants would be required to follow through on the requirements. Chair Varney responded that the Board would go through the waivers and either approve or deny each. She also asked for clarification as to why the Board does not want to consider the whole project at this time. She said Mr. Tate stated that this 4-lot subdivision is a small piece of a larger project at the last meeting. Vice Chair Martin said because they have only seen conceptual plans for the other part of the property, but no actual application, they cannot tell the applicants what they can and cannot do with their property. They can only speak to the application that has been submitted. Ms. Huckins said that the Technical Review Committee told the applicants to apply for the 4-lot subdivision instead of the project as a whole. Chair Varney clarified that the TRC told the applicants that they could not have a mixed application, because the application they were considering would have been for a conventional subdivision and a cluster subdivision. Ms. Huckins expressed concerns about the company that owns the property and said they do not care about Boscawen or its residents. She also expressed concerns about the zone being Agricultural Residential, and that this subdivision would go against the values of that zone. She quoted a sentence in the Zoning Ordinance that states "The A-R zone is intended to discourage the scattered intrusion of uses not compatible with a rural environment." She believed this subdivision would reflect that statement.

Samantha Poulin, of 76 North Water Street, asked if the proposed lots will meet the AR zone requirements. Mr. Tate said yes, they do. She asked what the lots sizes would be. Mr. Tate replied with the acreage listed on the plans, and provided Ms. Poulin with a set of plans.

James Colby, of 342 High Street, said although it has never been found, there is historic documentation of a graveyard within the property lines of Map 94 Lot 23. He asked what would happen if that graveyard is found once construction begins. CE Officer Hardy said that if evidence of the graveyard was found, the construction would immediately stop and a State of NH Archeologist must be contacted. That would be made a condition of approval.

**Chair Varney asked if there were any comments by public for or against.**

Joe Schmidl, Salisbury Planning Board Chair, expressed gratitude that the Board had been considering the application to be of regional impact. He then said he was surprised to hear the motion made tonight that it would not be considered of regional impact. He said 4 new lots right on the Salisbury line will affect the Fire Department and first responders as they will most likely be the first on scene in the case of an emergency. He said no decision was made at their last meeting because they were waiting to hear if the application was going to be considered a major or a minor subdivision. Because they do not know what the future development may look like, they felt it was premature to make any decisions. Chair Varney said whether the application was going to be considered minor or major should have had no effect to the determination of regional impact. Because there was no feedback, to the Planning and Community Development Office, from the Town of Salisbury, the Board can move forward by statute. Mr. Schmidl referenced the minutes of their meeting for further inquiries.

Bill Bevans, of 416 High Street, expressed concerns about the potential future owners of the proposed lots. He felt they may complain about the chicken farm owned by Thomas Giovagnoli at 468 High Street, which is directly across from the proposed lots. He said this happened in Auburn to another farmer. In response to many complaints from neighbors, that farm was shut down. He does not want to see this happen to Mr. Giovagnoli's farm. Mr. Giovagnoli was not at the public hearing to speak either for or against the project.

Andrew Morrill, of 43 Long Street, said he believed that it is a concern any time a large development moves into an agricultural zone. He has experienced similar situations as what Mr. Bevans spoke about at his own farm from neighbors who moved in after the farm was already operational. He said that if the Board is going to allow these subdivisions to happen, they should stand up for the residents that were in the zone first.

**Chair Varney asked if there were any comments by staff.**

PCD Director Easler stated that an easement for the common driveway for 94/23/2 and 94/23/3 prior to a building permit should be made into a condition of approval. She told the Board to refer to the Potential Conditions of Approval listed by Central NH Regional Planning Commission. Chair Varney said the town would not issue driveway permits for these lots because High Street is a state road, therefore the state would issue the permits. The Board could

make a recommendation to the state. PCD Director Easler requested that the applicant give a copy of all documents to the town to be kept as a record.

Ex-Officio Carey asked if the draft cistern design provided by the applicant to the Fire Chiefs should be reviewed by the town engineer. Fire Chief Kenney said it is a major subdivision requirement that it is reviewed by a licensed FPE. That would be made into a condition of approval.

Ex-Officio Carey commented that this property has one of the most scenic views in town. She encouraged the applicants to go onto Charlie Niebling's preserved land to witness the view for themselves. She hopes they will keep this view in mind as they choose to develop the land.

**Chair Varney closed the Public Hearing at 7:18 p.m.**

The Board reviewed the waivers submitted by the applicant and the waiver justification letter submitted by Meridian Land Services, Inc.:

**#8-Vice Chair Martin motioned to accept the waiver. Seconded by Mrs. Randall. All in favor. None opposed.**

**#10-Chair Varney motioned to deny the waiver. Seconded by Ex-Officio Carey. All in favor. None opposed. A certified letter and a stamped design from a licensed FPE that meets NFPA-1 is required.**

**#22, #31, #32, #35, #36, #37, #38, #40, #41, and Supporting Documentation for Impact Reports-Not applicable.**

Chair Varney stated that if there are any changes with the waivers that are currently not applicable shall come back to the Planning Board. Fire Chief Kenney said that the 4-lot subdivision itself would not need the cisterns, it would be required for the houses that are built. The licensed FPE would need to see the house plans and then will determine the size of the cistern. Mr. Tate asked that the notice of decision be clear that a cistern is not required for each home built. Fire Chief Kenney agreed with Mr. Tate that it should not be for each home, but one cistern for the homes in this 4-lot subdivision. The condition should read, "one cistern for all homes on the 4-lot subdivision, to follow the size requirements of NFPA-1." Fire Chief Kenney said that there will also need to be an easement for the future cistern approved by Town Counsel and paid for by the applicant.

**Vice-Chair Martin motioned to approve the 4-lot subdivision with conditions as follows:**

- 1. If any preservation easements are discovered or required, construction must cease and the NH State Archaeologist must be notified;**
- 2. NFPA-1 requirements for cisterns must be met for the 4-lot subdivision and a design must be stamped by a licensed Fire Protection Engineer before building permits can be issued;**
- 3. Easement for future cistern to be approved by Town Counsel and paid for by applicant;**

4. **If a common driveway as shown on 94/23/3 to access 94/23/2 is used the easement should be recorded at the Merrimack County Registry of Deeds before the issuance of a driveway permit for either lot;**
5. **Receipt of all local and State of NH permits;**
6. **Subject to Impact Fees.**

**Seconded by Mrs. Randall. All in favor. None opposed.**

**New Business:**

*Nonbinding Conceptual Plan by Northpoint Engineers Map 183D Lot 100:* Mr. Leonard said this property is 2.25 acres in a Commercial Zone and surrounded by a R2 zone. In 2018, the TRC approved a site plan for a barber school, 4 manufactured homes and garages. In 2020, the Planning Board approved an amendment to the site plan to add a duplex. The reason for this discussion was Mr. Caron has realized that the barber school relocation is no longer feasible. Mr. Caron would like to develop two small 1-bedroom duplexes in lieu of the school. The footprint for the duplexes will be smaller than the school, as well as a smaller parking lot than originally proposed. All setbacks will remain the same and Mr. Caron believes no waivers would be required. This lot has preexisting sewer and water for a larger amount of bedrooms than proposed. If the Board's input is positive, Mr. Caron will apply for a Planned Unit Development, which is permitted with a Conditional Use Permit. This application would have a total reduction of 44% of impervious area. The Board said they would like to see Mr. Caron come back with an application.

*Public Hearing for Modifications to the Excavation Permit Map 81 Lot 24:*

Deputy PCD Director O'Brien read the following: Notice is hereby given in accordance with RSA 675:3 that the Boscawen Planning Board will meet on **Tuesday, February 7, 2023** after 6:30 pm, to hold a public hearing for the following: Request for **Modifications to the operating conditions contained within Earth Excavation Permit #PB01212020-1, per RSA: 155-E:6 for GMI Acquisition, LLC, 267 Queen Street, Boscawen, NH 03303, located at Map 81, Lot 24** in an A/R zone. Should a decision not be met, the application will stay on the PB agenda for the following month.

**Chair Varney opened the Public Hearing at 8:06 p.m.**

Chair Varney asked if the application was complete. PCD Director Easler said this was not an application, but a phasing update, and everything that was required had been met.

Mr. Bernier explained that the previous owner of the gravel pit had gone outside the limits of their permit, so the Board came up with a 5-acre Phasing Plan, which included 9 phases, when GMI took over. A condition was made previously that every time GMI moved from one phase to the next, they must come back to the Planning Board. Mr. Bernier stated that Phase 3 is about to be mined out, and GMI will be moving into Phase 4 this coming spring. As required by the previous conditions, the boundary lines have been staked out. Depending on the depth and discovery of ledge, the next phase is predicted to last about 2 years.

**Chair Varney asked if there were any comments by abutters for or against.**

Michael Garvin, of 287 Queen Street, asked if the previous modification had been approved. Chair Varney said yes. Mr. Garvin asked how he could express concerns. Chair Varney said it would be best to go directly to GMI with any questions or concerns. Ex-Officio Carey also noted there is a complaint form available on the Town of Boscawen's website that will go directly to PCD Director Easler. Mr. Garvin stated that he was never notified of the January Public Hearing. PCD Director consulted her abutters list from that hearing and found Mr. Garvin had indeed been notified via regular and certified mail.

Tracey Bartlett, of 1 Newbury Road, said that whatever phase GMI is currently in, the blasting has been affecting her property. She wanted to know if she will be within the boundary effects of the next phase. Mr. Arruda said they are currently at the closest point to her property. Ms. Bartlett asked how much longer she can expect the blasting to affect her. Mr. Arruda said approximately 2 years. Mr. Arruda said they consistently do seismograph readings, and while the air vibrates, there isn't a strong reading and nothing affects the ground.

**Chair Varney closed the Public Hearing at 8:17 p.m.**

Ex-Officio Carey asked about the seismograph readings for abutters that had complained at the January hearing. Mr. Arruda said there had been no readings at either property. He said the concussions created by the blast can be heard and can cause windows to rattle, but nothing will break or crack. Mr. Bernier said if readings started to register, the direction of the blast can be changed.

**Vice Chair Martin motioned to accept the Phasing Report. Seconded by Mrs. Witham. All in favor. None opposed.**

*Application for Minor Site Plan Review for Map 81D Lot 34:*

Deputy PCD Director O'Brien read the following: Notice is hereby given in accordance with **NH RSA 676:4, I, D1** and the **Town of Boscawen Land Development Regulations** that the **Planning Board** will meet on **Tuesday, February 7, 2023 at 6:30 pm** at the Boscawen Municipal Complex, 116 North Main Street, during a *regular meeting* of the Board to hear the following: An Application for **Minor Site Plan Review** for a **Boarding, Rooming and Lodging House**, submitted by property owner **Aldea Holdings, LLC PO Box 1241, Alton, NH, 03809** with a location of **Map 81D Lot 34, 109 High Street, Boscawen, NH 03303**, located in an **IND zone**. Upon a finding by the Board that the application meets the submission requirements of the Zoning Ordinance and the Land Development Regulations, the Board will vote to accept the application as complete and a Public Hearing on the merits of the proposal may follow. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

Chair Varney asked if the application was complete. PCD Director Easler said it was complete with waivers.

**Mrs. Randall motioned to accept the application as complete. Seconded by Vice Chair Martin. All in favor. None opposed.**

**Chair Varney motioned that the application was not of regional impact. Seconded by Vice Chair Martin. All in favor. None opposed.**

Mr. Golon explained that the proposal was the reuse of an existing structure for a 9 bedroom boarding, rooming and lodging house. He went in front of the Zoning Board of Adjustment on November 22<sup>nd</sup>, 2022 on behalf of Aldea Holdings, LLC, with a variance application. The variance with conditions was approved by a 4-1 vote. One of the conditions of the ZBA was to provide a plan depicting adequate parking on site. Mr. Golon presented this plan to the Board. Because there were no site improvements that were proposed, the applicant had submitted many waiver requests. After meeting with PCD Director Easler to review the application, it was decided that asking for the waivers was appropriate. Mr. Golon also mentioned the applicant has a septic approval consistent with its proposed use of 9 bedrooms. Chair Varney asked Mr. Golon to show the 9 parking spaces on his plan. Mr. Golon showed 6 parking spaces along the front and 3 along the side. He also mentioned that there was an existing easement for access that runs 15 feet along either side of the property line. Chair Varney asked if the building has all of the necessary life safety requirements. Fire Chief Kenney said they have an approved variance for a sprinkler system from the State Fire Marshal. Ex-Officio Carey questioned where any staff of the boarding house would park considering there are only 9 parking spaces for the 9 bedrooms. Mr. Golon said there was no official parking space for any addition personnel, but there would be room to create additional parking if required. Ex-Officio Carey asked about snow removal. Mr. Golon said there was no official plan, but one could be created to depict how the snow would continue to be managed. PCD Director Easler mentioned that a snow removal plan was a requested waiver, but the Planning Board cannot waive a requirement of the Zoning Ordinance. Mr. Golon said he would be happy to withdraw that waiver and will show where snow is stored on site. Ex-Officio Carey was concerned about the parking and asked Mr. Golon to demonstrate how vehicles would exit the spaces safely. Each space is 9 feet by 19 feet, which was consistent with the LDR requirements. Fire Chief Kenney made it known that a requirement for the Fire Marshal's variance was that the applicant must receive certification by the NH Coalition of Recovery Residences within 6 months of opening, and without such, cannot receive the variance. This will need to be a condition of approval. PCD Director Easler suggested following CNHRPC's suggested conditions. Ex-Officio Carey referenced Police Chief Wyman's letter, where he mentioned the use of the building being a recovery house. She asked for clarification on whether the use was a boarding house or a recovery house. PCD Director Easler said recovery houses fall under boarding, rooming and lodging houses in the Zoning Ordinance.

**No comment by abutters or public.**

**Chair Varney closed the Public Hearing at 8:43 p.m.**

The Board discussed the waivers submitted by the applicant.

**Chair Varney motioned to approve the waivers for Sections 5.2.4, 5.2.9, 5.2.11, 5.2.14, 5.2.15, 5.2.16, 5.2.17, 5.2.19, 5.2.22, 5.2.21. Seconded by Vice Chair Martin. All in favor. None opposed.**

**Chair Varney motioned to approve the application with conditions as follows:**

- 1. Snow removal plan depicted on Site Plan;**
- 2. Certification from NHCORR within 6 months of opening;**
- 3. Receipt of all local and State of NH permits;**
- 4. Discussion with Police Chief Wyman regarding response related issues and concerns.**

**Seconded by Vice Chair Martin. All in favor. None opposed.**

**Chair Varney motioned, along with the findings of facts that the proposal complies with the Zoning Ordinance and Land Development Regulations. Seconded by Vice Chair Martin. All in favor. None opposed.**

**Other Business:**

*Planning and Community Development Department Update:* PCD Director Easler discussed updates from CNHRPC. She also reminded the Board that impact fees need to be discussed and reviewed yearly. Currently, the Fire Department does not receive impact fees. Discussion ensued.

Mrs. Randall informed the Board that Fred Reagan is still listed as a member of the CNHRPC Full Commission and will need to be removed. They will be looking for someone to volunteer to take his place. Meetings take place quarterly on Thursdays at 7:00 p.m.

Deputy PCD Director O'Brien reminded the Board that the Penacook Boscawen Water Precinct meeting will be February 8<sup>th</sup> at 5:30 p.m.

Chair Varney will be stepping down as Chair, so he would like the Board to think about who should take his place.

Vice Chair Martin and Mr. Tillman are both running for Select Board.

**Motioned to adjourn made by Vice Chair Martin. Seconded by Chair Varney. All in favor. None opposed.**

**The next meeting will be held March 7<sup>th</sup>, 2023 @ 6:30 p.m.**

*Respectfully submitted by Kara Gallagher.*