

**Town of Northwood
Planning Board Meeting
June 10, 2021**

Cases heard during this meeting:

Case 19-12 Michael Sullivan (Aroma Joes)

Chair Strobel called the meeting to order at 6:30 PM.

Chair Strobel stated: As Chair of the Northwood Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

PRESENT: Chair Bob Strobel, Betty Smith, Joe McCaffrey, Lee Baldwin, Hal Kreider, Tim Jandebour. (All members participated electronically)

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

VOTING DESIGNATION: Chair Bob Strobel, Betty Smith, Joe McCaffrey, Lee Baldwin, Hal Kreider, and Tim Jandebour.

CONTINUED CASES:

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.

Lee Baldwin recused herself

VOTING DESIGNATION: Chair Bob Strobel, Betty Smith, Joe McCaffrey, Hal Kreider, and Tim Jandebour.

Scott Frankeiwicz, Attorney Brett Allard, Steve Pernaw, traffic engineer and Michael Sullivan, the applicant were present.

Chair Strobel asked if they had received any public written comment. Mr. Burdin stated that they have received a letter from Attorney Manzelli, and a letter from Jim Hadley.

Brett Allard, attorney for the applicant

Mr. Allard stated that the Abutters' March 12, 2020 letter contains a number of inaccuracies, omissions, and conclusory legal assertions that are not supported in fact nor law. By way of this memorandum, Mr. Sullivan will address each issue in turn. In sum, this Board has more than enough information upon which to grant site plan approval. Mr. Sullivan has unquestionably satisfied the Town's Site Plan Review Regulations over the past year or more of public hearings, and his application should be granted.

**Town of Northwood
Planning Board Meeting
June 10, 2021**

1. The proposed site plan does not trigger the need for any variances from the ZBA. The Abutters' argument that a setback variance is required because Mr. Sullivan is proposing additional pavement on Bow Lake Road closer to the existing dwelling on his property is based upon their conclusion that setbacks are measured from the edge of the pavement of Bow Lake Road. This conclusion, however, is incorrect and is not supported by the terms of the Zoning Ordinance nor common sense. Perhaps most notably, in their analysis, the abutters' omit the definition of setbacks contained in the Zoning Ordinance. The definition of setbacks contained in Section III of the Zoning Ordinance defines them as "the horizontal distance between a structure and the lot boundaries, measured at right angles or radial to the lot boundaries." Clearly, setbacks are measured as the distance between structures and the boundaries of the lot upon which the structure is situated. They are not measured as the distance between structures and the edge of a road situated on land that abuts the subject property. As such, the proposed widening of Bow Lake Road does not trigger the need for Mr. Sullivan to obtain any variances from the ZBA.

While most Zoning Ordinances refer to setbacks as side, rear, and front, in one instance (Table IV-1), the Northwood Zoning Ordinance refers to setbacks as side, rear, and road. That does not mean, however, that a front setback is measured from the edge of pavement of a road on an abutting parcel. Rather, the Zoning Ordinance appears to use the words "road" and "front" in this context interchangeably. Regardless, the controlling definition of "setback" is that prescribed to it by Section III of the Zoning Ordinance set forth above – the distance between a structure and the subject property's lot boundaries. To the extent the Zoning Ordinance's use of the term "road" in Table IV-1 creates any ambiguity, the express definition of setbacks as being the distance between a structure and the subject parcel's lot boundaries still controls. Moreover, the Zoning Ordinance's definition of setbacks as running between a structure and the boundaries of the lot upon which the structure is situated makes sense as a practical matter. For example, Town or State right of ways are almost always wider than the travel lanes constructed therein – often significantly wider. By the Abutters' logic, the Town or State could relocate travel lanes within a public right of way closer to a structure on a privately-owned abutting parcel and, if the edge of the relocated pavement encroaches within the "setback" of the structure, that landowner would be required to obtain a variance from the ZBA, even though he or she had no control over the Town or State's decision to relocate a road within a public right of way. This makes no sense because it would never happen – the Zoning Ordinance measures setbacks as the distance between a structure and the lot boundaries on the landowner's property. The Zoning Ordinance does not measure setbacks from a structure – across a lot boundary – and to the edge of pavement of a road on an abutting parcel. Finally, even assuming for the sake of argument that a variance was required, it would be an insufficient basis upon which to deny the site plan application. While ZBA relief is usually sought before site plan approval as a practical matter, obtaining a variance from the ZBA could simply be made a condition of site plan approval.

**Town of Northwood
Planning Board Meeting
June 10, 2021**

There is nothing about Mr. Sullivan's existing well that can or should serve as a basis for this Board to deny his site plan application. The Abutters suggest that this Board should deny Mr. Sullivan's site plan application because the 100-foot SPA well radius set forth in NHDES regulations encroaches into their property. This claim is without merit. While the radius does reach a small portion of the Abutters' property, it is not a basis to deny Mr. Sullivan's site plan application. In making its decision, this Board is bound by the Town's Site Plan Review Regulations. Notably, the Abutters do not discuss the Town's regulations in making this argument. Instead, they focus upon a perceived lack of compliance with NHDES regulations. It is not this Board's job – and this Board lacks jurisdiction – to interpret state administrative rules and then grant or deny a site plan application based upon perceived compliance (or lack thereof) with same.

Section IX(E) of the Town's Site Plan Review Regulations provides that "developments shall make adequate provision for a water supply of potable water for domestic consumption, and the location of private wells shall comply with all standards of the applicable New Hampshire regulatory agency" – i.e., NHDES. On February 27, 2020, Mr. Sullivan obtained from NHDES a registration approval for a transient, non-community water system for the existing well on his property. By issuing the registration, NHDES necessarily determined that Mr. Sullivan satisfied all of the State's administrative rules relating to same. To the extent the Abutters believe the decision of NHDES was in error, their remedy is or was an administrative appeal of that decision to the applicable appellate body within NHDES. Their remedy is not to try to convince this Board that NHDES was wrong as a basis for denying Mr. Sullivan's site plan application. Contrary to the Abutters' representations, this Board does not have authority to take a different interpretation of the State's administrative rules and then deny a site plan application on the basis that it believes NHDES erred when it issued its approval. As far as this Board is concerned, Mr. Sullivan has obtained the necessary approval from the State for his well as required by the Town's Site Plan Review Regulations. Since the Town's Site Plan Review Regulations are not stricter than NHDES administrative rules relating to wells, this Board cannot deny Mr. Sullivan's site plan application merely because the Abutters appear to take issue with the approval issued by NHDES. The abutters cannot point to any Town Site Plan Review Regulation that is violated by Mr. Sullivan's well because the well is in compliance with all of the Regulations. His application cannot be denied for the reasons suggested by the abutters.

Granting site plan approval would not "irreparably degrade the historic character of the area" nor would it "substantially alter the character of the area." The Abutters' argument that the proposed use will degrade the historic character of the area and alter the character of the area conflates and confuses zoning issues with planning issues. Mr. Sullivan's proposed coffee shop/existing dwelling mixed use is expressly permitted under the Town's Zoning Ordinance. As such, the proposed use is inherently consistent with the character of the area as a use permitted by right. Permitted uses are per se reasonable. New Hampshire Practice: Land Use Planning and Zoning §30.09 (Limits on Site Review) contains an excellent discussion of this principle: Site plan review authority does not give the planning board the authority to

**Town of Northwood
Planning Board Meeting
June 10, 2021**

deny a particular use simply because it does not feel that the proposed use is an appropriate use of the land. Whether the use is appropriate is a zoning question. If the planning board could deny uses it thought to be inappropriate, there would be no point in having zoning, for it would afford no protection to a landowner. If the use is permitted by the zoning ordinance, it cannot be barred by the site review process unless the use would create unusual public safety, health, or welfare concerns. While this Board has authority to impose conditions that are reasonably related to the purposes set forth in the Town's Site Plan Review Regulations to promote the safe and attractive development of the site, see *id.*, this Board must accept the determination of the Town's residents as a whole, as expressed through the terms of the Zoning Ordinance, that Mr. Sullivan's proposed, permitted use is an appropriate use of the site. His proposal does not create unusual public safety, health, or welfare concerns. This Board's duty is to ensure that Mr. Sullivan's proposal complies with the Town's Site Plan Review Regulations, which it does. His application should be granted.

To the extent this Board can consider the alleged "historic nature" of the area, the Abutters' assertion that an approximately 640 square foot coffee shop along Route 4 – the main commercial thoroughfare in Town – would "irreparably degrade the historic character of the area" is nothing more than exaggeration. This Board should not simply accept this representation at face value. Section II(A) of the Town's Site Plan Review Regulations provides that the Board seeks to establish "patterns of growth which acknowledge the present but honor the past." Page 5 provides that another purpose of the Regulations is to promote "well planned high-quality commercial development and provide economic opportunities for residents." Mr. Sullivan's proposed coffee shop is consistent with these purposes. Moreover, at the March 12, 2020 public hearing, at least one Board member recognized that the area around the subject property is more likely to become primarily a business area in the near future, to the extent it is not already, rather than remaining or reverting to primarily single-family residential uses. Indeed, our Supreme Court has stated in similar contexts that "towns may not refuse to confront the future by building a moat around themselves and pulling up the drawbridge." (*Belanger v. City of Nashua*, 121 N.H. 389, 392 1981). Nor would granting site plan approval "substantially alter the character of the area." For the same reason set forth above, Mr. Sullivan's proposed use will not substantially alter the character of the area because the Town's Zoning Ordinance has already determined that it is an appropriate use of the site that is permitted by right. Indeed, this "character of the area" concept comes from the Zoning Ordinance – not the Site Plan Review Regulations. It is this Board's job to interpret and apply the Site Plan Review Regulations for purposes of public health and safety. It is not this Board's job to interpret and apply the Zoning Ordinance to determine whether it favors or disfavors the proposed use – that is the job of the Town's residents expressed a whole through the Zoning Ordinance and, when necessary, it is the job of the ZBA in cases that come before it. Moreover, the Abutters' argument to the contrary primarily relies upon two letters from Carol Ogilvie, which they characterize as "uncontested expert evidence." However, her representations have been contested on the record by Mr. Sullivan and his agents throughout this case, and they are further contested by way of this memorandum. First, Ms. Ogilvie's study area appears to have been chosen specifically to produce a finding adverse to Mr. Sullivan. Her study area primarily

**Town of Northwood
Planning Board Meeting
June 10, 2021**

focuses upon residential properties along Bow Lake Road far removed from Mr. Sullivan's property. Other than a few properties at the immediate intersection of Bow Lake Road and Route 4, Ms. Ogilvie did not include in her study area any of the numerous commercial or mixed-use properties along Route 4 in the vicinity of Mr. Sullivan's property. For example, Ms. Ogilvie included a residential property on Bow Lake Road in her study area which is approximately 1,500 feet north of Mr. Sullivan's property, but did not include the Burgess Auto Repair site in her study area which is approximately 1,200 feet east of Mr. Sullivan's property on Route 4. The reason for this is clear. Ms. Ogilvie knew the conclusion she wanted to reach before preparing her study, and then reverse-engineered the study area to produce that conclusion. Had she rotated her rectangular study area 90 degrees to run lengthwise along Route 4, she would have captured many more mixed use and commercial properties than residential ones and produced a very different result. To the extent the Abutters rely upon representations of their appraiser, Mr. Sullivan relies upon the testimony and reports of his licensed appraiser, Vern Gardner, whose sound and proper reports and testimony are part of the certified record in this matter. Reference is made to Vern Gardner's testimony and reports which support the proposition that Mr. Sullivan's proposed use will not negatively affect surrounding property values. Indeed, purely residential properties along Route 4 in this area appear to be the exception, not the rule. This is a decidedly mixed-use area, which includes the following uses within an approximately 1,000-foot radius of Mr. Sullivan's property: church, graveyard, construction equipment yard, telecom building, Coe Brown Private School, motel building, car sales, commercial parking lot, day care center, municipal center, and office building. If this area was ever comprised of purely historic/residential single family uses as the abutters' suggest, that ship sailed long ago. This is an overwhelmingly mixed-use area, and Mr. Sullivan's proposed coffee shop fits squarely within it. There can be no genuine argument that granting his site plan application will substantially alter the character of the area. Similar to her carefully chosen study area, Ms. Ogilvie's letters are fundamentally flawed from a technical standpoint. Ms. Ogilvie appears to be a retired planner now acting in a private consulting capacity. For expert planners to provide any credible opinion on the character of an area, they must review additional materials beyond an applicant's submissions and municipal regulations.

Specifically: A planner must search the records of a municipality to ascertain whether: (1) previous applications have been made with respect to this or other properties in the area; (2) the applications were granted or denied; and (3), if denied, there is a pattern to the denials or a common thread running through the material presented to the legislative body that would indicate a reason for denial other than one which could be supported by zoning or planning considerations.

There is no evidence in the record that Ms. Ogilvie undertook any of these prudent steps in drawing her conclusions. Her materials reflect that she only reviewed some of Mr. Sullivan's application materials and some of the Northwood regulations. This lack of due diligence casts serious doubt on the credibility and validity of her representations. For the foregoing reasons, this Board should reject Ms. Ogilvie's conclusions, which are fundamentally flawed and serve only the Abutters' cause.

**Town of Northwood
Planning Board Meeting
June 10, 2021**

To the extent the Abutters, in their March 12, 2020 letter or otherwise, raise issues regarding application or plan completeness and traffic issues, those points have been fully and adequately addressed by Mr. Sullivan's surveyor (Scott Frankiewicz, LLS) and traffic expert (Stephen Pernaw, P.E., PTOE) on the record in this matter.

The Abutters' plan of attack throughout this case appears to be a "throw everything at the wall and see what sticks" approach with the aim of inventing issues for purposes of confusing or scaring the Board. It is important that the Board does not lose sight of the forest for the trees. While the Abutters have the right to voice their opinions, the subject of this application is not a Super-Walmart or a large-scale shopping center. Rather, it is a small walk-up/drive through coffee shop. The Abutters have, for lack of a better phrase, made a mountain out of a mole hill and turned what would have otherwise been a cut-and-dry site plan application for a small coffee shop into a year-long trial by ordeal.

It also important that this Board is aware that it has a constitutional obligation to assist Mr. Sullivan as landowner and applicant. It is the Town's "function to provide assistance to all their citizens" under Article 1, Part 1 of the New Hampshire Constitution. (*Carbonneau v. Town of Rye*, 120 N.H. 96, 99 1980). In the context of aiding property owners seeking municipal approval to develop their property, the Court aims to prevent municipalities from ignoring an application or otherwise engaging in dilatory tactics in order to delay a project. (*Kelsey v. Town of Hanover*, 157 N.H. 632, 638 2008).

This Board should not delay approval of Mr. Sullivan's site plan application any longer than it already has. He and his agents have unquestionably satisfied the Town's Site Plan Review Regulations over the past year of public hearings. This Board has more than enough information upon which to grant site plan approval. Mr. Sullivan is entitled to have his site plan application granted, and this Board should do just that.

Chair Strobel opened the public comment.

Amy Manzelli, Attorney for the Severances.

"As I hope you have read in those 129 pages somewhere, I sent in a very long letter. It was important for us to get everything in and bring this to a close. We wanted and we hoped that it would be helpful to you in your deliberations. I'm not going to go over most of the content of that letter tonight, I trust that you all will carefully consider what I wrote to you in that letter, and what the Severance family themselves have written to you. Instead, I have a few planned remarks, but before I get into those, I do have a few rebuttal remarks based on the conversation so far tonight.

To follow up on the traffic point, I can attest to the fact that traffic is disputed. The Severances dispute whether the traffic will be managed adequately. We've documented

**Town of Northwood
Planning Board Meeting
June 10, 2021**

that in our letter, it's in your record. The only detail that I want to highlight for this Board, is the fact that there is no information in your record about how the adverse impact to the egress and ingress to the Severance's two residences is going to be solved. There will be adverse impact. The people that live in the Severance homes will be stuck in their driveway for a long time, not being able to get in and out. We've raised that point a number of times. That alone is one issue that we dispute. There are lots of others, but it's all on the record and I'll just leave it at that. I think it's disingenuous to say that everybody agrees that the traffic impacts are negligible. The Severances, at least for one, do not agree that the traffic impacts are negligible.

There was a lot of legal argument about everything the Severances' have to say is a zoning issue, not a planning issue. With all due respect, I took great care in my letter to cite specific chapter and verse for your site plan regulations that we believe this application does not satisfy. Again, I'm not going to go into the details, but it is not the zoning issues that we are raising. They are Planning Board issues. Issues that squarely fall within your jurisdiction. Because they are site plan review regulation requirements that need to be satisfied in order for an applicant to be eligible to receive an approval on a site plan.

Up until today, the applicant has always claimed that the small section of white vinyl fence, and a couple of trees that are going in will adequately screen the Severance homes. Today the applicant is making a new argument that the Severance homes don't need to be screened from this project because they are across the street. I think the applicant has waived that argument by arguing all this time that the buffer that they have put in is an adequate screen.

The Carbonneau case that was mentioned, and the proposition that stands for, that you as a Planning Board have a duty to help applicants. Generally speaking, that's true. But what is meant by help? It does not mean that you need to design an approvable project for an applicant. That's the applicant's job. You do not need to specify every which way that an applicant needs to change its project in order for you to make it approvable. In the Carbonneau case it does not say that you as the Planning Board have to do that.

I also wanted to just mention briefly that I don't think that the image with the new yellow rectangle along Route 4 is already in your record, and I believe that the deadline for the applicant to submit new materials has also passed and I'm not aware of Attorney Allard's qualifications as a planner, so I'm not sure what weight the Board should give that information that was presented tonight.

I have no surprises for you tonight, it is no surprise that the Severances have a lot at stake with respect to this application. It is also no surprise that the Severances want you to deny this application. It's on their behalf that I am asking you tonight, and I

**Town of Northwood
Planning Board Meeting
June 10, 2021**

have been asking you for these many months to please deny this application. But what Attorney Allard said is completely correct when he was quoting from that workforce housing case, although workforce housing has its own special statute, what he said is correct. Just because the Severances want you to deny this application, doesn't give you a legally defensible basis to deny it. Plain general opposition is not enough for you to make a legally defensible denial. Not at all. What does give you enough of a basis to deny this application, is your site plan review regulations, the evidence that is contained in your record, and for some parts of your laws, the absence of the evidence. The site plan regulations are designed to protect abutting properties, like the Severances, but also others, and also to protect the public safety of those traveling on the road in Northwood. The main roads as well as the side roads. And to protect the rich historical heritage that the people of Northwood value. And to protect the character of this area. So, we have endeavored to provide you, in our final submission, a clear identification of specifically, what we believe are the requirements this application does not satisfy. It is now up to you to decide. When the public hearing closes, as you planner mentioned, you all are free from the impartiality that you must have had until this decision-making time came. When that time is here, we hope you will find that our final submission helpful for you to articulate how this application does not meet the legal requirements.

I'll close with this final plea. I think we all understand what is happening here. That your decision will be appealed no matter how you decide. Put the burden of appeal on to the applicant. Let the applicant prove to the judge why this application meets the legal requirements. Your decision, no matter what you decide, will go into the appeal with a legal presumption of correctness. So, the party taking the appeal bears the burden to prove that you were wrong in your decision. Deny the application. Why not err on the side of protecting the important things that stand to be impacted if this application is approved. Give the applicant the burden of trying to prove to the judge if he can, that you were wrong. As you know, we believe that you have a record that supports denial on appeal, so we respectfully request that you do deny this application. As I close in my final remarks to this Board, I thank you for your attention, this is record breaking for me how many months this has gone on. On behalf of the Severances, we appreciate the time that you have invested in this application. Thank you."

Jim Hadley

"Mr. Chairman, I don't really have too much to say. I did submit a letter to the Board, and I tried to recapitulate what I have submitted to the Board over the last several months. I will leave my testimony as I've written it. Thank you, Mr. Chairman."

**Town of Northwood
Planning Board Meeting
June 10, 2021**

Karen Brieger

“Good evening everybody and thank you. My name is Karen Brieger. I am at Ravenwood Drive. I have spoken publicly at numerous meetings over the lifespan of this application. I was not able to get something in writing before the deadline, so I just wanted to speak a little tonight. I feel that it is important to hear it from a member of the community who is adamantly in opposition to this application. It has nothing to do with being pro-business or against business in town, I am actually very much in favor of supporting the economic development of our community, and doing so in a safe and responsible manner. My concern with this application is that this is not safe. This is a high traffic sort of business in a location that is not designed to support that traffic. There are already traffic issues with that particular intersection, and adding it at a greater level with that sort of coffee shop type business, it’s not designed to support it, it’s not safe, it’s an intersection I travel every single day. My teenage children travel it every single day, as do their friends. In past meetings, many of us have talked about the activities that go on at Coe Brown after school or on weekends hosting statewide track meets and the traffic that brings in on the weekends. I sat there the other day and I was five cars back trying to make a left turn onto Route 4, so to the point about how those two properties and if they can get out of their own driveways, I can’t imagine. I had a hard enough time just trying to make a left. I thought it was important, especially with members on the Planning Board now who weren’t on the Board’s the past times that I spoke up, I just felt it important that you hear directly from someone in the community who lives in the area. To Ms. Manzelli’s point about your responsibility to protect public safety, my concern throughout this entire process has been about public safety and I have not seen or read anything that puts those concerns adequately to rest. Also, I’d like to speak up as a community member, a tax paying community member here to the point of appeal. To make a decision because you feel like it doesn’t matter because it will just be appealed anyway, that’s just not the right way. You weren’t elected to this Board to make decisions based on that. You were elected to the Board to make decisions based on the law and based on the information provided to you, and I implore you to do that in this case. I think over the course of this application you have been presented with more than enough support from Ms. Manzelli and from others to show all of the reasons why this application should in fact be denied. Thank you.”

Martine Canfield

“I watched part of the meeting the last time where the DOT suggested some widening of the road in terms of going west bound. I was kind of curious, and I might have missed it but it didn’t seem like they had addressed or made any modifications to the east bound traffic. I am worried for the school as well that the turning lane will be

**Town of Northwood
Planning Board Meeting
June 10, 2021**

occupied with people waiting for Coffee in the morning and conflicting with teachers and students trying to park for school. It just seems too congested to put a drive through business that would have a lot of cars in at that location. Did I miss something? Were they planning on lengthening the turning lane in front of Coe Brown to accommodate additional cars trying to turn left? Or maybe widening it to add another lane? I know that St. Anthony's (St. Joseph's) was going to give up some space to add an additional right turn into Aroma Joes, but I didn't see anything on the other direction"

Steve Pernaw, Traffic Engineer

"The answer is no."

Chair Strobel closed the public comment for the final time.

Attorney Brett Allard, Representing Michael Sullivan.

"With regard to the buffer, I never said that they don't need to do a landscape buffer, we fully understand the buffer requirements in the site plan regulations, and we believe they have satisfied them. I meant that those buffering requirements are more important for an abutter who is immediately next door in terms of land touching other land and not necessarily across the street. When you drive up and down Route 4, you don't typically see big tree, bush shrub fence buffers in between commercial properties and the street. You typically see them on the sides and the rear. That being said, we have fully provided a landscape buffer with trees, fencing and vegetation along the length of Bow Lake Road. I never meant to intend or imply that this Board has an obligation to design the project for them. That was not what I intended to say. It is not this Board's job to design their project, that is on them. However, it is this Board's job to let us know if there is something they don't like about the design or the architecture so they can change it and make it work. In terms of the yellow box that he showed relative to the Oglivie study, that is part of the record, it was shown at a public hearing and this is being recorded so it is included as part of the record. I am not an expert planner, but a person does not have to be an expert planner to look at what that report did and to see that that report and study area was chosen to reach a very definitive area to reach a definitive result, a predetermined result. If you take a study area and include only residential properties, because you only include Bow Lake Road, you're obviously going to conclude that a coffee shop will impact the character of the area. All I did was rotate that yellow box 90 degree to see what it would capture if it ran up and down Route 4 instead of Bow Lake Road. A person doesn't need to be an expert to do that, and you can clearly see that the result is different when you do. In terms of the comment "just deny this application and let the burden of appeal be on

**Town of Northwood
Planning Board Meeting
June 10, 2021**

the applicant” That is not the right standard of review for this Board. That is not a thought that should run through anyone’s mind. This Board has been impartial and I’m sure you will continue to be impartial, but it would be very improper to be of the mindset of “Let’s just deny this so that we can send it to a judge with the presumption that we are right.” This Board is supposed to weigh the merits of the application against the applicable standards and make a determination about whether the site plan regulations have been met. That is all the Board is supposed to do and that is what we are requesting that you do. We have complied with all of those site plan review regulations. With that, I will turn it over to Mr. Pernaw, who can address some of the traffic items, and then we will send it over to Mr. Sullivan for final comments.”

Steve Pernaw

“Good evening Mr. Chairman. For the record, I am Steve Pernaw with Pernaw and Company. Our office prepared the original traffic study in October of 2019. We also prepared a response to the comment’s memo dated January 16, 2020. As I was listening to the testimony tonight, I did jot down some notes, and hopefully I’ve got them all and can address each one. There was a mention about the CMA engineer, talking about a failed intersection. A couple of thoughts on that. First of all, I pulled out his letter to the Planning Board dated February 5, 2020. I find nowhere in that memo the term “failed intersection”. But it could have been a reference to level of service “F”. As I explained to the board and as it was pointed out in my report, a level of service is a categorization of delay. If you have a traffic movement that requires more than 50 seconds to make, for instance a left turn departure, that would be assigned a level of service F, according to national guidelines or criteria if you will. For many people associate levels of service A through F to a report card (I am not one of them) They assume that an F means failing. Technically, all the level of service code F means is a control level of service delay that exceeds 50 second. That’s a national gradation. To be fair and to go by the highway capacity manual, our study shows that a left turn departure from Bow Lake Road rates at level of service F. The reason for that is, due to the fact the Route 4 has over 15,000 cars a day going by. When you have that kind of volume, the number of added gaps in the traffic stream to make that left turn are limited. I would go so far as to say that you shouldn’t use level of service F as a litmus test for any development because most likely half if not $\frac{3}{4}$ of all of your intersections on Route 4 in Northwood experience that same level of service F today. It’s just recognizing that there are long delays.

The second thing is that someone pointed out correctly that we do have an impact, and that’s right. Anytime you have new development you’ll have an impact. When Coe Brown put their driveway in, that created a huge impact without mitigation. In this case, the applicant is proposing mitigation. Number one, when you have a long delay for left turn departure, standard traffic engineering 101 is that you look at the

**Town of Northwood
Planning Board Meeting
June 10, 2021**

possibility of providing two approach lanes. What that does is it maximizes the egress capacity of Bow Lake Road, and it minimizes delays to the extent possible, and it minimizes queuing. The applicant has gone ahead and designed and shown a widening of the Bow Lake Road approach to Route 4 on his nickel, and he has extended that all the way back to the site driveway. You can't do any better than that. Really the only way you could hope to solve it is to signalize an intersection. But you don't have enough traffic coming out of Bow Lake Road to satisfy a signal. If you wanted to do that, I'm sure the applicant would be smiling all the way, but it's just not something that is in the cards. The other thing about mitigation is that the applicant is proposing to put in this full right turn lane that's been discussed and added to the plan. That's something that should have been done by the school when they put in that driveway to Bow Lake Road. That's what created the heavy right turn movement today. So, yes, this project has an impact, but he's also providing that mitigation for the town as well. As Attorney Allard pointed out, DOT didn't even think it was necessary. They just asked for a strip of land for future widening and they would be happy. Again, the Town will be getting this exclusive right turn lane as a result of this project.

Attorney Manzelli talked about the impact or adverse impact to the Severances, and I jotted down here that they are going to be "stuck in their driveway a long time." Or something to that effect. That is certainly her opinion, but I can tell you it's not based on fact, and it's not going to happen. A residential driveway generates on average during the morning peak hour 1 trip, usually a departure. Most people, I would think, if they are leaving the Severance's driveway, would probably take a right out and go to Route 4. Regardless if they went left out or right out, they are not going to be stuck in their driveway a long time. I can say that because in our report we looked at the delays for the proposed site driveway, which has a lot more traffic and activity than the Severance's driveway, and that intersection will be operating at level of service A or B. That's the highest or best level. Just to touch on that level of service F, again, that applies just to one movement, the left turn departure movement. If you look at the other movements involved in that analysis when you are analyzing that intersection. The arrival movement from Route 4, again that's going to operate at level A or B. If you look at the right turn departure from Bow Lake Road, that operates at level of service C and E opening year and level of service D in the horizon year. It's not as if the whole intersection has failed, it's just referring to one particular movement.

In terms of negligible impact, and again I think the comment was "we disagree" and that's fine. Attorney Allard was talking about the impact on Route 4, where the net change in traffic is less than 1%. Where the real impact will be is on that short section of Bow Lake Road between Route 4 and the site driveway. We recognized that and that's where the mitigation is being installed.

**Town of Northwood
Planning Board Meeting
June 10, 2021**

A member of the public talked about safety, about the site driveway. When it comes down to safety, we look at three basic things. The location of a driveway, actually numbers of driveways, here we have one, you can't get away with any less than that. We look at location, again we made recommendations about pushing it back from Route 4, that's been done. We look at the design of the intersection, we did that in our study, and we determined you don't need right turn lanes or left turn lanes or double exit lanes. What we determined is that that site driveway will operate fine with 1 approach lane on each leg of the intersection, and recommended some pavement markings and signing. The last thing that we always look at in terms of safety is sight distance, to make sure that vehicles leaving the coffee shop will have enough sight distance and this has been established and documented on the plans where we have clear sight distance triangles looking both left and right. Yes, there will be an impact, but we are mitigating it more so than we really have to but in the long range that's a good thing. Eastbound traffic, again that impact is pretty small and there is no need to change anything. That eastbound lane is fine according to my information and also the DOT has weighed in and they don't have any problem maintaining the existing condition. I hope I got them all written down, those are my responses."

Ms. L. Smith stated that there was a letter from Kate McNally that they missed reading into the record. Chair Strobel stated that he would read it after the applicant was finished with their comments.

Michael Sullivan, Applicant.

"I'm Michael Sullivan here with my wife, Christine. First off, we would like to thank the Planning Board for allowing citizens like us a place to bring their dreams to life. This is one of the things that makes us great as a town. That we aspire to be fair and treat everyone equally under the voted upon rules. If the project is an approved use, as voted on by citizens, which it is, and it meets all the site plan regulations voted on by our citizens, which it does, it should be approved. Every citizen deserves the same fair treatment before this board. When my wife and I bought the property on the corner of Route 4 and Bow Lake Road, which was many years ago now, I remember after we closed on the property, we were standing in the front yard shaking our heads. As we looked at each other in almost unison, we said "What did we do?" While we were young and this rundown commercial property, complete with a house for us and our three children was now our home. It took us a few weeks to take in the gravity of our purchase, and we soon realized the property for years had been treated like one big dumping ground. How do people with any decency do that, we thought" You couldn't turn you head without seeing the discarded and abandoned remains of some business venture. The house had been stripped of its valuable old features, especially the center fireplace, which was sad and a terrible thing. Before the winter set in, we were able to identify that there were between 7 and 8 commercially used buildings in the complex,

**Town of Northwood
Planning Board Meeting
June 10, 2021**

plus the house. Some of the buildings were still standing, some half fallen and incredibly some just seemingly bulldozed over and carelessly buried in shallow pits. Some lay collapsed in heaps, decaying and sinking as the woods reclaimed them, contents and all. The largest of the commercially used building was still standing, but it had been condemned all together by the town, much prior to our purchase. It was so poorly built; it had become a safety issue for everyone who came near it. It was pretty easy to see why this commercial property had been listed on the real estate market for so long. Almost 7 years on the market with not a single soul wanting it. The following spring, our family of five worked together to help clean up the huge mess left behind. It took us almost three years to rid everything from this commercial site which was strewn everywhere. What a great property this was, we thought, when we finally started to make headway. It would be worth it, we thought, and someday we were going to open our own family business, right here as we are ready to retire. Now many years have passed, our children are grown, and we have worked hard to save every penny. Now it's time to start our own family business. Much like the abutter's family did when they owned this property. To be clear, the abutters located their commercial business here on this property, because this property is situated in a heavy commercial area along busy Route 4. This has never changed. The idea that this commercially used property has somehow magically become a quiet residential area full of historic homes is absolutely ridiculous on it's face. It is the abutters own past actions that have made this property the commercial site that it is today. It's ironic that when CBNA wanted to put in Academy Way, this same abutter made the same claims, that their property would lose all of its value and forever ruin the community with the approval of a new road. The written testimony by the abutter is all part of the files on record at the Town Hall. Aroma Joes is a great business to serve the needs of the community and its citizens. Most Aroma Joes are individually owned and operated by people just like us. Small families that live in the communities that they serve. Our town is covered with chain and franchise stores. True Value, Mobil, Dunkin Donuts, Hannaford's, Irving, Family Dollar, Northeast Credit Union, TD Bank, Shell, the list just goes on. These businesses provide income for the citizens of our town. As you can see from our plans, our building is well designed and aesthetically pleasing with many architectural details. Much more than the average coffee shop. Like all Aroma Joes buildings, our building has a very small footprint. The reason is because these owner operated businesses do a fraction of what other coffee shops do. For example, Dunkin Donuts, the documented number is 40%. The coffee and drink products are very well liked, and people from our own community enjoy the great and friendly face to face ordering, food, and the positive atmosphere and the energy that this brings to their lives. We can all agree it will certainly be a nice place to stop, relax and walk around with your freshly made custom coffee or specialty drink. Also, people like working at Aroma Joes, and we offer great full hourly pay, plus the opportunity to make great tips with great service, which is hard to find at many jobs in our area. Often, workers love

**Town of Northwood
Planning Board Meeting
June 10, 2021**

the products so much, some look to open their own Aroma Joes location. This is also a big tax benefit to the town through property taxes. Without the heavy and costly demand on services in the school system. Clearly, there is a need for this business and products in our community, and that this need is not being met.

We listened closely to the input from the public and traffic engineers involved. We finally came to the conclusion that we were the only ones in a position to fix an existing issue, with turning off Route 4 in the Bow Lake Road approach. To make this intersection in our community safer, we had to step up and give up part of our own land and invest heavily in our own neighborhood. Not because we are obligated to, but we are doing this because we wanted our community to be safer better place and we wanted to give back to the community. This is the reason the Catholic Church next door supports this project and has committed to giving up part of their land for the betterment of the community.

In conclusion, we ask that the Board consider that my family has invested a lot of money meeting all the site plan regulations and requirements as voted on by the citizens of our town. In addition, our proposed use is an approved use as voted on by the citizens of our town. We are not asking for any waivers; we are asking for your approval. Thank you to the Board.”

Chair Strobel read one last public comment into the record.

*Dear Chairman Strobel and Planning Board Members,
We previously submitted public comments regarding the dangerous intersection of Rt. 4 and Bow Lake Rd. We request that they be included at the June 10 meeting.*

Additionally:

-Should this project be approved with the changes to the right hand turning lane onto Bow Lake Rd., would those changes need to be completed at the applicant's expense prior to construction of the Aroma Joe's building?

-Since the proposed greenhouse presently does not have an occupancy permit, will one be required prior to opening it for sales?

-The requirement of a sidewalk long Bow Lake Rd will offer some protection for pedestrian traffic. Are there plans to protect people crossing Bow Lake Road (i.e., crosswalk) to access Aroma Joe's?

- NHDOT was asked to provide a plan for the right-hand turn lane. We're they asked to address the dangerous left hand turns from east or west that would necessitate vehicles crossing over travel lanes? (I.e., left hand turns when exiting Bow Lake Road and left hand turns from Rt. 4 onto Bow Lake Rd.)

Thank you.

Sincerely,

Dan and Kate McNally

**Town of Northwood
Planning Board Meeting
June 10, 2021**

Chair Strobel closed public comment.

Mr. Burdin stated that he could answer the question about the timing of the installation of the right turn lane. He stated that he has stipulated in his conditions of approval that construction on the road improvements could happen simultaneously with construction of the proposed building, however, he also has prior to the signing of plans a recommended condition that the applicant be required to meet with the Board of Selectmen of their designee, which is typically the town engineer to discuss any required performance guarantees, in short, a bond for the road improvements, and he would expect that installation of the right turn lane and the other road widening things would be things that were featured prominently in that bonding. So, therefore if there are any concerns about the right turn lane not being completed, the Town can call the bond and finish it with the applicant's money.

Board Questions

Chair Strobel

"I would like to open it up to Board questions. I'd like to address the vegetative buffer, and/or the fence. It appears that the existing fence is vinyl, and I would like to know if the existing fence is staying as is? The newly proposed fence, which is on the north side of the driveway, what material will that be?"

Mr. Frankiewicz

"The proposed fence is a 6-foot vinyl, which is what we believed was in the regulations to allow a 6-foot vinyl. But we can change that if we need to. For the existing fence, Mr. Sullivan would have to answer that because he is not 100% sure."

Mr. Sullivan

"We would be willing to match the new fence and remove the existing if we need to."

Chair Strobel

"The existing site plan regs from 2011 state that "fences for non-security purposes shall be constructed of or replicate traditional New England material, i.e., picket, split rail, wrought iron, brick, or stone. Chain link allowed where appropriate, but their use is generally discouraged. Since the existing fence appears to be vinyl, I would expect the applicant to replace it."

Mr. Sullivan

"In terms of the fence we can certainly do whatever the board would like since the plans are at the start, at this point the board could always condition its approval on changing the fence as on the plan."

Selectman Kreider

"How should we deal with these changes on the fly, so to speak? In terms of potentially changing the fence material?"

**Town of Northwood
Planning Board Meeting
June 10, 2021**

Chair Strobel

“It would be a decision by the board to make and put it as a condition of approval.

Mr. Burdin

I have a placeholder, but not any specific changes to the plan set, but if there are subsequent changes, for example, label the proposed fence as wood or as split rail instead of vinyl, I can keep a running total if that's what the board would like to request. My one suggestion would be if you are requesting any further changes that they get the list prior to closing the public hearing so they can confirm acceptance or acknowledgement by the applicant.”

Chair Strobel

“On Sheet 11, which is the landscaping plan, shows an existing fence, and a fence along the greenhouse, north of the driveway, but Sheet 7 does not show that. Probably just an oversight, but I wanted to point it out.”

Chair Strobel

“I would like to request that Selectman Kreider follow up on his earlier concern he had about that intersection and the traffic report. Chair Strobel stated that probably the biggest topic or a number of questions they have is about traffic.”

Selectman Kreider

Since we aren't going to be getting additional input after this, I would like to ask some pretty detailed questions. As far as left-hand turn wait time: before and after the project at the extended time frame, exiting the driveway from the site traveling south on Bow Lake Road and then turning left on to Route 4, Mr. Pernaw did two different time intervals, one was present time and then one was so many years later. I would like to know what the wait time is in both cases?

Mr. Pernaw

“Are you referring to the year 2030, the long range and the opening year 2020?”

Selectman Kreider

“I remembered seeing a chart in your report that referred to those ranges.”

Mr. Pernaw

“That chart is the Delay Chart, appendix F.”

Selectman Kreider

“The chart showed on Tuesday September 10, 2019 during the morning peak hour and it lists number of cars and the calculated delay for 60 vehicles.”

Mr. Pernaw

“The calculated delay over the average is 45 seconds, the minimum is one second, the maximum is two minutes and 37 seconds.”

**Town of Northwood
Planning Board Meeting
June 10, 2021**

Selectman Kreider

“What is the long-range number?”

Mr. Pernaw

“In original report they (CMA) published the table that showed a couple of different ways of analyzing the intersection, specifically that left turn departure, and you can tell that the numbers using our two methodologies were wide apart. What we elected to do on September 10th go out and measure every single vehicle taking a left out, and that's what you see in appendix f and the minimum was one second. That's somebody who comes up, rolls to a stop looks left, looks right and then just goes like there is virtually no delay. One person had to wait as long as two minutes and 37 seconds. We conducted this supplemental survey and where we determined the actual delay was 45 seconds if you average it and you can tell the highway capacity manual methodology that was used originally was 106 seconds. The highway capacity manual wasn't even close and in modeling the delays we observed out in field. For that reason, we included in our January 16th memorandum a supplemental table called 3S, and again this was using a different model. But the good news is that it said our delay for 2019 was 46 seconds, very close to the 45. This third methodology if you will, did the best job. I think what Selectman Kreider is asking is what is going to be the change in the delay, and this is the best table to look at. Looking back at my build and no build numbers, the left turn departure movement in the morning peak hour 7AM to 8AM. Without the development, 63 cars will go to 81 cars, which will increase the delay by approximately 47seconds. To clarify that this is immediately after build or after 2030. you have to have table 3S in front of you or else you won't follow my numbers. This was a response to comments from CMA's review and it also addressed the DOT comments. To summarize, opening year, no build morning, it goes from 57 seconds to 104 seconds or an additional 47 seconds. Morning peak hour and then in the year 2030 it goes up by 38 seconds. That's the increase in delay over the current delay.

Mr. McCaffrey

“What is troubling is that there's obviously lots of “what if” possibilities. We're in a position of having to go on what is considered certifiable reliable engineering advice and we've gone to the trouble to have that verified by our own outside party, CMA. The state DOT also came in on this and I am not sure where we go by saying what if you could you could make up 50 different scenarios on that basis. If we knew what the traffic was going to be like on that road 20 years from now, it may be less traveled, it's conceivable but population actually in certain categories is dropping. People are moving up here right now from Massachusetts in a few places but that's going to terminate at some point. I don't know what the future is and neither do you and this is anybody's guess, but what I'm concerned about here is we have to take it. If you don't think Mr. Pernaw is a reliable source then so be it. Having said that, what numbers change as a result of these road improvements that the applicant is suggesting?”

Mr. Pernaw

“The answer that I'm going to point out to you is on table 3S but before I do that, give me 60 seconds here. You know the question was what are we going to do if these

**Town of Northwood
Planning Board Meeting
June 10, 2021**

numbers are wrong? The answer is every single day, because traffic is random and dynamic. Every single day the delay taking the left out of Bow Lake Road is different. This is not something that's etched in stone so every day it's going to change. What if we had to assume a background growth rate? We assumed one percent per year that is a standard assumption that we use in New Hampshire. if you look at the most recent DOT data, traffic on Route 4 has gone down because of the pandemic, so hopefully that's going to come back but you know all we can do is use reasonable assumptions and use various models to come up with things. the numbers are a means to the end. When I look at table 3S, I look at our projections I come up with a conclusion that because queuing and stacking is going to become longer that Bow Lake Road ought to be widened to have two exit lanes that run farther back. The only other mitigation that's going to help you with delays is to put a traffic signal in there. You can only do that if you meet the published warrants and the manual on uniform traffic control devices. The DOT generally is reluctant to put in signals unless they absolutely are needed because their thought process is that Route 4 is supposed to carry through traffic from point A to point B, and that's their priority. My point to the board is by requiring the applicant to make this offside improvement you are getting the most you can in terms of traffic mitigation for this left turn delay, and by lengthening the two lanes you're getting more stacking. This is how a development mitigates its impact. If the board approves a subdivision further up Bow Lake Road that's going to have an impact. But you won't have to do anything about it because you will already have two exit lanes and it's already been lengthened. You can always mitigate every impact, the important thing to me is that this applicant is mitigating the impact of his additional traffic about 20 lefts out about 20 rights out during that worst case peak hour. If the donut shop doesn't happen then you don't get that mitigation. My point is that this table tells me and it tells the board and it tells the DOT that as the years go by traffic continues to grow and the delays are going to get longer and longer so without the donut shop, you're still dealing with 154 seconds of delay.”

Mr. Jandebaur

“A number of years ago not that far away I spent an incredible amount of time on Bow Lake and Sherburn Hill Road. This had to do with trying to improve the road and the fact that it was a historical road or a scenic byway so, I was marking literally hundreds of trees and learned very quickly that there are times of the day that I did not want to be out of my truck and on that road because of the speed the road is extremely busy and that's just my common sense. The other thing I want to mention, and I certainly agree that things change from day to day. One of the things that changes is when you have a crowd of parents and soccer players and when they leave the soccer fields and you should see the line because I happened to hit that not long ago and trying to get out to Route 4 it's not three or four or five or six cars it's 20 or 30 or 40 cars. I really don't understand how anybody could even suggest that that's not a very dangerous and busy intersection.

Selectman Kreider

“Let me just ask a related question and again I'm going back on memory and I but when I studied the more detailed study one of the things that struck me was the number of people that you estimated that would for example, on the

**Town of Northwood
Planning Board Meeting
June 10, 2021**

dismissal of school, turns right out of Academy Way come up to the coffee shop come in buy something and then return back out and go right out of the coffee shop. I just remember being struck by that number being relatively low to my expectations and again this is just my personal experience but, when I go to the Mobil station in the morning where there's a Dunkin Donuts, during school commuting time there are mostly students going through when I'm getting my gas. I don't go that often in the afternoon but that's also school time. Can you help me with that? The numbers you gave just seemed really low.

Mr. Pernaw

“Are you referring to the morning peak hour or the evening?”

Selectman Kreider

“Well, it applies to both I believe, but I primarily have gone in the morning for gas and it seems like there's just a large number of students coming through that drive Through. Again, I don't have any hard statistics but I do remember just in looking at the numbers and thought they seemed low.

Mr. Pernaw

“That's actually called a pass by trip, and I think what you're talking about is the kids that might be heading into Academy Way, they're going to pull in, take a right get a coffee take a right out go back to school and vice versa. If they're leaving school, they'll take a right out of Academy Way. When we do that distribution of that pass by traffic, what we find to be the most reasonable approach is to take the total number of pass by trips and to distribute them in proportion to the traffic volumes on the three legs of the intersection and what's happening when we do that, because Route 4 does have over 600 or 700 cars per hour in that morning peak hour. The number of turns into Academy Way are only 81. So that didn't get a big allocation. But you know if we did and we elected to throw more toward Academy Way then that would reduce the impacts out of Route 4 and Bow Lake Road and I don't want to do that. That's the critical intersection. We did it straight in proportion. 5 to 6 PM is what we analyzed on the weekday and it was only 16 vehicles. That's negligible. We didn't analyze 2 to 3 PM, which is all from the school. You won't find it in the traffic study, but this just comes from experience. The proposed donut or coffee shop is on the morning side of the highway and what that means is that in the morning the heavier flow is westbound. This coffee shop is going to be used mostly by westbound vehicles because it's an easy right in get your coffee and you come back out and you make a right out. That right turn out, you only have to worry about gaps in the westbound direction. If you were heading the other way you would be the left in from eastbound. You take a left you get your coffee but now when you come out you've got that long delay. A lot of people won't cross over the highway and again, that's from my experience that most will come on the heavier direction and people will often times get a coffee somewhere else where it's easier or where they can make a right in right out rather than the left in and left out. That's just a fact of reality that would probably be a positive thing in the end but, we do our projections and we call them as we see them.”

**Town of Northwood
Planning Board Meeting
June 10, 2021**

Mr. Burdin

“I just wanted to clarify exactly how the Northwood zoning table of permitted uses is structured, because we've heard several statements that this use is permitted by right. We don't have zoning districts with specific permitted uses, we have one district it has a table with three columns and a list of permitted uses and the meaning of those three columns is that they correspond to performance criteria. You have four items that are at the top of the list they have an x in column one and that column has a small number of performance criteria in section A. Things that are in column one have to comply with section A they're permitted uses, but they're permitted uses so long as they comply with the performance criteria. A restaurant use is the middle of the list. It's in column two so that brings in the section A performance criteria and a somewhat longer list of section B performance criteria. I would interpret that to say a restaurant is a permitted use any place in Northwood provided it can comply with the performance criteria of both section A and section B. To the extent that a restaurant is a permitted use, it is in this board's purview to, and we have done it on other items to determine whether there are non-compliance issues that need to be remedied in zoning and I would say in this case it is your purview to consider whether this is a permitted use that complies with all of the listed performance criteria. Attorney Allard proceeded to make a number of statements that are relevant to whether or not it complies with those performance criteria and I would encourage you to consider them as you would consider all of the testimony, but it is my understanding of the zoning ordinance that those criteria that are listed in zoning are relevant and we have already entered into this record the town's interpretation that it is your purview to interpret them as part of this application and that nobody else has made a determination and nobody else is authorized to interrupt these proceedings to make that determination.”

Attorney Allard

“When I use the term permitted use or permitted by right, what I mean by that is we do not need to go to the zoning board to get a variance for this use this is a use that is permitted by zoning. Yes, the criteria that you mentioned in terms of the various conditions and the zoning ordinance have to be met. I agree we don't just throw those away because they're in the zoning ordinance. But when I use the term permitted by right or permitted use, I mean it's strictly in the limited sense of we do not need to go to the zoning board to get a variance for this use, it's not a prohibited use. It's an allowed use, but yes, those conditions are there.”

Chair Strobel

I have a couple comments on traffic as far as volume is concerned, because we addressed the delays in the queuing before. One of the things I want to get for comparisons during the morning peak hour for a general office or a single-family residence and a drive-through restaurant without seating. You're looking at for the general office and residents one trip in that peak hour versus 41 to 45 trips or vehicles coming into that same business during that same peak hour. In looking at the

**Town of Northwood
Planning Board Meeting
June 10, 2021**

comparison for the 2020 no build versus build vehicles per day, traffic on Bow Lake Road moves from, according to the traffic analysis, 241 vehicles per day to 320 vehicles per day. By my math it comes to a 33% increase. I think DOT calculated it at 30%. What I'm struggling with is the zoning ordinance of V (b).1a.1 referring to by its nature or design or through the use of vegetative or topographical buffers. "The use will not substantially alter the character of the area in which it's proposed to be cited" We're looking at a one to two percent of traffic change on Route 4 but, that doesn't bother me, but the 33% increase in traffic on Bow Lake Road does bother me."

Selectman Kreider

"I do have some questions related to the change in value or not a change in value to the Severance's home. That seems to be one of the areas where we've had testimony from the applicant saying the value isn't going to change and we've got numerous people saying it's going to change drastically. I'd like to understand the basis for the gentleman that came in and spoke to us regarding values, because he was supposedly the expert. He certainly had the credentials and I'd just like to understand again what he was saying in terms of why the value would not change so if somebody could help me understand that, I'd appreciate that."

Michael Sullivan

"Vern Gardner is not with us tonight to answer that question. I think that the information that he gave was pretty thorough. I think there was a second follow-up letter that he provided possibly related to that, but maybe not but so either way that would be not something that any one of us particularly here tonight was expecting or is an expert on."

Mr. Burdin

"Maybe that is one of the requests we would give to staff to help us find that data. I would suggest that you review those original submissions. I believe that we received that document in November of 2019 or sometime after that so, your options for minutes for that testimony are between the end of November 2019 and March 2020 because it was in person. Staff can find the document and distribute it to the Board"

Selectman Kreider

"I did notice one other discrepancy and if you we could just clear it up. Attorney Manzelli indicated that this appears to her to be an unbranded coffee shop and all we talked about was an Aroma Joe's coffee shop are we confirming that it's an Aroma Joes? I guess the question would be is a change in chain or a change in style or whatever up for review then or how does that work?"

Chair Strobel

"Well, the use is whatever is proposed as a coffee shop. It's a generic use on the table of accepted uses not necessarily an Aroma Joes. let's say for instance Dunkin Donuts wanted to buy. It wouldn't be my decision. As long as it remains a coffee shop. I think what we would look at is the operation of that future coffee shop. If Tesla Coffee chose to purchase the site and operate it exactly the same way as is proposed before you, it would require no change of use. If Aroma Joe's chooses to change

**Town of Northwood
Planning Board Meeting
June 10, 2021**

their business model and they built a patio with a large number of seating or built indoor seating, there's no change of ownership but the change in the use pattern would likely trigger site plan.”

“I will ask again, does the applicant have any final statements to make for anything the board has brought up?”

I would entertain a motion, and the motion is that we close the public hearing what that means is that the board has no other options for input from the applicant or from town staff as far as the merits of the case. We can ask town staff for procedural questions and assistance in locating items if in already in the public record for this case. We cannot ask them for opinion. We can get them matters statements of fact from staff. We would go into deliberation and at the end of deliberation we would have a decision made. The applicant has agreed that if we close the public hearing tonight and we go into deliberation, we would have one more meeting to be scheduled for deliberation and only deliberation that would be part of the public record. Public can observe but they cannot participate, nor can members of the applicant nor can town staff aside from procedural questions.”

Ms. B. Smith made a motion to close the public hearing. Mr. Jandebour seconded. Motion carried by roll call 5/0

Lee Baldwin returned to the meeting.

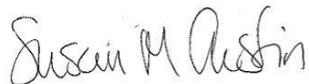
Internal Business

Ms. B. Smith made a motion to appoint Lee Baldwin as Chair Pro Temp. Selectman Kreider seconded. Motion carried by roll call vote 5/0/1, with Mr. Strobel abstaining.

Adjournment

Mr. Jandebour made a motion to adjourn at 10:15 pm. Ms. B. Smith seconded. Motion carried 5/0.

Respectfully Submitted,



Susan Austin, Land Use Assistant.