

**Town of Northwood
Planning Board Meeting
August 27, 2020**

DRAFT MINUTES

1 Chair Strobel called the meeting to order at 7:00 PM.

2
3 Chair Strobel stated: As Chair of the Northwood Planning Board, I find that due to the
4 State of Emergency declared by the Governor as a result of the COVID-19 pandemic
5 and in accordance with the Governor’s Emergency Order #12 pursuant to Executive
6 Order 2020-04, this public body is authorized to meet electronically.

7
8 **PRESENT:** Chair Bob Strobel, Duane Curry, Betty Smith, Selectmen’s Representative
9 Hal Krieder and Lee Baldwin. (all members listed participated electronically)

10
11 **TOWN STAFF PRESENT:** Linda Smith and Susan Austin, Land Use Department.
12 James Burdin, Town Planner.

13
14 **VOTING DESIGNATION:** Chair Bob Strobel, Duane Curry, Selectmen’s representative
15 Hal Kreider, Betty Smith and Lee Baldwin.

16
17 **CONTINUED CASES:**

18 **CASE 18-13 and 19-20**

19 **Millstone Realty Trust & Ledgewood Realty Trust** 1070 First NH Turnpike Map 211
20 Lots 2,14,15,16,17 and Map 217 Lots 34,35,37 Applicant seeks a Minor Site Plan
21 Review and is proposing an expansion of and existing gravel pit/quarry.

22 **Millstone Realty Trust & Ledgewood Realty Trust** 1070 First NH Turnpike Map 211
23 Lots 2,14,15,16,17 and Map 217 Lots 34,35,37. Applicant seeks an Excavation Permit.

24
25 Peter Holden and David Docko were present. Chair Strobel stated that there were 4
26 waivers requested

- 27 a. Section VII-A(1)c – Auto and pedestrian circulation plan.
28 b. Section VII-A(1)d: Lighting Plan.
29 c. Section VII-A(1)e: Landscape Plan.
30 d. Section VII: The applicant requests to draw plans at a scale higher than 1” = 50’
31 due to the overall size of the site.

32
33 **Mr. Kreider made a motion to approve the waiver to Section VII-A(1)c, Auto and
34 Pedestrian circulation plan, with the condition that the waiver and request date
35 be added to the plan. Ms. B. Smith seconded. Motion carried by roll call vote
36 5/0.**

37
38 **Mr. Kreider made a motion to approve the waiver to Section VII-A(1)d, Lighting
39 Plan, with the condition that the waiver and request date be added to the plan.
40 Ms. B. Smith seconded. Motion carried 5/0.**

41
42 **Mr. Kreider made a motion to approve the waiver to Section VII-A(1)e, Landscape
43 Plan, with the condition that the waiver and request date be added to the plan.
44 Ms. B. Smith seconded. Motion carried 5/0.**

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1 **Mr. Kreider made a motion to approve the waiver to Section VII-Scale drawing,**
2 **with the condition that the waiver and request date be added to the plan. Mr.**
3 **Curry seconded. Motion carried 5/0.**

4
5 Phasing and Reclamation

6 Chair Strobel stated that the applicant has referred to phasing and reclamation in that
7 the idea is that Pit A would open up, and as it gets close to depletion, that active
8 excavation of Pit A would stop, excavation of Pit B could start and reclamation of Pit A
9 begins. Once reclamation of Pit A is reclaimed entirely, the performance bond is at
10 that tie can be transferred to another pit, and so on. Chair Strobel asked Mr. Holden if
11 it was the intent that to only have excavation occurring in one pit at a time? Mr.
12 Holden stated that actually, Pit A is a pretty large area. The idea is to take and remove
13 the soil from part of Pit A and stock pile it in the other part of Pit A. Then they will
14 gradually, as Pit A 1 gets used, they will start restoring behind in Pit A 1 and move
15 into Pit A 2. It's more of a transition. He'd actually be working in all of Pit A 1&2 and
16 then starting into Pit B as he works his way up. Chair Strobel stated that he was
17 trying to find a way that the transfer of the bonds could occur with those transition
18 periods. Mr. Holden stated that he and Mr. Docko have discussed is that they would
19 do half of Pit A1, measure the area and they would take the restoration plan per acre
20 cost and apply it to that, and that would be the bond amount. Now that he is in A1, he
21 would move into A2, and they would measure the area and he would supply more bod.
22 His bond will get larger as it goes, until it gets to the point that it doesn't need all of
23 the room to stockpile, and then he can start restoring, and then the bond goes down.
24 Then he moves into Pit B and it starts all over. Ms. L. Smith stated that the Intent to
25 Excavate is an annual form, and the Planning Board wants to have content in this
26 decision, however, once you approve the application, it becomes under the domain of
27 the Board of Selectmen as far as that security is handled. If there is even a condition
28 that would say that the security for this, whether it is a letter of credit or bond, be
29 reviewed annually by the Board of Selectmen, the applicant and the Town's engineer.
30 So that if it gets to a certain point where more needs to be added, more could be.
31 Obviously, it's reduced that could go before the Board of Selectmen and they could
32 reduce some of the amount. Mr. Burdin stated that he has seen in other communities
33 where the communication stops on open pits. It comes to a point where the town has
34 no idea if the applicant is still in compliance or not. They see the annual Intent to
35 Excavate, they don't have grounds to hold it up, but they don't have any factual
36 reason for approving it. A situation like that is what he is trying to avoid with a phased
37 reclamation like this. He would suggest that a condition for this be that it is that the
38 bond is revisited annually concurrent with filing the intent to excavate. Mr. Kreider
39 asked if one of the conditions be that the applicant provides documentation of the
40 areas reclaimed and the areas to be excavated at the annual review. Mr. Burdin stated
41 that if the bond is set up with a financial institution the financial institution is
42 required to tell the town as the beneficiary if there are any changes. If the criteria for
43 that bond were met, they wouldn't have to produce paperwork, they could go to the
44 financial institution and let them know that the conditions were met and they need to
45 produce the money. The key benefit is that the fact that there is a fail safe for any
46 transfers, such as if Mr. Docko sells the property or his business successors 30 or 40
47 years ago fail to communicate with the town in the same way, there will be a bank

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1 somewhere that is a direct contact. Ms. L. Smith stated that the security guarantee
2 has to include language that would guarantee the funds to the town of Northwood
3 directly without having to go through any other process then finding default of the
4 project. Town Legal always reviews any security before it is accepted by the town. Mr.
5 Burdin stated that other site plans where they have required bonding for site work,
6 the bond needs to be in place prior to the signing of plans, so both the bond and the
7 escrow for inspections and agreeing to the whole schedule of inspections. In this case,
8 at least the initial startup reclamation would make sense to have that in place prior to
9 the signing of plans, whether its in the first year they are just building the road, so
10 they will set up the escrow for inspections and they hold off on the bonding until the
11 next year. If they have a condition that requires a performance guarantee, and
12 requires the escrow for inspections, and potentially requires future escrows for
13 inspecting reclamation once it's complete, as long as they have specified that those are
14 the big things, the details of some of that timing can be as agreed to by the people
15 reviewing the guarantees. Ms. L Smith asked if the whole road was to be built prior to
16 any excavation, or as they got to each pit? Mr. Burdin stated it can only go to Pit A,
17 because to get to Pit B, they have to go through Pit A. Ms. L Smith stated that she
18 would suggest that initially, whatever that is to that point, and then after that on an
19 annual basis. But they will still need bonding or security for the road itself. Mr. Burdin
20 stated that they had discussed that as instead of being a performance guarantee being
21 a reclamation guarantee. The applicant stated that this isn't a road that this isn't a
22 road that if they don't finish it, the town would need to call the bond to finish the road.
23 Mr. Holden stated that they only thing they had talked about was the restoration along
24 the road until it gets to Pit A. They would be looking to use a small portion of Pit A
25 initially to generate material to build the road. They would end up with a restoration
26 bond for the road, and a restoration bond for a small area in Pit A 1 so they could
27 generate some stone and gravel to build a road. Mr. Burdin stated that the
28 Conservation Commission had some concerns about making sure that the reclaimed
29 land would be at a standard that some sort of conservation organization would be
30 willing to take it. He can follow up with this next week. Mr. Kreider asked if they could
31 add a requirement that in the end, the land is conserved with an accredited
32 conservation organization. Mr. Burdin stated that part of what the board has to
33 consider is whether or not the applicant's reclamation plan is a reasonable approach
34 to reclaiming this land. To Mr. Kreider's point, while they don't want to paint the
35 applicant into a corner, they also don't want a situation where they find out in 30
36 years that the facts of how the property was reclaimed are found to be inadequate in
37 order to get any conservation organization to take the land. Mr. Holden stated that
38 they were willing to take on the responsibility to make sure that as time goes on, they
39 are talking to someone who might be interested in it, so in 40 years from now it will be
40 back a wooded growth area. Discussion ensues about the type of vegetation they
41 would like to see in the reclaimed area. Mr. Kreider stated that he feels that the
42 bonding needs to include funds for whatever the process is for conserving the and. Mr.
43 Holden stated that if for some reason it gets to be 10 years or so down the road and
44 there isn't one tree growing, they will do something to fix that. They would like to stick
45 with their plan and try to make this as natural as possible. Mr. Kreider stated that in
46 other situations they have asked an expert in the field to weigh in independently. If
47 that would make some members of the board feel more comfortable, maybe they

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1 should do that. Mr. Curry stated that he just wants them to be careful and cautious.
2 Chair Strobel stated that for the draft NOD, he would like to see that

- 3
- 4 1. The applicant sends the notice of the intent to excavate to the assessing
5 department and the BOS annually.
- 6 2. That the bond has a guarantee of reclamation that is tied into amount that the
7 first point in Mr. Burdin’s staff report. *(The applicant has referred to a*
8 *performance bond as the guarantee for completed reclamation. In researching this*
9 *application, I received a recommendation from a planner at NH OSI that the Town*
10 *consider a letter of credit with a self-calling feature as a potentially preferable*
11 *mechanism for the financial guarantee. Since this is a financial issue intended to*
12 *protect the Town from incurring costs related to a private development, it seems*
13 *appropriate to give the Town Administrator and/or Select Board the opportunity*
14 *for input regarding the appropriate mechanism, whether it is specified now or to*
15 *be agreed in the future as separate guarantees come due)*
- 16 3. Item 3, to place the land into a conservation easement after the reclamation is
17 complete with an approved conservation organization. That the cost of obtaining
18 the conservation easement be rolled into the bond.
- 19 4. He did not hear any disagreement on bullet 4 about the discrepancy between
20 155E and the applicant’s intent in doing that. The only difference he sees is
21 that one calls for active seeding and the other is that the applicant intends
22 passive seeding. Mr. Burdin stated that part of his level of concern was based
23 on the understanding and the identified phasing of four pit areas. The
24 discussion before tonight hadn’t focused on incremental reclamation within pit
25 areas. That makes a difference in his comfort level.

26
27 Wetlands Overlay and Conservation Overlay.

28 Mr. Burdin stated that the approval that the applicants received was a special
29 exception to allow wetland impacts. He would specifically point to the relief that is still
30 needed is to the section that deals with both the conservation and wetland easement,
31 but that combo section is included under wetlands. In a sense, it’s a question of that
32 they have multiple wetland setbacks described by the overlay. The relief that they got
33 was for the 20 foot that is applied everywhere that there are wetlands. The question is
34 whether further action is needed to grant relief for the combo areas. Usually he doesn’t
35 make an explicit recommendation to the board about interpretation of items, but in
36 this case, they asked him to. His ultimate conclusion is that his interpretation of the
37 ordinance is that a variance is required to grant relief to that section. In his reading or
38 the ordinance, you cannot use a special exception for relief for that mechanism. It
39 needs to be a variance. Mr. Holden wrote in October of 2019 to the ZBA. They talked
40 about the fact that they were looking for a special exception. “Allowed uses by special
41 exception may be granted by the ZBA upon notice for the following uses. Those uses
42 essential to the productive use of land not within the wetland conservation overlay
43 district shall be allowed by special exception. Those uses include but are not limited to
44 construction of roads, access utilities right of ways” This letter discusses and they sent
45 this to the ZBA before they voted on it, that having a special exception to build a road
46 in the wetland, but not be able to get to the wetland because now they have to get a
47 variance so they can access the edge of the wetland. The ZBA gave then the special

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1 exception. They way he looks at it, is that the special exception gave them the ability
2 to pass through the setback to get to the wetland where they got the special exception.
3 It seems somewhat backwards that the criteria for a special exception is less that the
4 criteria for the variance. Ms. L. Smith stated that one thing that is very clear is that
5 the zoning board can only vote or decide on a specific request that is in front of them
6 that has been noticed. It came to light after the fact that those two areas combined.
7 That was not considered by the ZBA. Mr. Burdin stated that they have asked what the
8 action item is. He stated that the action item is a zoning determination by the board.
9 He doesn't think it necessarily needs to be its own independent motion. It is
10 something that can be rolled into their findings of fact in rendering a decision on this
11 application.

12
13 Mr. Burdin stated that he wants the board to ask is do they need any additional
14 information, and assuming they have all of the information, do they need to see
15 anything redesigned to meet their understanding of the various codes and ordinances
16 involved.

17
18 *Chair Strobel opened public comment. No public present. Chair Strobel closed public*
19 *comment, subject to reopening if they need to.*

20
21 Chair Strobel read from the Conservation Commissions letter: “*We strongly*
22 *recommend seeking the opinion of a hydrogeologist in regards to the need for a*
23 *hydrogeological study to acquire pre-developmental baseline water quality and track*
24 *potential contamination due to blasting. We request that the planning board hire the*
25 *town engineer to conduct a third-party review of the excavation and restoration plans*
26 *and to conduct scheduled inspections to ensure that the conditions of the excavation*
27 *permit are followed to ensure the land will be in a suitable condition for a conservation*
28 *easement. We ask that we be given the opportunity to review the proposed conservation*
29 *easement language and provide comment.” Mr. Kreider stated that they had at one*
30 *point recommended that the stumps be ground or removed. He stated that he would*
31 *like to see some documentation as to the basis for that. Chair Strobel stated that they*
32 *cold ask the Conservation Commission for that information. Ms. L. Smith stated that*
33 *she could invite Ms. Young to the next meeting.*

34
35 **Ms. B. Smith made a motion to continue CASE 18-13 and 19-20 until September**
36 **24, 2020. Ms. Baldwin seconded. Motion carried by roll call vote 5/0**

37
38
39 **CASE: 18-20**

40 **68 Granite Street Properties, LLC.** First NH Turnpike, and Old Turnpike Road, Map
41 108 Lot 102. Applicant seeks to create a Major Subdivision of 16 lots with a looped
42 roadway of 2353' in length.

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44

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1 **Mr. Kreider made a motion to approve CASE 18-20 with the following conditions:**

2 **Prior to the signing of plans:**

3 **1. The applicant will make the following changes to the plan set: a. Approval of**
4 **road names by the Northwood Board of Selectmen b. Approval of all Map/Lot**
5 **numbers by the Town assessor**

6 **2. Final changes requested by Town legal counsel shall be incorporated into the**
7 **easement language**

8 **3. The applicant will acquire and provide copies of all necessary federal, state,**
9 **and local permits, including but not limited to the following, except as**
10 **specifically denoted in other conditions of approval below:**

11 **a. NH DOT District 6 driveway permit for the construction of a public road**
12 **entering First NH Turnpike**

13 **b. Town of Northwood driveway permit for the construction of a public**
14 **road entering Old Turnpike Road**

15 **c. NH DES wetlands permit 818 First New Hampshire Turnpike, Northwood**
16 **NH 03261 (603)942-5586 Ext. 205 Facsimile: (603)942-9107**

17 **d. State subdivision approval for all lots under 5 acres from the NH DES**
18 **subsurface bureau**

19 **e. National Pollutant Discharge Elimination System (NPDES) general**
20 **construction permit f. NH DES Alteration of Terrain permit**

21 **4. The project shall be subject to performance guarantees as agreed to between**
22 **the applicant and the Board of Selectmen, Town engineer, and Town legal**
23 **counsel as follows:**

24 **a. A schedule of official inspections for the road construction and**
25 **installation of drainage improvements, with the cost of inspection to be**
26 **paid by the applicant**

27 **b. A performance bond amount to cover the cost of installing the proposed**
28 **public road**

29 **c. A performance bond amount to cover the cost of installing all proposed**
30 **drainage improvements**

31 **5. Escrow accounts for inspection costs and all required performance bonds shall**
32 **be in place**

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1 **6. Provide certification of monument installation as required by Section 3.06 of**
2 **the Subdivision Regulations.**

3 **7. Deliver three signed and stamped paper copies and one signed and stamped**
4 **mylar of the plan for signature. Prior to Issuance of Building Permits:**

5 **8. Provide a state-approved septic design for each lot prior to issuance of a**
6 **building permit for that lot.**

7 **9. Provide a Town of Northwood driveway permit for each lot (both for lots**
8 **fronting on Old Turnpike Road and the to-be-constructed public roads) prior to**
9 **issuance of a building permit for that lot**

10 **10. Record the plat with the Rockingham County Registry of Deeds within 1 year**
11 **of this decision. Conditions subsequent:**

12 **11.The road shall be constructed to Town standards as proposed**

13 **12.Unless and until the road is accepted by the Town as a Class V road, the**
14 **applicant and/or the homeowners shall be responsible for maintaining and**
15 **repairing the road and stormwater system, including but not limited to plowing.**
16 **The Town shall have no responsibility for road maintenance unless and until the**
17 **road is accepted by the Town as a Class V road. All deeds conveying the lots in**
18 **the subdivision shall include notice of this obligation.**

19 **Ms. B. Smith seconded. Motion carried by roll call vote 5/0**

20 **CASE 19-6:**

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

24 Mr. Burdin stated that he received an email from DOT District 6 asking for comments
25 about the driveway permit based on the plans that they have. One of their concerns
26 was whether or not fire access would be possible. He still hasn't received anything
27 back from the Chief. He replied to DOT with some of his comments as a planner, and
28 suggested that if there were concerns about site access, they have had applicants in
29 the past include a sheet that shows proof of concept that shows what it would look
30 like if a truck the size of a fire truck were to drive into the site. The other question tat
31 they asked was related to parking calculations. He cannot find a parking standard in
32 the regulations that makes sense to apply to this use. In his opinion, the review for
33 that falls back on "the applicant shall provide adequate parking" He did put back onto
34 DOT was that there are industry calculations for various uses and he is sure trip
35 generation manuals are inches thick. He feels that one of those will have a number
36 that they can use.

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1 **Mr. Kreider made a motion to continue Case 19-6 until September 24, 2020. Ms.**
2 **Baldwin seconded. Motion carried by roll call vote 5/0**

3
4 **Ms. B. Smith made a motion to adjourn at 10:15 PM Mr. Kreider seconded.**
5 **Motion carried by roll call vote 5/0**

6
7 *Respectfully submitted*

8
9 *Susan Austin, Land Use Assistant*

Draft