

**Town of Northwood
Planning Board Meeting
January 23, 2020**

Ms. B. Smith made a motion to appoint an acting chair to run the meeting. Ms. Parmele seconded. Motion carried 4/0

Ms. B. Smith made a motion to appoint Mr. Kreider as Acting Chair. Ms. Parmele seconded.

Mr. Kreider stated that he would prefer that an elected member take the chair position.

Motion carried 3/0/1 with Mr. Kreider abstaining

Acting Chair Kreider called the meeting to order at 6:40 PM

PRESENT: Selectman's Representative Hal Kreider, Victoria Parmele, Joe McCaffrey and Betty Smith

TOWN STAFF PRESENT: Linda Smith and Susan Austin, Land Use Department. James Burdin, Town Planner

VOTING DESIGNATION: Hal Kreider, Joe McCaffrey, Victoria Parmele, and Betty Smith

MINUTES

January 9, 2020

Ms. B. Smith made a motion to approve the minutes of January 9, 2020. Ms. Parmele seconded. Motion carried 3/0/1 Mr. McCaffrey abstained.

The December 19 minutes were tabled until January 23, 2020

CONTINUED CASES:

CASE 19-6:

Joseph Carter/Fatherland Family Trust. First NH Turnpike and Harmony Hill Road. Map 222 Lot 54. Applicant proposes a minor site plan review to build a miniature golf course and refreshment service.

Scott Frankiewicz was present with Mr. Carter to speak for the application. Mr. Frankiewicz SF created a drainage plan for the project, and Mr. Carter provided a new mini golf course plan. Mr. Frankiewicz stated that as far as the drainage plan, they treated that area that is the golf course as 100% impervious. Referring to both plans, Mr. Carter and Mr. Frankiewicz pointed out the areas where additional consideration for drainage would occur. Mr. Carter stated that the updated plans will exceed the town's requirements for drainage. He stated that originally, the mini golf course was all impervious, but they changed it to make not impervious by adding water features and utilizing existing creek beds.

Mr. Burdin stated that the storm water report has a summary on page four. There were two tables that were things that he had questions about. The first was looking at the peak flow rate in the storms. Northwood's site plan regulations have requirements for the 2 year, the 10 year and the 25-year storm for how the post development peak flow rate has to relate to the pre development flow rate. For the 10 and the 25 year, it can't increase. The two-year storm, according to the site plan regulations, needs to decrease. The pre development flows for both the ten year and the 25 year, were improved post development of pre development, so that complies. The calculation shows that the two-year storm event post development was an

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increased rate over pre development. Since the applicant has just given the board new calculations and plans, that table would need to be updated. The second table is total volume, so the flow rate is how much is coming off of the site in a 24-hour period. The total volume is what the total amount of water that can be held and is coming off of the site. Again, that needs to consider the 2, 10 and 25 year. In that case, the regulations allow for a slight increase, you need to be no more than 100% of pre development. The 2, 10- and 25-year storms were coming in at 149%, 27% and 119% respectively. In terms of net numbers, that was anywhere from 1000 to about 1300 cubic feet of water that was projected to come off of the site over what they are allowed to as far as that maximum. From the stormwater report prior to these revisions, what are the new numbers based on? If the applicant is making the changes to the storm water report, they would like those to be incorporated before they send it for third party review.

Ms. B. Smith made a motion to send the updated drainage plan for third party review at the expense of the applicant. Ms. Parmele seconded. Motion carried 4/0.

Mr. Burdin stated that there were two waiver requests, one for the two-year storm peak flow rate to exceed that standards, and another for the three storms to exceed the total volume. He would either like to see those two requests submitted and acted upon, or revisions showing that they do not need the waivers. He would also like to see written confirmation from NHDOT that the driveway permit is still valid and they do not need an updated one. For reclamation bonding, usually that can be done as a condition of approval, prior to the signing of plans they require that there is an agreed upon amount and have the escrow payments in place.

Acting Chair Kreider opened the public hearing.

Jennifer Boulanger, Harmony Road

Ms. Boulanger stated that in the August 22nd meeting there was a lot of discussion in the minutes about the wetlands are and the other areas surrounding Tucker Brook and Harvey Lake. She was wondering what came of that discussion. Mr. Kreider stated that the applicant did revise several of his drawings to address concerns about how things were flowing. As was stated tonight, he did rework the drainage for the mini golf course area. As far as the board understands, it looks like everything is addressed from a drainage standpoint, as far as the regulations are concerned. Ms. Boulanger stated that she understood that point, but she was concerned about the buffers. Mr. Burdin stated that he felt that the two are related. Part of what he was looking at was that prior to December 9th they didn't really have an adequate drainage plan submitted for this application, so he was looking at large amounts of impervious area with the mini golf course area as well as the batting cages. Ms. Bolanger stated that all of that would flow into the lake. Harvey Lake is a very aged lake. She stated that she is a member of eth Harvey Lake Watershed Association and did the testing for that every year. The lake itself is stressed. Adding additional drainage type flows, whether from the road or from a retail establishment is going to put added stress on an already stressed watershed. Mr. Burdin stated that he did ask of the applicant how he was proposing to slow the flow of the storm water so that it wasn't causing erosion, hold it on site and then treated prior to it being released. The drainage plan of December 9th has a proposed swale that that goes along the wetland buffer that is directing that stormwater into treatment area. It also has the outlet

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coming from the batting cage area going into that treatment area. His answer to her would be that this plan has their current plans for that. Part of the peer review will be asking the town's engineer to comment on the extent to which this proposal meets town standards for all of the above, volume of storm water, standards for the treatment of storm water, and the removal of pollutants. Ms. Boulanger asked if a traffic study done as well? That intersection is pretty dangerous. Mr. Burdin stated that at this point the board has not required a traffic study for this. Ms. Parmele asked if there was any discussion about that issue. Mr. Kreider stated that there was some general discussion about the traffic and the peak times relative to the traffic on Route 4. He would have to go back and look at the minutes. His recollection is that the general feeling was that there not a match up so to speak, in other words peak hours versus when people would be going to the mini golf course. Ms. Bolanger stated that she had written a letter and for whatever reason it did not make it into the minutes of the last meeting, despite having been written prior to the minutes being written. That section of Route 4 doesn't have a breakdown lane on either side, in fact there are wetlands on the right-hand side if you were coming from Portsmouth from Concord. To think that a mini golf course will not create additional traffic impacts is short sighted, especially if you look at the Trucksters Golf course just further west on Route 4, the variety of accidents which have happened on Route 4 with respect to Trucksters mini gold and all of the various iterations that we have seen on the Chichester roadway, and discussions about that. She has attached many articles and discussions about the various impacts there. Mr. McCaffrey stated that the ting about projects like this is that it is low volume, you don't have hundreds of cars or even dozens. Its peak activity tends to be more towards the weekend. It doesn't have much interference with commuter traffic. Ms. Boulanger stated that she would disagree, gone are the days of nine to five, Monday through Friday workers.

Mr. Kreider stated that he would respectfully stop the comments and ask that they get much more formal from this point on. He would like to continue with public comment, but in the following way. Come up to the microphone, state what you'd like to state, we will thank you for your comment, and we will move on. Mr. Burdin stated that they could still respond to questions, but typically they would respond to all questions in the end. Mr. Kreider stated that he will allow Ms. Boulanger 3 more minutes, but they will take it as input.

Ms. Boulanger stated that she would reference back to her letter from July, and express her concerns as an abutter and from concerns from other abutters with respect to the traffic, with respect to Harmony Road and Route 4. Also, with respect to the parking and the added congestion, as well as the environmental impacts to the Harvey Lake Watershed and the various animals that participate in that watershed.

Ms. Parmele asked if there was any discussion or any provision about data on traffic? Mr. Burdin stated that for this application, the primary concern would be if this can provide safe and suitable site access. They were looking at parking requirements, and the parking that is shown meets the standard that they would suggest for accommodating that traffic. In this case, the details of the driveway will need to be considered by DOT because they have jurisdiction over the driveway. That does not preclude the board from requesting information that they may need to determine whether the traffic for this use can be handled safely for this location. Ms.

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Parmele stated that even if it's not a huge volume, it's the on and off that is always an issue. Ms. B. Smith stated that Harmony Road is not that far from the driveway. Mr. Burdin stated that one thing that was mentioned when this application first came in, the driveway location and the driveway that has been installed there, was the driveway for the prior site plan approval in the 80's. The prior site plan was for commercial office space. The obvious caveat to that was that it was 1988 standard for a commercial office use. Standards have changed considerably since that time, as have the traffic. They have not received any comments from District 6 on this. They will need to see this and consider whether improvements need to be made on that driveway to accommodate this.

Ms. Boulanger stated that in hearing the discussion about the traffic and concerns and when the permit was last reviewed, she does want to point out that Harmony Road itself has gone through quite a bit of development and there are at least half a dozen new house in the last 12 to 18 months alone, with three more under construction. The amount of traffic coming in and out of Harmony road has increased dramatically since 1988. She would request that some consideration be given to traffic and to the comings and goings from Harmony Road and Route 4.

Acting Chair Kreider closed public comment

Ms. B. Smith asked if it would be appropriate if while they are waiting for the 3rd party review of the drainage to get a traffic study as well? Mr. Burdin stated that it is certainly within their right to ask for it. Ms. B. Smith stated that if that was a concern and they are trying to expedite one way or another while they are waiting, they could get that done too. Mr. Burdin stated that in the interest of predictability for the applicant, if that's something they might potentially want, the sooner they ask for it, the better. Ms. Parmele stated that every commercial use on Route 4 has just got to accept that this is the reality now, it seems only appropriate to ask for it.

Ms. Parmele made a motion to require a traffic study at applicant's expense. Ms. B. Smith seconded.

Mr. McCaffrey stated that he is wondering what the time frame would be. Set aside the merits of the information for a moment, it's obviously going to add time. Mr. Burdin stated that he would be surprised if they could get a traffic study back by February 27. Mr. McCaffrey stated that they would be adding time, and that would be one consideration. He stated that this is a relatively low usage proposition, and it doesn't appear with the bulk of what is the commuter traffic on this road Monday through Friday. He stated that he drives it quite a bit, and he is very aware of getting in and out of Harmony as he happens to live on Harmony Road. It is certainly not one of the worst roads in town. There are quite a few that have far worse problems. The proposal, at least to him, doesn't merit a traffic study. It's pretty much going to be Spring, Summer, maybe a little time into the Fall. That should be kept in mind. He just doesn't see imposing that cost or the time as acceptable. Ms. B. Smith stated that her point of asking for this now is that it can happen at the same time that the third-party review is happening, as opposed to asking for it later, therefore dragging time out. Mr. Kreider stated that he doesn't think they should factor timing into whether or not they need a traffic study. If

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they need a traffic study, they need one. If they don't, they don't. He's really not convinced, however, that this is an onerous number of cars and truck. Yes, there will traffic, it's a business. Ms. Parmele stated that it's a fairness issue. We are dealing with Route 4 and it's a safety issue. There is no breakdown lane, so as far as How DOT will design it so it is safe and whatever they will do to the road to make it safer they don't know, so if they at least say they want to take a look at it, it doesn't have to be a major full blown traffic study, just something that looks like they are looking at the traffic. Mr. Burdin stated that DOT will need to consider the safety of the driveway design for the location of the road and for the use by phrasing the condition the way they normally do, they will either need written confirmation from DOT that the existing driveway permit is still good, or they need a new driveway permit. In getting that permit they will have to meet any conditions that DOT imposes on them. Essentially, they are leaving it to be designed by them. The point that goes along with that and a reason why they typically encourage applicants to reach out to DOT as soon as possible about driveways is that if they changes required by DOT to accommodate a driveway result in changes to the site plan, the applicant has to come back and edit what they have already approved. Mr. Kreider stated that he is leery about a traffic study and the board's ability to impose the results of that study, because the town doesn't control the access on and off of Route 4, the state does. He is more comfortable going along with what NHDOT says. Ms. B. Smith stated that she would be interested in finding out how much the traffic in Northwood increases in the summer. Mr. Kreider stated that they have studies they could look at. Mr. Burdin stated that traffic studies don't normally take seasons into account. It is essentially an estimate of a "typical" day. Mr. Carter stated that he has an existing driveway permit for 42 cars parking in that lot. There is an acceleration lane and a deceleration lane all built in by the state. He will get confirmation from the state.

Motion failed 2/2

Mr. McCaffrey made a motion to continue Case 19-6 until February 27, 2020. Ms. B. Smith seconded. Motion carried 4/0.

Case 19-12

Michael Sullivan (Aroma Joes) 8 Bow Lake Road Map 222 Lot 61. Applicant is proposing to build a drive thru and walk up coffee shop on a lot that has an existing seasonal green house and single-family home that will have an office.

Mr. Burdin stated that at the last meeting, they had received comments from DOT earlier that day. They had not had an opportunity to respond to those comments. The applicant has prepared information officially and formally replying to the peer review by the town engineer of both the storm water and the drainage, as well as formally responding to DOT's comments regarding any improvement to the intersection of Bow Lake Road and Route 4. All of this information was submitted yesterday (1-22-2020) Obviously, there hasn't been any time to review this, so for tonight, the applicant would like to revisit the sidewalk waiver, as it related to the internal walkway, and then the applicant would like to summarize the materials that have been submitted so the board will know exactly what they have and where to find it. . He also stated that he would like to have a meeting where CMA and Steve Pernaw could attend in order to discuss the traffic studies.

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Scott Frankiewicz and Michael Sullivan were present to discuss the application. Mr. Frankiewicz distributed a color rendering of the site plan that depicted the internal sidewalk. Mr. Kreider asked if the sidewalk would be private or not? Mr. Sullivan stated that the sidewalk would allow for internal foot traffic from outside of the business location. By doing so it would remove foot traffic from the roadway, which was a concern that they feel they have addressed now. Based upon the traffic study, which looked at foot traffic on Bow Lake Road, it was determined that there was zero-foot traffic over an extensive period of time on Bow Lake Road. Additionally, he has the Civil Consultants memo which looks at the traffic that the Academy Way was designed to allow for. Specifically, Academy Way is pedestrians. It asks on this memo "Are sidewalks proposed?" The reply by Coe Brown, which is accepted by the Town of Northwood is "A new sidewalk is proposed connecting Route 4 pedestrian tunnel to the parking lot to the west of Smith Hall. The intention is to prevent pedestrian travel along the access roadway by providing direct route to the main entrance of Smith Hall. It is not the intention to have pedestrian traffic along the proposed access roadway from Bow Lake Road" Given that there is not any pedestrian traffic allowed on Academy Way, and that there is no existing traffic on Bow Lake Road, they feel as though this type of arraignment would allow for an almost town square type of environment. It would also keep people from being along Bow Lake, which was a bug consideration from the public input. He distributed a document dated 7/20/2009 from Civil Consultants in reference to a Coe Brown Northwood Academy project in 2009. He stated that it shows that CBNA is preventing pedestrians on this roadway and that it was not designed to have any pedestrian traffic on that. Looking at all of this, and wanting to make an area within the town that would allow for movement within the property, and also maintain a certain town square type character, because obviously the property is in the center in many respects in the town. He stated that they felt as though this was the best solution, and looking at the liability of having free public movement within the internal parts of the property, could come to rise to a significant liability for them. The walk-up window will not be open during the winter months for any foot traffic. The decision is to not have this be a public access. Mr. Kreider stated that he hears a lot of comments about Hannaford and the stores clustered around there about how nice it would be to walk in between them. He feels that trying to promote that could help in terms of making it walkable. He is wondering how Mr. Sullivan would keep the sidewalk private. He stated that he worries about the consequences of that and whether or not that will cause problems. If he's going to call it a private walkway, it would be no different than a walkway going to a private house. Mr. Sullivan stated that obviously they are allowing people to access the property, and it's not necessarily that they have to come to the window and order something. Mr. Kreider asked what would happen if other businesses develop further down the road. How would he feel about through traffic walking through his business? Mr. Sullivan stated that he doesn't have an issue. He is looking to take this property in the center of town and make it something almost like a town square for people to enjoy, especially with the use that is on the property. Obviously, they would not want people there late at night beyond opening hours. The goal of this internal sidewalk is not to restrict it. Ms. B. Smith stated that the date on the memo Mr. Sullivan presented is July 20, 2009, ten years ago. A lot has happened in ten years. Mr. Burdin stated that the memo presented was prepared by Jeff Aleva, who works for Civil Consultants on behalf of Coe Brown as part of a prior site plan application a decade ago. He stated that he is having a hard time seeing how this is relevant and it's also presented at the very last minute. To say that pedestrian traffic is not allowed to access Bow Lake Road from Academy Way from Bow Lake Road is an overstatement of what that memo says. The board should probably disregard this. He stated that the board has more relevant information from the applicant about how the proposed walkway will function, why it is

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justified and this material is a bit beyond what is relevant to whether or not this waiver is suitable. Mr. Sullivan stated that the memo of 2009 was pulled from the file at the town hall, and that the statement that is made is repeated throughout the entire file that the intention of the access road is not for pedestrian traffic and furthermore in the very notes that accompany this, the planning board notes were accepted it is stated in there that the road is not designed for foot traffic. The road has not changed since then in design by any means.

Mr. Kreider asked if they could move on to Mr. Frankiewicz's summary of the submission. Mr. Frankiewicz stated that they have gone through the plan and addressed all engineering comments from CMA, the drainage analysis and submitted new plans. Steve Pernaw has responded to the DOT review and the CMA review as well. They have suggested improvements to the intersection of Bow Lake Road and Route 4 within the package, and Steve will be speaking to that when he comes to the next meeting. Mr. Frankiewicz stated that they have submitted preliminary plans to DES Subsurface, Eric Thomas has reviewed those preliminarily and given him comments, it's not an approval, but he did state that he didn't see any reason why he couldn't approve it. He also spoke with Tom Willis at the drinking water and ground water bureau. He's reviewed the existing well and it's approvable in its location and the quantity that comes out of the well for a transient non community well which would service the entire site. One thing that is outstanding is the water analysis that they require to approve it, and that is in process. That well has to be approved prior to the subsurface approval. They submitted Steve Pernaw's comments and a full response to CMA and DOT as well as the engineering items. Mr. Frankiewicz stated that he has also responded to Mr. Burdin's staff memo with responses to each point with exhibits. Mr. Sullivan hired an appraiser to do an appraisal on one of the adjacent properties, Vern Gardner of Verizon Associates, to show whether this development will affect the value of that lot. That is included with the packet submitted. Mr. Gardener is available to come to the next meeting as well. There are several maps included in the report that correlate with comments made at previous meetings. They also speak to the historic structure, although they don't feel that the structure on site or any of them around are historic. The applicant is actually preserving the house and bringing it back to its former glory, as well as the barn on site.

Ms. Parmele made motion to open public comment. Ms. B. Smith seconded. Motion carried 4/0.

Amy Manzelli, Attorney for the Severance Family.

Ms. Manzelli stated that she would like to read a letter from Marcia Severance dated January 22, 2020.

Dear Chairman Strobel and Board Members:

I am writing to comment on and correct a few of the statements made by Mr. Sullivan at the December 19 meeting.

First and foremost, please be assured that all members of our family are in agreement and we are united in our stand against a coffee shop being located at the 8 Bow Lake Road address.

Mr. Sullivan alluded to the fact that because our sons have not attended the meetings that they are both "OK" with the proposed plan. This is absolutely not true and there is a very good reason why the haven't attended the meetings. They both work Thursday nights. Our names are on the property deeds and we represent our entire family along with our legal representation. It is

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ridiculous to think that people who would be negatively affected the most would be in favor of this plan.

Mr. Sullivan has also mentioned a number of times the fact that our son who resides at 5 Bow Lake Road has sold a few cars in his yard over the span of the eighteen years he has lived there. These were private sales done one at a time and perhaps a half a dozen in total. Certainly not what you would consider a used car lot and not making this a commercial property.

I would also like to elaborate on the history lesson that Mr. McCaffery gave all of us. The owner of the former Harvey Lake Motel, Charles Roberts, was attending a meeting at town hall, and ironically, the topic of the meeting was the Route 4 bypass. While walking home from the meeting, Mr. Roberts was hit by a vehicle and later died of the injuries he sustained. The owner of the property (which is now residential) is Mr. Robert's granddaughter.

As we are all well aware, the volume of traffic has only increased since Mr. Robert's tragic accident. Early this past December another traffic fatality occurred on Route 4. The WMUR reporter on the scene, Jennifer Crompton, commented that Route 4 is the second busiest east/west highway in the state.

It is difficult for us to understand why the Town of Northwood would even entertain the thought of encouraging more of this high-volume traffic on a town road with an intersection that already presents a hazard.

Sincerely,

Marcia Severance for the Severance Family.

Karen Brieger, Ravenwood Drive

Ms. Brieger stated that she wanted to comment on the plan for the interior sidewalk. As you review and consider the design, she encourages the board to look where the sidewalk runs next to where there are parking spaces for the cars. It runs right through the parking lot where people would be parking cars. It doesn't run along the side where cars would not be driving making it very easy for someone to inadvertently back their car out of a parking spot and into someone walking through there. She understands the request for the waiver and this design for an internal sidewalk, but she finds that design to be a huge safety hazard. She would ask the board to consider that as they consider any sort of waiver on this sidewalk. She stated that she would like to submit to members of the planning board a fact sheet prepared by Coe Brown, in reference to some comments that Mr. Sullivan had made at a prior meeting about the status of Coe Brown as a for profit institution. It is not, it is a nonprofit public academy with 501 C3 status. In reference to the additional information submitted by Mr. Sullivan tonight about foot traffic on Academy Way, to Mr. Burdin's point, it is ten years old and a perfect example of reinforcing that intentions are not always what the reality ends up being. Ten years ago, the intention was that Academy Way was not for pedestrian traffic. The reality is that today is very different. If you go near Academy Way during these very large cross country meets that Coe Brown hosts, those meets were not hosted 10 years ago. It's only been within the last few years. There is definitely foot traffic. It was never intended that cars park on Academy Way either ten years ago.

Jim Hadley, Old Mountain Road

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Mr. Hadley stated that he has provided the board with a handout. He stated that he would like to point out his point number 4 states that the traffic study review by CMA engineers mentions that the traffic will increase by 30% on Bow Lake Road. As far as he knows, DOT has reviewed it too. Under the doctrine of pre exemption under the site plan review regulations, the town has the right to impose stricter regulations than the state. He would like the board to keep that in mind. In the Case of Bayson Properties, Inc v City of Lebanon, the planning board denied the site plan application because it failed to comply with the city's traffic regulations and noise impact that the driveway would have on the neighboring property. The superior court affirmed the planning board's decision, and the Supreme Court affirmed the superior court.

A few comments from the Supreme Court decision were:

"Upon review of a trial court's decision, we will uphold a trial court, unless it's decision is not supported by the evidence or is legally erroneous. We look to whether a reasonable person could reach the same decision as a trial court based on the evidence before it. If any of the board's reason for denial support its decision than the plaintiffs appeal must fail."

"The board was primarily concerned about the impact of noise generated from the driveway and loading dock of the facility located less than 50 feet from the site. The board's decision contains detailed findings of noncompliance with the site plan review regulations."

"The board is authorized to impose conditions to protect the interest of the neighborhood in which the site is being located. The boards authority to impose conditions provides a tool to adjust the pursuit of private interests to reasonable regulation in the public interest."

The preparation of a site plan which takes into consideration all of the anticipated effects of a proposed project is an important part of what good planning is all about. Site plan review in the early stages takes into considerations how the building will fit the neighborhood. This puts the safety and attractiveness of the building on equal footing with its construction. In addition, RSA 674:44 authorizes site plan regulations to provide against undesirable and preventable effects such as noise, which prove harmful to adjacent properties"

Acting Chair Kreider closed public comment.

Ms. B. Smith made a motion to have CMA Engineering present at the next meeting to respond to Mr. Pernaw's response. Ms. Parmele seconded. Motion carried 4/0.

Ms. B. Smith made a motion to continue Case 19-12 until February 13, 2020. Mr. McCaffrey seconded. Motion carried 4/0.

CASE 19-17

Cerebral Development LLC (Chris Meyers) 126/134 First NH Turnpike, 36 Bean Road and 24 Rochester Road. Applicant seeks to create a Major Subdivision and Lot Line Adjustment between five lots and to create five new lots fronting on a proposed town road. The proposed town road will be 300 feet in length and connect to Route 4. Four of the lots will be for commercial use and one will remain residential.

Ms. L. Smith stated that they had received an email requesting a continuance on this case.

Mr. McCaffrey made a motion to continue Case 19-17 until February 27, 2020. Ms. B. Smith seconded. Motion carried 4/0.

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Adjournment

Ms. B. Smith made a motion to adjourn at 9:20 pm. Selectman Kreider seconded. Motion carried 4/0.

***Respectfully Submitted,
Susan Austin, Land Use Assistant.***

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