



TOWN OF BOW Planning Board

10 Grandview Road, Bow, New Hampshire 03304

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Approved as amended on May 9, 2019.

MINUTES

March 21, 2019

The Town of Bow Planning Board met on Thursday, March 21, 2019 at 7:00 PM in the Town Municipal Building, 10 Grandview Road, Bow, New Hampshire. Chair Oldenburg called the meeting to order with an introduction of the Board.

7:00 ROLL CALL

Other members present were Sandra Crystall, Vice Chair, Tony Reynolds, Secretary (arrived at 7:54 PM), Don Berube, Jr., Allen Lindquist, Adam Sandahl, David Glasier, and Willis Sloat (left at 9:31 PM), and Selectboard representative Harry Judd. Kristen Hayden was excused. Also present and were Matt Taylor, Community Development Director and Alvina Snegach, recording secretary.

Mr. Oldenburg noted that one regular member was expected to come in late and appointed alternate Sloat to vote in place of Mr. Reynolds until his arrival.

CONCEPTUAL CONSULTATION

Grappone Automotive (Owner: New Siteworks, LLC) – Block 2, Lot 108-B, located at 1168 Route 3-A to construct a new car storage yard to support their existing dealership.

Mr. Oldenburg read the item into the record. Tim Bernier from T.F. Bernier, Inc. introduced himself as the project engineer and presented the following details of the project:

- The owner of the land had come in to subdivide it and do a lot line adjustment about six months ago in preparation for the project;
- Grappone's plan to develop in two phases: first – a 530 vehicle storage yard that will not be open to the public; second – a 50,000 sf building for parts storage and truck service;
- Proposed uses – overflow vehicle storage, conducting auctions, truck service (not tractor trailers).

Mr. Bernier and Larry Haynes, President of Grappone Automotive answered questions about the following:

- Auction timeframe and conditions;
- Plans for lighting, gates, fencing, security, and paving;
- Stormwater management and handling industrial runoff ;
- Difference between vehicle storage yard and parking lot;
- Driveway grades, width, and construction standards;
- Building site acreage and possibility for trucks with parts to turn around;
- Public Service of New Hampshire easement on site;
- Visibility from the highway and Route 3-A.

PUBLIC HEARING

Application #501-19, G. Gardner Contracting, LLC (Owners - Paul, Gregory, & Julia Cullen) - Block 3, Lot 133-L, located at 23-27 Bow Bog Rd. Open Space Residential Development subdivision creating 34 house lots, an open space parcel, a recreation parcel, and 5,232 linear feet of new roads; and associated Wetlands Protection Conditional Use Permit #401-19w for 5,985 SF wetland and 32,091 SF of wetland buffer impacts. The specific purpose of this hearing is to discuss the applicability of Article 7.02(C)(6) of the Zoning Ordinance relative to the proposed subdivision, which empowers the Planning Board to require a traditional two-acre layout for lots abutting any non-open space lot with an existing residence.

Mr. Oldenburg read the item into the record. Ms. Crystall recused herself and sat in the audience. Mr. Oldenburg appointed Alternate Glasier to vote. Mr. Oldenburg noted that the Planning Board had received an opinion from the Town Counsel regarding the interpretation of regulations and the Board may need to discuss it in a non-public session, should such a decision be made.

At 7:20 PM a motion was made by Mr. Judd, and duly seconded by Mr. Berube, to enter into non-public session in accordance with RSA 91-A:3, II (1). Motion passed 7-0 and a roll call was taken: Bill Oldenburg – yes, Don Berube – yes, Allen Lindquist – yes, Adam Sandahl – yes, Willis Sloat – yes, David Glasier – yes, Harry Judd - yes.

At 7:50 PM, a motion was made by Mr. Judd and duly seconded by Mr. Berube to come out of non-public session. General consensus was not to seal the minutes (available as an attachment to this document).

Upon returning to the public session Mr. Oldenburg stated that Board had reviewed the Town Counsel's interpretation of the regulations and noted that there is a difference in how the Town Zoning Ordinance and the Subdivision Regulations define an abutter. He continued to say that according to Town regulations the more stringent definition should be used, which is the definition from the Bow Subdivision Regulations which states that an abutter is anyone within 200 feet of a lot with a residence on it. Mr. Sloat added that it should be a two acre lot with 200 feet of frontage as well. Mr. Oldenburg continued to say that this discussion empowers the Board to make a decision that whether or not the lots that fall within that distance can be considered open space or not. The open space lots require a minimum $\frac{3}{4}$ acre buildable area with a minimum 100 feet of frontage, and regular lots are a minimum two acre buildable area with a minimum 200 feet of frontage. He also provided a short explanation of Article 7.02(C)(6) and how it will apply to this subdivision and which lots may be affected, as well as the open space amount. Mr. Oldenburg and Mr. Berube also explained the purpose of the yield plan to an unidentified member of the public who interjected with a question. Mr. Oldenburg asked the audience to wait until the public hearing is open for any comments. Then he opened the floor for discussion.

Mr. Reynolds joined the meeting at 7:54 PM. A short discussion ensued about his voting status, and he offered to keep Mr. Sloat voting in his place as Mr. Reynolds was not present during non-public session. Mr. Sloat remained a voting member for this discussion.

Discussion ensued about the following:

- difference in definitions with one being more restrictive;
- large number of abutters opposing smaller lots abutting their properties, which are located on regular sized lots;
- the need to abide by the Town requirements, which call for a more stringent standard to be applied;
- the need for the Board to make a decision which standard (abutter definition) to apply before making a ruling on the Article 7.02(C)(6) itself;

Mr. Glasier made a motion that the term abutter, for the purposes of this subdivision, will be adopted from the definition of the Bow Subdivision Regulations, which includes the 200 foot provision. Mr. Sloat said that he would like to note that the definition should not be limited to this subdivision alone and should be applied to all open-space subdivisions. He also noted that the fact that it has not been applied before does not restrict the Board from applying it now or in the future, as previous cases may have had no opposition from abutters.

Mr. Glasier modified his motion to state that the abutter definition from the Bow Subdivision Regulations should apply to all open-space subdivisions, and that it is a definition that included a 200 foot provision. Mr. Sloat duly seconded and motion passed by a unanimous vote.

Mr. Oldenburg said that Mr. Reynolds was now voting and asked Ms. McCourt if she had any information to share with the Board.

Ms. McCourt introduced herself as the project engineer and noted that the motion that has just been approved would change her presentation. She continued to say that the question is when should the Board apply the ZO Article 7.02(C)(6). She presented plans for several open space developments approved in Bow that were approved without invoking the Article 7.02(C)(6). Ms. McCourt added that Albin Road subdivision was one of those development where the article should have been applied, but was not. Mr. Oldenburg and Mr. Sloat noted that it was never applied because nobody ever raised any concerns or opposition. Mr. Sloat added that the requirement is buried in legalese and that is why the Board had to consult the Town Counsel. The fact is that the Board is aware of the provision now and will apply it in the future as well, especially if there are concerned abutters that are being affected. He added, it is possible that if nobody objects, the provision would not have to be used, however, in this case, there were a lot of objections from abutters. Mr. Sloat concluded that Ms. McCourt could ask for a waiver, although he was not sure it was possible that it would be approved, as this provision should and will be applied now and in the future as it is part of the Town regulations.

Ms. McCourt went on to say that the creation of the open-space ordinance starts with the Master Plan and there are five places in the latter, where the preference for open space is expressed: Vision, Community Survey, Objectives and Recommendations, Natural Resources, and Housing. Then, Ms. McCourt continued to say that the Master Plan is used to create the Zoning Ordinance, which contains the open space regulations, the purpose of which is to allow for planned and orderly growth as envisioned by the Master Plan and the Capital Improvements Program.

Mr. Judd asked Ms. McCourt whether the intent of her presentation was to seek the Board's reconsideration of the decision made earlier. Ms. McCourt explained that she is trying to show that the Board does not have to apply provision 7.02(C)(6), as the regulations state that the Board can, not has to require lots to be standard. Mr. Judd asked Ms. McCourt whether she heard that the Board just made a decision. Ms. McCourt responded that she did but the Board did not address the provision of 7.02(C)(6) that it is empowered to require, not has to require the standard size and that was the reason why she was making her presentation.

Ms. McCourt continued with the description of the purpose of the open space ordinance provided in the Bow Zoning Ordinance. She then showed on the map how all the buffers will be lost should the plan change to the standard grid and pointed out all the lots that will be affected should the provision be applied, also adding, that the incentive for the developer to do an open space subdivision is taken away. In

her opinion, the decision made by the Board requires to basically develop the lot in accordance with the yield plan, which goes against the Town Zoning Ordinance.

Mr. Glasier asked if Ms. McCourt could provide a list of the waivers that may be required for the yield plan. Ms. McCourt that she would need the waiver to do a standard subdivision and a conditional use permit for the wetlands impact. She added that she could not think of any other waivers at that moment.

Mr. Oldenburg asked Ms. McCourt whether all the lots on the yield plan had at least two acres of buildable land. She responded that all the lots have two buildable acres and she had the wetlands mapped when she calculated the yield. Mr. Glasier asked about the wetlands impact and Ms. McCourt stated that the conditional use permit will be required for such impacts with both plans, however, the yield plan will have more impacts. She added that, in her opinion, the impact on abutters will be greater with the yield plan too, as the road will be longer and the setbacks/buffers smaller. Ms. McCourt showed all the lots that will have to be standard sized and said that it may get to a point when the developer may decide to ask for a waiver to do a conventional subdivision. Ms. McCourt then asked the Board about the 50 foot buffer requirement for the open space and how it can be applied to the standard sized lots. Mr. Berube noted that she may not need the buffer for such lots. Mr. Oldenburg asked if a hybrid proposal was possible, where the Boulder Lane would become a standard subdivision and lots at end of Nesbitt are standard, while the lots in the back are open space. Ms. McCourt responded that she was not sure how the lots with a standard size would be determined. She was not sure it would only be across those who object, or everyone. Mr. Berube concurred that it was unclear as to who would decide, the abutters or the Planning Board. Mr. Judd stated that it would be the Planning Board making that decision and asked Ms. McCourt to answer the question Chair Oldenburg posed with a specific hybrid approach. Ms. McCourt said that her gut reaction would be that it may be possible but Boulder Lane will have to be put through and would not be a cul-de-sac. Mr. Judd thanked Ms. McCourt and added that he understands that she cannot speak on behalf of the land owner at this point as she had just heard the proposal for the first time. He also asked Ms. McCourt to confirm that the hybrid proposed by Mr. Oldenburg would not be acceptable. Ms. McCourt said that probably not, as she is trying to be practical. Mr. Berube noted that most of the concerns he heard was about preserving the nature of existing neighborhoods and the higher density represents a legitimate concern for Smokey Road and Nesbitt Drive residents, as the proposed development uses those streets for access. He then said that Boulder Lane is its own neighborhood and is accessed from the main road, therefore, having higher density there should not be a problem. He also said that a hybrid approach may help to keep road names unchanged and avoid traffic problems, where a stop sign can be put at the end of Nesbitt Drive without having to put the road through.

A comment was made from an unidentified member of the public about whether the environmental impact was known. Mr. Berube noted that the public hearing has not been opened yet, however, the yield plan will have much more environmental impact.

Ms. McCourt reiterated her request for guidance from the Board and stated that the Article 7.02(C)(6) empowers the Planning Board to require the standard size, but does not oblige. She added that eliminating the buffers does not help protect the existing homes. Then Ms. McCourt showed some potential lot rearrangements with a combination of standard and smaller lots and said that that she is trying to be practical in drawing up the plan, considering that there so many times that the Town voted to preserve open space and minimize environmental impact. Mr. Judd asked Ms. McCourt if he understood correctly that the developer will not go forward with this development if he cannot have a certain amount of lots. Ms. McCourt said that she could not answer that question. Mr. Glasier and Mr. Sandahl asked some questions about how Boulder Lane would be affected on both sides and Ms. McCourt showed it on the

map and added that these impacts will only take place if the Board does vote for the standard lot size requirement, which it can, but is not required to. Mr. Sloat said that it was possible that the requirement could be applied to sections of the plan, depending on the actual effect it may have on the surrounding neighborhoods.

Mr. Oldenburg opened the public hearing at 8:22 PM.

The following individuals addressed the Board:

- Jason Reimers, from BCM Environmental and Land Law, PLLC, introduced himself as an attorney for two unidentified abutters and stated that the Board's vote on the definition of the abutter made his presentation much shorter. He spoke about the 50 foot buffer not offering the same protection as Article 7.02(C)(6), where the former is more of a screening requirement, and the latter actually offers protection. He also distributed a hand colored plan with the 200 foot radius to identify the abutting lots that would fall under the Article 7.02(C)(6) and specified all the 16 lots and their owners that will be affected, which, probably makes this subdivision the one that would affect the most lots with existing homes than any other one. He added that the drafters of the Article 7.02(C)(6) probably did not envision having almost half of the subdivision to fall under the provision. Mr. Reimers concluded that the language of the Article 7.02(C)(6) is strong as it empowers the Board to require regular lots to protect the integrity of existing neighborhoods and the people who bought into them with an expectation to be surrounded by similar lots. He concluded with a question why would the Board not use Article 7.02(C)(6) as this is the most suitable case for it. Mr. Reimers requested that the Board require that all the 16 lots he identified be made two acre lots.

Mr. Oldenburg noted that the yellow line on Mr. Reimers' plan extended to the lots on Robinson Road which are already two acre lots. Then Mr. Oldenburg gave an example of a lot at the very end of Smokey Road that is impacted by the open space, having to abut some smaller lots; however, in case of a yield plan, there may be a road going there, and it may not be a better solution.

- Ben Soucy, 2 Ogden Drive, spoke about the fact that the Board may need to approve other waivers, and that the Yield Plan was not the only alternative, and that the number of proposed lots was not the only issue, as there are still issues with hydrology. Mr. Soucy had an issue with the developer paying for the independent hydrology study and asked the Board to reconsider and have the Town pay for it.

Mr. Oldenburg explained that the hydrologist will be selected by the Town and the developer will only pay to whoever the Town had selected. He also asked everyone to keep to the topic of discussion, which was the Article 7.02(C)(6).

- Mr. Soucy continued to speak about the number of lots on the yield plan and their sale value right now and in the future and a possible reduction in the number of lots that may be more acceptable;
- Aaron Birnbaum, 2 Smokey Road, asked why everybody was still sitting there as the Board had just voted on the standards.

Mr. Oldenburg specified that the Board had only voted on the definition of an abutter and the next vote would be on how to apply this rule to the subdivision in question.

- Mr. Birnbaum addressed the developer, who was in the audience, that the math does not work for this project, and he (the developer) will lose money unless he sells the homes for 800 thousand each.

Mr. Oldenburg asked that everyone who speaks should address the Board only and noted that the Board does not need to make a determination whether the project is economically viable for the developer.

Mr. Sloat added that there have been a lot of things that have been approved and never started.

- Sandra Crystall, 1 Shoreview Drive, and Bow Conservation Commission, said that she still wants to get back to the fact that the Board needs to look at the yield plan and independently look at each lot and see if it is realistic in terms of being able to be used. There are probably seven lots, that if you look at what is a buffer for either setbacks or buffers, actually for around a wetland and such, you will end up really reducing the usable area to a small area. Ms. Crystall said she can provide a marked up map. People are not supposed to have lawns in these buffer areas, they can mow them, but they are not supposed to regrade the soil, so you are only encouraging the potential for impacts to the buffer by squeezing in some of these lots. Ms. Crystall said that she knows that staff looked at it in terms of the dimensions allowed in the Zoning Ordinance, but if one were to look at the orientation, there is a lot that has a wetland smack in the middle, like a bullseye, and that is a ridiculous to think that the people will be able to build on and not impact the wetland. It is incumbent upon the Board to look very closely at the lots, so that we do not keep talking about 34 which is not something that we have confirmed ourselves, or the Board has not confirmed.

Mr. Taylor noted that the regulations specifically use the word reasonable in terms of calculating the yield, therefore, the Board may need to take up the issue of whether those lots could be reasonably developed. He added that some lots will require conditional use permits for driveways, which is a normal practice with many subdivisions. Mr. Taylor concluded that it would be a judgement call.

Mr. Glasier asked what the process might be for the Board to review the yield plan and whether an independent review may be required.

Mr. Taylor said that this was not the topic of the meeting tonight, however it would be reasonable for the Board to discuss the yield plan at some point. Mr. Glasier then asked that the 7 lots be identified for the Board to be aware of what they are. Mr. Sloat noted that Ms. Crystall mentioned having a plan with those lots identified. Mr. Taylor said that he will take the plan from Ms. Crystall and distribute to all members via email.

- Raya-Jean Zaczyk, 6 Dunmoore Drive, said that she was concerned about the wildlife, and she thinks that they will lose some of their buffer zone, and she felt like that her land should be part of the buffer zone, and there are wild New Hampshire orchids out there that cannot be touched. Ms. Zaczyk was not sure how they would be protected. She also spoke about having problems with her well this summer and her concerns with additional 34 homes going in, which would mean that nobody will have water.
- Joanna Makon, 21 Bow Bog Road noted that her well ran dry three summers ago and it was very difficult for her during this time and how the 34 houses will leave her with no water.

Mr. Oldenburg noted that well issues were discussed during a previous meeting and an independent hydrology review was requested. He also asked everyone to focus on the lot size issue, which was the topic of this meeting, as all the other issues have been discussed previously.

- Ms. Zaczyk continued to say that the hydrologist will do the study in the spring, when there is plenty of water, and suggested that the review be done in the fall. She also noted that she had to pay impact fees when she built her house, and was wondering if all these new houses will have to pay any impact fees as they will impact everything in town and she does not want to be paying for it.

Mr. Oldenburg explained that the new houses will have to obtain all the required permits and pay all the impact fees that are currently required. Mr. Berube added that the school impact fee is no longer required.

- Peter Cook, 7 Smokey Road, spoke about the protection that Article 7.02(C)(6) brings to the existing neighborhoods and that they invested money in the neighborhood for a reason and would like to see the provision upheld. He also noted that unlike the abutters who own the lots, the developer does not own the land as it is only under agreement.
- Linda Millman, 80 Robinson Road, read in a letter in which she urged the Planning Board to uphold the Article 7.02(C)(6). In her letter, Ms. Millman provided extensive quotations from the Zoning Ordinance regarding the above mentioned article and a definition of abutter; described the proposed subdivision and how it does not compare to any other open space developments in Town; individually addressed each abutter's impacts by the proposed subdivision; suggested that the existing residents never expected a cluster subdivision to go in the area; and reiterated her request to the Board to apply Article 7.02(C)(6) to this proposal.
- Alex Shakhau, 9 Ogden Drive, said that he had done a test and watched how many people from Nesbitt Drive take Ogden Drive when going to Concord and it was a lot of people. He also spoke about traffic numbers, safety impacts, 30 MPH being too high of a speed limit for their neighborhood, increased number of citizens in the neighborhood and potential increase in traffic related injuries.
- Maryellen Sardella, 1 Smokey Road, said that as an abutter she would like that a 2 acre lot abuts her property.
- Annette Denise, 13 Ogden Drive, said that the lot size and the rural feel was why she chose to buy a house in this neighborhood and that she did not expect such impact in the future, which will change the neighborhood so significantly.
- Kristen Cook, 7 Smokey Road, spoke about her house being affected in the front and in the back, about the fact that the developer does not own the land and she felt that the Board was trying to make that work for him, whereas all the people in this room were simply asking the Board to protect their homes, their rights, and their lifestyle as they chose that neighborhood for specific reasons. She added that she is not against development, however the proposed plan did not consider the people already living there, the wildlife, and the environment, and would be bad as proposed. In conclusion, Ms. Cook noted that prices can be renegotiated and changes can be made for the development to become smaller.

Mr. Oldenburg noted that the Board is only negotiating the details and upholds the regulations, not approving or disapproving anything yet.

- Joseph Lane, 8 Smokey Road, said that he was attracted to the neighborhood for its character and the proposed development will be an extension of this neighborhood, thus it should be kept in line with what is already existing.
- Patricia Ramsay, 5 Nesbitt Drive, reiterated Sandy Crystall's statement about the yield plan not being reasonable, and said that she supports the request to review the yield plan, as density of this proposal needs to be looked at very closely. She noted that there are buildable lots on Astor Lane that are not selling (an abutter told Ms. Ramsay that the lot is owned) and that density should be kept the same as the existing neighborhood.

Mr. Oldenburg noted that the Planning Board will look at the yield plan at the next meeting.

- Malgorzata Borawska-Popielarz, 16 Nesbitt Drive, thanked Mr. Berube for suggesting a stop sign on Nesbitt Drive, agreed to the proposal to review the yield plan and urged the Board to consider the environment, traffic, and hydrology issues in their review.

- Linda Millman, 80 Robinson Road, said that she brought in a letter from Jean Rich from 11 Nesbitt Drive who was not able to be present at the meeting. Ms. Millman read in the letter which spoke about Article 7.2.(C)(6) and the protection it offers; abutter definitions and the Zoning Ordinance allowing for the use of the more stringent standard; the proposed development being very different in character compared to the existing ones around it or most developments already in Town; the proposed development not promoting goals and objectives of the Master Plan; and applying other reasonable conditions to the development (Article 7.01 should be applied in conjunction with Article 7.02). The letter also provided various ordinances and regulations for the Board to use.
- Frank Ritter, 77 Bow Bog Road, (inaudible comment), said that it kind of messes up everything.
- Matthew Bailey, 35 Bow Bog Road, thanked all the abutters for coming out and speaking up, said how great the two acre lots were, and that this lot size is a good way to go. Also mentioned wells, wildlife, and the fact that he cannot shoot in his back yard anymore.
- Linda Millman, 80 Robinson Road, reiterated the need to look at redesigning the plan with considerations about the connectivity of open space, buffer impacts, trails, and protection of various vernal pools and other resources. She made some suggestions on the redesign and how it may help with preserving all of the above, reduce density, and connect open space.
- Ms. McCourt spoke about abutter letters for Smokey Road, Ogden and Nesbitt Drives and the fact that those abutters raised the same concerns about those subdivisions then. Ms. McCourt said that there are rules and regulations that are in place and need to be followed and the open space development adds a lot of negotiations possibilities between the Board and the developer in trying to address some of the issues, but she asked if it was possible to keep to the issues that were discussed at other subdivisions, be they open space or regular. Ms. McCourt said that the developer is willing to work with the Board and is trying to work with the Board, but direction is needed from the Board as she was not sure what is being negotiated at this point.

Mr. Judd noted that the Planning Board does not tell the developer what to do and the term ‘negotiate’ is not quite correct as the Board does not negotiate, but simply abides by the rules and regulations. Ms. McCourt apologized for the use of an inappropriate term, and said that she was not sure how the regulations will be imposed on this development. In other words, which lots will have to be two acres in size.

Mr. Oldenburg noted that after the public hearing is closed, the Board will go into discussion and try to decide on whether to apply the standard lot size rule in this case and if so to which lots. Having no one else to address the Board, he closed the public hearing at 9:14 PM.

The Board allowed questions from the public after the closing of the public hearing only with Chair’s approval.

Discussion ensued about the following:

- o Possible ways to combine the smaller sized lots and regular sized ones and whether a waiver to the 200 foot road frontage requirement could be assumed on the Boulder cul-de-sac in order to keep the acreage standard and allow more lots there;
- o The need to review the yield plan prior to making any decisions about which lots should be standard sized and the fact that the yield plan needs to be reviewed for how reasonable lots on it are in terms of building on them and impacting wetlands;
- Linda Millman, 80 Robinson Road, stated that the long skinny lot abutting Boulder cul-de-sac belongs to the woman who was sitting next to her and she is directly impacted by three of four lots

that are proposed off of Boulder Lane. She also noted that she thought that some lots are closer to that lot than 50 feet, thus the encroachment will be huge.

Mr. Oldenburg said that this lot is quite big and the abutting lots will not be in any vicinity of the house that is located up front by the road. He also said that he believes that Article 7.02(C)(6) was really meant for actual two acre lots with residences on them that abut lots in close proximity to them, whereas the lots in question on Boulder Lane are not even close to the house on 21 Bow Bog Road. He also said the question of the debate is the proximity of the smaller lots to the much larger lots, where a house could be a thousand feet away and never been seen.

Mr. Berube also said that if the Article 7.02(C)(6) was to be applied to Boulder Lane, 21 Bow Bog Road can still have up to four lots abutting her land, which will be no different from what is proposed under a cluster format. However, from an environmental point of view, there will be more impacts and there will be no 50 foot buffer.

Discussion ensued about the following:

- The number of conditional use permits that will be needed to pursue the yield plan layout.
- The abundance of testimony from abutters about the need to protect the existing neighborhoods and keep the subdivision consistent with the abutting areas;
- The Zoning Ordinance being the regulatory document and the Master Plan setting the larger spirit for the regulations and promoting protection of the existing development;
- Whether a combination of lot sizes was possible and how it can be consistent both within the development itself and within the surrounding area;
- How appropriate it was for the Board to suggest a certain number of lots to the developer, given the regulations that empower the Board to invoke Article 7.02(C)(6);
- The need to be careful in making a decision on the lot size as there has been no alternative plan presented and the Board is unsure of how the decision may affect the abutting areas;
- The conflicting nature of abutters' concerns, where the larger lots will preserve the neighborhood but be more impactful to the environment and wildlife;

Mr. Judd made a motion that for this plan the Board would like to see it be standard two acre buildable lots with 200 foot of frontage for each of the subdivided lots. Mr. Oldenburg made a friendly amendment that the standard size and frontage should apply to the lots that abut existing two acre lots with a residence on them. Mr. Judd agreed with the friendly amendment. Mr. Lindquist duly seconded the motion.

After a short discussion about how to apply the rule and the importance of the provided testimony, Mr. Oldenburg repeated Mr. Judd's motion that all lots that abut a two acre lot with a residence on it within 200 feet should be at least 2 acres and have 200 feet of frontage.

The motion passed with a 5:1 vote, with Mr. Sandahl opposing.

Members discussed the next meeting dates, and a possible need to conduct a meeting before April 18th to discuss the yield plan and a possible new conceptual plan. Also the date for the site walk was discussed and was determined that the site walk will take place on April 13th, at 9:00 AM with the meeting place at the end of Nesbitt Drive.

Mr. Judd made a motion to continue this public hearing to April 4, 2019 that will take place at 10 Grandview Road, Bow NH, Room C, at 7:00 PM. Mr. Berube duly seconded and motion passed unanimously.

OTHER BUSINESS

Ms. Crystall returned back to the table and was voting. Mr. Taylor noted that he received a letter from NHDES about Pinnacle Lane developer's Alteration of Terrain Permit violations. He said that the letter of credit, which serves as the financial guarantee for this subdivision, is set to expire in May and the developer had requested to appear before the Board to ask for a reduction in the amount. Mr. Taylor also said that the developer has not addressed any erosion issues, nor posted a restoration bond, as was advised by the Board earlier. Members discussed the issues with the development, the financial guarantees, the need for the Board of Selectmen to accept the road, which would allow the builder receive certificates of occupancy, and etc.

Mr. Berube made a motion that the Planning Board would advise the Board of Selectmen (via letter drafted by the Community Development staff) about all the issues with the Pinnacle Lane development prior to the Board of Selectmen's vote on the road. Ms. Crystall seconded and motion passed with a 5:0:1 vote, with Mr. Judd abstaining.

UNAPPROVED MINUTES

Mr. Oldenburg read the item into the record and noted that a letter had been received from Linda Millman with some edits of her own statement in the February 21, 2019 minutes. February 21, 2019 draft minutes were reviewed and changes were made. *Mr. Judd made the motion to approve February 21, 2019 minutes as amended. Mr. Glasier duly seconded and the motion was passed unanimously.*

ADJOURNMENT: *Mr. Judd made a motion to adjourn, duly seconded by Mr. Lindquist and motion passed with everyone voting in favor. Meeting adjourned at 10:39 PM.*

Respectfully submitted,

Tony Reynolds,
Secretary

Town of Bow
Planning Board
NON-PUBLIC SESSION MINUTES

Date: 03/21/2019

Approved as presented on May 9, 2019.

Members Present:

Bill Oldenburg <u>X</u>	Don Berube, Jr. <u>X</u>	Kristen Hayden <u>Excused</u>
Sandra Crystall <u>Recused</u>	Adam Sandahl <u>X</u>	Harry Judd <u>X</u>
Tony Reynolds <u>Excused</u>	Willis Sloat <u>X</u>	Mathew Poulin <u>N/A</u>
Allen Lindquist <u>X</u>	David Glasier <u>X</u>	

Motion to enter Nonpublic Session made by Harry Judd **seconded by** Don Berube

Specific Statutory Reason cited as foundation for the nonpublic session:

 RSA 91-A:3, II (a) *The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a public meeting, and (2) requests that the meeting be open, in which case the request shall be granted.*

 RSA 91-A:3, II(b) *The hiring of any person as a public employee.*

 RSA 91-A:3, II(c) *Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of this board, unless such person requests an open meeting. This exemption shall extend to include any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant.*

 RSA 91-A:3, II(d) *Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.*

 RSA 91-A:3, II(e) *Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against this board or any subdivision thereof, or by or against any member thereof because of his or her membership therein, until the claim or litigation has been fully adjudicated or otherwise settled*

 RSA 91-A:3, II(i) *Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.*

X **RSA 91-A:3, II (l)** *Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.*

Roll Call vote to enter nonpublic session:

Bill Oldenburg <u>X</u> Y <u> </u> N <u> </u> Not Present	Willis Sloat <u>X</u> Y <u> </u> N <u> </u> Not Present
Sandra Crystall <u> </u> Y <u> </u> N <u>Recused</u> Not Present	David Glasier <u>X</u> Y <u> </u> N <u> </u> Not Present
Tony Reynolds <u> </u> Y <u> </u> N <u>X</u> Not Present	Kristen Hayden <u> </u> Y <u> </u> N <u>X</u> Not Present
Allen Lindquist <u>X</u> Y <u> </u> N <u> </u> Not Present	Harry Judd <u>X</u> Y <u> </u> N <u> </u> Not Present
Don Berube, Jr. <u>X</u> Y <u> </u> N <u> </u> Not Present	Mathew Poulin <u> </u> Y <u> </u> N <u>X</u> Not Present
Adam Sandahl <u>X</u> Y <u> </u> N <u> </u> Not Present	

Remove public meeting tape (if applicable).

Entered nonpublic session at 7:20 p.m.

Other persons present during nonpublic session: Matthew Taylor, Community Development Director and Alvina Snegach, Recording Secretary.

Description of matters discussed and final decisions made. Note: Any votes taken must be recorded "in such a manner that the vote of each member is ascertained and recorded":

Discussed communication from the Town Counsel regarding interpretation of the Zoning Ordinance and Subdivision Regulations provisions.

Note: Under RSA 91-A:3, III. Minutes of proceedings in nonpublic sessions shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of this board, or render the proposed action of the board ineffective, or pertain to terrorism. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

Motion to leave nonpublic session and return to public session by Harry Judd, seconded by Don Berube, Jr. Motion **PASSED**.

N/A **Non-public meeting tape removed**, public meeting tape replaced (if applicable).

Public session reconvened at 7:50 p.m.

Motion made to seal these minutes? N/A

If so, motion made by _____, seconded by _____, because it is determined that divulgence of this information likely would...

Affect adversely the reputation of any person other than a member of this board

Render a proposed action ineffective

Pertains to preparation or carrying out of actions regarding terrorism

Motion to seal minutes: Motion: PASSED / DID NOT PASS (circle one)

These minutes recorded by: Alvina Snegach