

APPROVED

**LINCOLN PLANNING BOARD
PUBLIC HEARING AND MEETING MINUTES**

Wednesday, September 22, 2021 – 6:00 PM
Lincoln Town Hall, 148 Main Street, Lincoln NH

This hybrid meeting will be available both in person with social distancing and via the Zoom Meeting Platform to allow for town wide participation. There is room in the room for between 8 and 12 guests in addition to the Board members. The public is encouraged to participate remotely using ZOOM by going to:

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Meeting ID: 813 3546 5684

Passcode: 243436

Or dial by your location 1-929-205-6099 US (New York)

(See also town website www.lincolnnh.org for the same link, meeting ID and passcode.)

- I. CALL TO ORDER:** by Member Beaudin acting Chairman tonight as Chairman Spanos unable to attend meeting

Present: Vice Chairman Joe Chenard (recused for part of meeting) Selectmen's Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin.

Excused: Chair Jim Spanos, Vice Chair Joe Chenard, and Alternate Mark Ehrman for first order of business (Thomas Tremblay).

Staff Present: Fire Chief & Code Enforcement Officer/Health Officer/Zoom Host and Moderator Ronald Beard, Planner Carole Bont

Town Consultants Present: Town Engineer Ray Korber (via Zoom)

Guests:

- **F. Myles Moran**, resident, (**ABUTTER**) of 11 O'Brien Avenue (Map 117, Lot 024) whose mailing address is PO Box 184, Lincoln, NH 03251-0184 (Via ZOOM) who owns the following:
 1. 11 O'Brien Avenue (Map 117, Lot 024) co-owned with Mary J. Levitsky, as Co-Trustees, of Moran Levitsky Revocable Trust
 2. O'Brien Avenue #LO (Map 114, Lot 001) owned by F. Myles Moran and Mary J. Levitsky, Trustees of Moran Levitsky Revocable Trust
 3. O'Brien Avenue #LO (Map 114, Lot 002) owned by F. Myles Moran and Mary J. Levitsky, Trustees of Moran Levitsky Revocable Trust
 4. O'Brien Avenue – OFF (Map 117 Lot 027) owned by F. Myles Moran and Mary J. Levitsky, Trustees of Moran Levitsky Revocable Trust
 5. Principal/Broker for Moosilauke Realty, PO Box 333104 Main Street, North Woodstock, NH 03262 and Principal of Kastmast Construction, LLC, PO Box

333, 104 Main Street, North Woodstock, NH 03262-0333 that owns 34 Maple Street (Map 114, Lot 009).

- **Gail Tremblay**, resident at 19 Louann Lane (Map 117, Lot 017) owned by Thomas Tremblay, Trustee of Thomas P. Tremblay Revocable Trust, PO Box 235, Lincoln, NH 03251.
- **Thomas Tremblay**, resident (APPLICANT) at 19 Louann Lane (Map 117, Lot 017), owned by Thomas Tremblay, Trustee of Thomas P. Tremblay Revocable Trust, PO Box 235, Lincoln, NH 03251 and owner of the following properties:
 1. 189 Main Street (Map 117, Lot 004) (
 2. Louann Lane #LO (Map 117, Lot 016) (0.43 Acres) (vacant)
 3. 19 Louann Lane (Map 117, Lot 017) (0.62 Acres) (has a single-family residence)
 4. Louann Lane #LO (Map 117, Lot 018) (0.58 Acres) (vacant)
 5. Louann Lane (LO) (Map 117, Lot 019) (1.15 Acres) (vacant)
 6. 30 & 31 O'Brien Avenue (Map 117, Lot 025) (1.8 Acres) (single family residence with detached garage & unpermitted accessory apartment above)
 7. 189 Main Street (Map 117, Lot 004) (0.77 Acres) Has Half Baked Restaurant & Coldwell Banker Real Estate Office

Member Paul Beaudin acted as chair because both Chair Jim Spanos and Vice Chair Chenard were recused and Selectmen's Representative Robinson cannot sit as chair of the Planning Board.

II. CONSIDERATION of meeting minutes from:

- **August 25, 2021**
 - (Vice Chairman Joe Chenard, Board of Selectmen's Representative O.J. Robinson, Member Steve Noseworthy, Member Paul Beaudin)
- **September 8, 2021**
 - (Vice Chairman Joe Chenard, Board of Selectmen's Representative O.J., Member Steve Noseworthy, and Member Paul Beaudin)

Addressed at the end of the meeting.

II. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates).

III. NEW BUSINESS.

A. SUB 2021-05 M117 L017, L018, L019, L025 Tremblay – The Meadows

Application for Minor Subdivision (boundary lot adjustments) between 4 adjacent lots at the end of O'Brien Avenue R/W, and Louann Lane R/W, reconfiguring them. Also, a further subdivision of 1 of those 4 lots into 3 lots.

Applicant/Property Owner: Thomas P. Tremblay, Trustee, Thomas P. Tremblay Revocable Trust of 2006, PO Box 235, Lincoln, NH 03251-0235;

Applicant's Surveyor: Gardner Kellogg, Kellogg Surveying & Mapping, Inc., 254 Mann's Hill Road, Littleton, NH 03561.

Properties: (Rural Residential (RR) District - minimum lot size is 15,000 SF or 0.34 Acres)

1. 19 Louann Lane (Map 117, Lot 017) (0.62 Acres) (has a single-family residence)
2. Louann Lane #LO (Map 117, Lot 018) (0.58 Acres) (vacant)
3. Louann Lane (LO) (Map 117, Lot 019) (1.15 Acres) (vacant)
4. 30 & 31 O'Brien Avenue (Map 117, Lot 025) (1.8 Acres) (single family residence with detached garage & unpermitted accessory apartment above)

Proposal A: The subdivision proposed includes the following boundary line adjustment transfers:

- A. Area #1: Portion of 19 Louann Lane (Map 117, Lot 017) to be transferred to Map 117, Lot 019 – original area of 0.62 Ac changes to 0.46 Ac;
- B. Area #2: Portion of Louann Lane #LO (Map 117, Lot 018) to be transferred to Map 117, Lot 019 – original area of 0.58 Ac changes to 0.54 Ac;
- C. Area #3: Portion of 30 & 31 O'Brien Avenue (Map 117, Lot 025) to be transferred to Map 117, Lot 019 – original area of 1.8 Ac changes to 1.41 Ac; and
- D. Louann Lane (LO) (Map 117, Lot 019) (1.15 Acres) original area of 1.15 Ac changes to 1.67 Ac.

Proposal B: Further subdivision proposed divides 1 lot into 3 lots. Two new lots will be created. Improvements to Luann Lane R/W (to become a 50 ft ROW), the lots, & an extension of municipal water lines, sewer lines & utilities will be required.

- A. The remainder of 30 & 31 O'Brien Avenue (Map 117, Lot 025) (1.8 Acres) as follows:
 1. Lot 1: 0.46 Acres (vacant)
 2. Lot 2: 0.48 Acres (Has a detached garage with an unpermitted accessory apartment above)
 3. Lot 3: 0.47 Acres (Has a single-family residence)

Presentation:

Applicant Thomas P. Tremblay confirmed that all Planning Board members had copies of the current maps he submitted as he discussed the details of the boundary line adjustment request. Applicant Tremblay pointed out his plan for a wider ROW of fifty feet (50') which would meet "the codes" (i.e., NH DOT Standard Specifications for Road and Bridge Construction) for the future. He also intends to establish a proper-width ROW as the existing ROW width was only approximately thirty-three (33) feet wide. He explained that on the maps it is simple and clear what he is trying to accomplish. Originally, Area #1 (in pink on the map) was part of the land that goes with the house on 19 LouAnn Lane (Map 117, Lot 017) which contained a ROW across the property. To avoid having a ROW run through that property, Tremblay said he is converting that land that currently supports the ROW to the lot described as "Louann Lane (LO)" (Map 117, Lot 19). This will allow for a proper width for the ROW and will include a hammer head at the end of the roadway which would be adequate for emergency vehicles to turn around.

The Planning Board members began to discuss the hammer head and how it was represented on the plan maps submitted.

Discussion

1. Cure of Unpermitted Detached Accessory Apartment in Rural Residential District

Acting Chair Beaudin asked for clarification regarding Lot 2 (detached garage with unpermitted accessory apartment above). He wanted to know if the unpermitted apartment above a detached garage in the Rural Residential (RR) District where a detached Accessory Apartment is only allowed by Special Exception needed to be dealt with.

Planner Bont explained that making the land that supports the garage with the unpermitted apartment a separate lot will convert the nonconforming structure (i.e., detached garage with Accessory Apartment) a permitted single-family house lot (i.e., a permanent residence) with a single-family home and a garage underneath. Planner Bont believes approval of this subdivision plan will cure the unpermitted nonconforming detached apartment issue. The setbacks on the plan appear to be correct. Although the stairway on the outside of the building is partially within the setback area, that stairway will be taken off eventually per Applicant Tremblay.

Acting Chair Beaudin stated that if this boundary line adjustment is approved there will be no need for action on the unpermitted detached accessory apartment as it will clear up the issue of the unpermitted accessory apartment by having it come into conformance as a single-family residence on that Lot 2. Selectmen's Representative Robinson agreed.

2. Is Proposed Hammerhead Configuration Problematic?

Member Noseworthy inquired about the drawing of the hammerhead on the maps as it is currently represented as a "Y" shape (versus a hammerhead or "T" shape). He wondered if the "Y" shape of the proposed hammerhead as represented would allow for an actual viable turn around for emergency vehicles. Based on the representation on the plan, it would be tough to turn a firetruck around if the "Y" was built as it was drawn and it was asphalt. Acting Chair Beaudin asked Fire Chief Beard if he was satisfied with the way the hammerhead is drawn. Fire Chief Beard said what Tremblay has drawn there is a space sixty feet (60') wide by one hundred twenty feet (120') long (60'x120'). Would he be able to turn his ladder truck around? (Fire Chief Beard did not have a chance to review the subdivision plan prior to the hearing.)

Tremblay said that nothing could be built within the space and if he does develop it, the road will be gravel. The roadway is shown as a gravel road and he intends to keep the road as a gravel road. If he was paving the roadway, he would have to make room within that hammerhead space so that the fire truck would have gravel to drive on.

Vice Chair Joe Chenard walked in and sat down at the front table.

Fire Chief Ron Beard showed Acting Chair Beaudin and Applicant Tremblay something on his phone.

Acting Chair Beaudin suggested that a condition of approval should be that the Fire Chief is satisfied with the hammerhead just before the applicant builds it. Selectmen's Representative Robinson suggested that the Fire Chief review the hammerhead on the plan and see if it meets his approval for a hammerhead turnaround area for the tower fire truck.

Planner Bont suggested that any changes to the proposed hammerhead be made after consultations between Fire Chief Beard, Applicant Tremblay and his surveyor and then the surveyor can put the newly configured hammerhead that meets the Fire Chief's approval on the

Mylar. This would remove the need for adding a condition to the subdivision approval as the corrected hammerhead would already be on the Mylar to be recorded.

Acting Chair Beaudin asked Applicant Tremblay if he and his engineer/surveyor could consult with Fire Chief Beard and put an acceptable turnaround on the Mylar for recording so they would not have to make a condition.

3. Fire Hydrants

Selectmen's Representative Robinson asked about the location of existing fire hydrants in relation to the subject lots. After some discussion, the Planning Board agreed that the nearest fire hydrant is located at Map 117 Lot 016. Fire Chief Beard stated that the distance between the existing fire hydrant and the furthest lot has to be less than 500 feet (500'). The distance between the nearest fire hydrant and the furthest proposed lot is sufficient (about five hundred feet (500')). Fire Chief Beard said he would be "laying into the fire" anyway. He would drop the hose and lay out the hose from the hydrant on the corner to the fire on the property; the land is pretty flat there so he would not need to use a pump.

Recusal

Vice Chair Joe Chenard announced that he was recusing himself. Acting Chair Beaudin said "we already did that for you." Vice Chair said he was supposed to get to the meeting fifteen minutes ago. He wanted to make sure that his recusal was on the record. Vice Chair left the table with the survey map and went to sit in the audience.

4. Sewer – Where is it?

Selectmen's Representative Robinson asked about the location of the sewer main and hookup. Applicant Tremblay said that was a good question. A definitive location was not known, however, obviously, these two (2) "houses" [30 & 31 O'Brien Avenue (Map 117, Lot 025) (1.8 Acres) (single family residence with a detached garage & unpermitted accessory apartment above)] are hooked up to Town sewer and Town water.

Citizen Joe Chenard said "I can help you with that one."

Applicant Tremblay did not know where it was. He said he had asked DPW Nate Hadaway about the location and asked if he could come find drawings, but it was during COVID-19 so he did not do so. Apparently, nobody knows.

Acting Chair Beaudin said there are three (3) existing houses:

- A. Thomas Tremblay's house at 19 Louann Lane (Map 117, Lot 017) (0.62 Acres) (has a single-family residence);
- B. Lot 2 – 30 O'Brien Avenue (Map 117, Lot 025) (1.8 Acres) (has a detached garage & unpermitted accessory apartment above; and
- C. Lot 3 – 31 O'Brien Avenue (Map 117, Lot 025) (1.8 Acres) (has a single-family residence).

Vice Chair Chenard suggested that the nearest sewer main to hook into is on Main Street "right across from you in Lincoln Square", near the property boundary line between the lot (Map 117, Lot 019) owned by the Applicant and the northeast back corner of the "Four Square Shopping Center" lot in the rear parking lot owned by Herbert Lahout Shopping Center Inc. (Map 118, Lot

076). The sewer lines for these two (2) houses on “O’Brien Avenue” go through the Herbert Lahout Shopping Center parking lot down to Main Street. The sewer line measures from those two (2) houses between one and a half inches (1 ½”) to two-inches (2”) in diameter. The sewer line goes underground down through Herbie Lahout’s parking lot down to Main Street/NH Route 112/Kancamagus Highway. Citizen Joe Chenard said he knows where the lines go because he helped to put the lines in at the time.

5. How Big is the Existing Sewer Line?

Selectmen’s Representative Robinson asked how big the sewer line was. Citizen Joe Chenard said four-inch (4”) lines (referring to the diameter of the sewer line).

Selectmen’s Representative Robinson said, is a four-inch (4”) line wide enough to handle the extra load? Citizen Joe Chenard said, you would have to ask an engineer if the line was wide enough to handle the extra load.

6. What is the Existing Sewer Line Infrastructure?

Acting Chair Beaudin asked Applicant Tremblay about the sewer manhole on the plan within the ROW for LouAnn Lane [near the northeast corner of the fifty foot right of way for Map 117, Lot 019]. Applicant Tremblay said that sewer manhole is twelve feet (12’) deep and goes to the sewer pump station on LouAnn Lane which currently services only one home – the house on the corner of Pollard Road and LouAnn Lane (Map 117, Lot 020) owned by Robert & Paulette LaMontagne pumped up to the sewer main on Pollard Road.

Planner Bont asked for clarification for the minutes. *(People were pointing out icons on a map without orally describing them.)*

Selectmen’s Representative Robinson said Thomas Tremblay’s home on 19 LouAnn Lane (Map 117, Lot 017) feeds into the sewer man hole on LouAnn Lane that then gravity feeds into the sewer pump that is half (½) way down LouAnn Lane. The existing sewer pump station is not shown on the survey map. Looking at the west side of the street named “Louanne Lane” (where Map 117, Lot 020 is located), the sewer pump station is located near where the “A” or the “E” in text “Louanne Lane” is printed on the plan.

7. What Direction Would New Sewer Infrastructure Take?

Planner Bont verified with Applicant Tremblay that should he build houses on Map 117, Lot 015 and Map 117, Lot 016, the sewage from those two lots would be pumped to the sewer manhole shown on the plan as “SMH” with the S in a circle. The icon for sewer man hole is right next to the pin on the northern edge of the fifty foot right of way (50’ROW) located on what will become part of the newly configured Map 117, Lot 019.

Applicant Tremblay said: “If that ever happens.” Someday a house on the current vacant lot Map 117, Lot 016 will also tie into the sewer line to go to the sewage pump station to be pumped up to the sewer main on Pollard Road.

8. Sewer Easement Required

Acting Chair Beaudin said it really does not matter because Applicant Tremblay is going to have to get the sewer for the rest of the lots out to the sewer main on Main Street. There will have to be an easement of some sort. Applicant Tremblay said, “if that ever happens”.

9. Sewer Line ROW Required

Selectmen's Representative Robinson is concerned that if a house were to be built it would require a right-of-way (ROW) for the sewer line. Applicant Tremblay explained there are no current plans to build on any of the lots but he does have an engineering plan if the lots get developed in the future. A discussion regarding the sewer location began.

10. Sewer Suggestions:

Selectmen's Representative Robinson wondered about the sewer system for the lots should they be developed. Would the sewer system from the subject lots be a "gravity fed" system that runs down towards Main Street or would the sewer system require "pumping up hill" back to the current sewage pump station half (½) way down LouAnn Lane?

Selectmen's Representative Robinson said right now the house on Map 117, Lot 017 (where the applicant's house is now) gravity feeds into the sewer manhole and out to the LouAnn Lane pump station and then out to the sewer main on Pollard Road. It would be advantageous if Applicant Tremblay built a home on Map 117, Lot 016 for Tremblay to do the same thing. During the construction phase of the build-out, it would be advantageous if a sewer pipe were put down that whole section of LouAnn Lane for all of these lots:

- Map 117, Lot 016
- Map 117, Lot 017
- Map 117, Lot 018
- Map 117, Lot 019,

and to use gravity feed to go down to the sewer manhole in the Herbert Lahout Shopping Center parking lot and then from there out to the sewer main on Main Street.

Applicant Tremblay said he has the engineering all worked out for the whole development; however, he does not intend to develop those lots right now. That is exactly what he initially planned to do, tie the sewer for all of those lots into the deep sewer manhole in the Herbert LaHout's Shopping Center parking lot. However, the estimated cost to put in all of that infrastructure (sewer, water, roads, utilities, etc.) for the whole project was approximately \$500,000.

Applicant Tremblay responded that the sewer would not be going in the direction of the sewage pump station on LouAnn Lane, but rather towards the large manhole (12' deep) across from one of his subject lots (Map 117 Lot 019) which he would have access to. He states that that manhole would be using gravity feed.

Mr. Tremblay stated that he has an engineered design plan which includes all the infrastructure needed if the land were to be developed.

Selectmen's Representative Robinson explained his concern with the current sewer setup and the fact that a pump station currently serves only one home. If no more homes were intending to use the sewer pump station in the future it may be best to talk to the Town and eliminate the need to maintain a pump station there.

Applicant Tremblay said he would be amenable to talk to the Town about eliminating the pump station when the time comes to develop the lots. Applicant Tremblay said no action is needed

currently regarding the sewer situation, as the matter before the Planning Board is only a boundary line adjustment.

Acting Chair Beaudin clarified that the Applicant is not required to have a plan for water and sewer at this time but Applicant will need to come back for Site Plan Review approval or for a Land Use Authorization Permit when a new house is added to any of the lots.

11. Placing the Water & Sewer Lines within the Fifty-Foot (50') Right of Way (ROW)

The Planning Board asked Town Engineer Korber for his input for the discussion regarding water and sewer being placed within the 50' ROW.

Town Engineer Korber explained there are two issues to consider.

- a. Whether if, at some time in the future, the private roadway might become a Town ROW by petition. (To convert a private road to a Class V public highway, the Applicant would need to petition the Town to lay out the private road as a Class V public highway and the Town would have to vote to accept the private road as a Class V public highway); and
- b. Anytime a connection is made to a public infrastructure it is recommended that the infrastructure be constructed to the Town's DES standards whether it connected to a municipal water and sewer service line or to a private line.

Acting Chair Beaudin asked if it was necessary to have a sewer and water plan for the Planning Board to make a decision regarding making the lots a matter of public record.

Selectmen's Representative Robinson clarified that Applicant Tremblay is asking for lot line adjustments in a subdivision. Acting Chair Beaudin wants to know if there is something else that needs to be added to the Subdivision approval stating that the lots need to meet the water and sewer regulations within the Town and the State of New Hampshire Department of Environmental Services (DES).

Town Engineer Korber stated that it would be a good idea to add as a condition of approval that all water and sewer hookups, connections, services, and extensions, need to comply with the Town of Lincoln and NH DES requirements.

12. Proposed Conditions of Approval

- A. The infrastructure shall meet all the Town of Lincoln and DES requirements prior to installation.**
- B. The applicant shall change the Mylar drawings to reflect a hammerhead turnaround [acceptable to the Fire Chief] in the 60' x 120' area.**
- C. It is understood that creating Lot 2 [0.48 Acres with a detached garage with an unpermitted accessory apartment above – a portion of Map 117, Lot 025] will cure the issue concerning the detached garage with an unpermitted accessory apartment above.**

MOTION to open to public hearing by Selectmen's Representative Robinson.

Second by Member Noseworthy.

All in favor.

Joseph (Joe) Chenard (sitting in the audience as a member of the public) expressed some concern with the water and sewer for the proposed “Meadows” development because there are some existing underground structures that Applicant Tremblay may not be aware of. Acting Chair Beaudin said that was an issue that can be worked out with the Board of Selectman at a later time.

MOTION to close public hearing.
Motion by Selectmen’s Representative Robinson.
Second by Member Noseworthy.
All in favor.

MOTION to approve the boundary line adjustments as written in Proposal A and B, in the application, and notes to be placed on the Mylar drawings that say:

(1) Water and sewer will be built to the Town of Lincoln and NH DES standards;
and

(2) An [acceptable] hammerhead turnaround will be shown in the 60’ x 120’ area.

Motion by Selectmen’s Representative Robinson.
Second by Member Noseworthy.
All in favor.

B. Stormwater Management Ordinance and Area of Disturbance – Continue Discussion.

Vice Chairman Chenard rejoined the meeting at 6:54 PM as a member of the Planning Board and came up to sit at the front table with the rest of the Planning Board members.

The Planning Board discussed the Memorandum received prior to the meeting (see attached) regarding the history of the Stormwater Management Ordinance (SMO) and a set of recommendations sent by Town Engineer Korber. This memo was a collaborative effort by Town Attorney Peter Malia, Town Planner Bont and Town Engineer Korber. Some issues that the memorandum included the definition of “disturbed area” and addressed the impact on single family homes.

Town Engineer Korber read the sections of the memo discussing Current Practice for Calculation of Disturbed Area. Town Engineer Korber read the first bullet:

Current Practice for Calculation of Disturbed Area:

In summary, the current methodology Town staff is using for calculating “disturbed area” is as follows:

- Area of disturbance includes all areas related to the development of the lot inclusive of areas outside the property boundary. This recognizes that all areas contiguous to a development contribute to potential adverse impacts that the ordinance seeks to avoid. Inclusion of contiguous areas is consistent with how the state accounts for areas of impact. Refer to Env-Wq. 1502.19 (see attachment).

Town Engineer Korber explained that some developers believe that the SMO only applies to the footprint of the lot and does not apply to anything outside the property boundaries. However,

stormwater runoff areas outside of the property boundaries that are actually disturbed and connected to the activity within the property boundaries are considered to be “contiguous areas”. Contiguous areas are all areas of disturbance with a lot inclusive of areas outside of the boundary that are contiguous to the area of disturbance.

Town Engineer Korber explained the next bullet is the definition of “area of disturbance” which is any change to existing conditions or existing contours.

- Area of disturbance is defined as any change to existing conditions or existing contours. This is consistent with how the state defines disturbance. Refer to Env-Wq 1502.19 (see attachment).

Town Engineer Korber mentioned the definition is consistent with the way the State of NH Department of Environmental Services looks at “area of disturbance” which is a straight-forward standard of care.

Town Engineer Korber read the third bullet that addressed the area of the lot.

- Area of the lot includes all areas inside the property boundary only and exclusive of areas outside the property boundary that are disturbed as a result of the development of the lot. This is as per the definition of “lot” and “lot of record” as per the Land Use Plan Ordinance (see attachment).

Area of the lot includes all areas inside the property boundary only and exclusive of areas outside the property boundary that are disturbed as a result of the development of the lot. This is as per the definition of “lot” and “lot of record” as per the Land Use Plan Ordinance. This information will be used by the Town staff to calculate the area of disturbance. Town Engineer Korber explained that this is a conservative approach and believes it to be the right approach.

Discussion:

Member Beaudin commented that at the Oct. 28, 2020, Planning Board meeting, the Planning Board discussed the SMO and the area of disturbance; the Board decided to leave the SMO “as is” and to add the definition of “disturbed area” to the SMO and that a public hearing was supposed to be held to make the change. He said that the change never occurred as discussed.

Acting Chair Beaudin recalled that at the last Planning Board meeting he suggested that the Town put a Planning Board member on the Technical Review Committee to allow review of the fifty (50) percent and fifteen thousand square feet (15,000 SF).

*Note: Again, there is no “Technical Review Committee”; it is a weekly meeting of staff to review issues associated with particular applications for Land Use Authorization Permits including the following staff members:
Town Planner, Planning Assistant, Fire Chief/Code Enforcement Officer, Deputy Fire Chief, Director of Public Works (DPW), the Town Manager and the Town Engineer (subcontractor). This group is referred to as the “technical review staff”.*

Town Engineer Korber explained that subject was addressed in the last part of the memo.

Model Language and Guidance for Implementation, Permanent [Post-Construction] Stormwater Management Model Ordinance) prepared by NH Department of Environmental Services (DES)

Acting Chair Beaudin explained that he has done some research and would like some time to review his research. (See attached Model Language and Guidance for Implementation, Permanent [Post-Construction] Stormwater Management Model Ordinance) prepared by NH Department of Environmental Services (DES) (“Stormwater Model Ordinance”). Per Beaudin’s request, members of the Planning Board received copies of the Stormwater Model Ordinance in their packets just prior to the Planning Board meeting.

Town Engineer Korber said he was asked to take a look at the Stormwater Model Ordinance and to get his comments on it as those comments relate to what is currently being used (i.e., Stormwater Management Ordinance). Town Engineer Korber explained that he was able to review the Model Language and based on his read, he feels the current Lincoln SMO being used reflects what is in the NH DES Stormwater Management Model Ordinance being discussed.

Do We Need to Add More Flexibility to the SMO?

Acting Chair Beaudin said he feels the current SMO could be tailored a bit more based on the conditions present at the lot which might give the Planning Board some more flexibility.

Town Engineer Korber agreed that if there are areas in the community where the current SMO is not working then it is worth looking into creating a more detailed SMO.

Is SMO Too Costly?

Acting Chair Beaudin states he feels that the current SMO is working, but due to the high cost providing a stormwater management and erosion control plan can be hardship for small single-family home owners.

The Planning Board members discussed some homes in various locations in Lincoln that have had and continue to have flooding problems caused by stormwater runoff from their uphill neighbors. Enforcement of the SMO is too costly for whom: the developers who are building second homes on the side of the hill? or the home owners whose homes are located downhill from the developments who experience stormwater runoff from uphill lots? or the Town whose roads, water and sewer infrastructure are impacted by the stormwater runoff?

Selectmen’s Representative Robinson commented that he is in favor of making changes to the current SMO and reminded the Planning Board that there would need to be a public hearing with the Board of Selectmen. He is in favor of some sort of flexibility where each situation is evaluated based on the complexity of the lot.

Should SMO Distinguish Between “Permanent Disturbance” Versus “Temporary Disturbance”?

Selectmen’s Representative Robinson asked Town Engineer Korber if it is possible to delineate a difference between “permanent disturbance” and “temporary disturbance”.

Town Engineer Korber responded by stating that any temporary disturbance on the land is subject to erosion and should be considered both during construction and post construction. He does not recommend that all temporary disturbances be excluded from the calculation of disturbed area.

Selectmen's Representative Robinson clarified that if the permanent disturbance were to be less than fifteen thousand square feet (15,000 SF) and less than fifty percent (50%) of the lot, but the permanent and temporary combined exceed those threshold amounts, the committee [staff] could grant a waiver of the SMO, but [the staff] would still require the erosion control plan.

Town Engineer Korber agreed and pointed out that on the list of recommendations in the Memorandum (Item C 4) any waiver that the Town [staff] has the authority to grant, it is recommended that an approved erosion and sediment control plan would be part of the requirement. Town Engineer Korber recommended that at a minimum, an erosion and sediment control plan be submitted, reviewed, approved by the Town and then enforced during construction activity.

Possible Wording Changes

A discussion regarding changing the wording of paragraph C occurred.

Town Engineer Korber suggested it read:

“The Planning Board authorizes town staff to waive requirements of SMO so long as the following criteria are met.”

Town Engineer Korber also suggested adding criteria to that to include some language directed at the temporary disturbance. He will be happy to work on that language.

Selectmen's Representative Robinson suggested that the Item C 4 of the Memorandum contain language stating a condition of the waiver be a submission of an erosion control plan. Town Engineer Korber agreed.

Planning Board Involved?

Acting Chair Beaudin states he does not feel the Town staff should be in the position of issuing any type of waiver or allow someone to exceed the thresholds because “it could become personal”. Acting Chair Beaudin said he was considering all of the possible ramifications. Acting Chair Beaudin feels that if the disturbance exceeds the threshold it should go before the Planning Board for a final decision. Acting Chair Beaudin suggested the possibility of adding something that addresses the post and pre-construction disturbance.

Town Engineer Korber explained that he does not think doing that is a good idea as a project could go from a wooded area to a lawn area which would cause more stormwater runoff from that site. Whether the disturbance is restored or not, the runoff is being increased from the site.

Purpose Is to Expedite the Permitting Process

A discussion regarding the staff making decisions independently from the planning board occurred.

Town Engineer Korber explained that the recommendations given are ways to expedite the Land Use Permit Process. In a particular situation, if going slightly over the fifty percent (50%) threshold is not a big deal and is not going to adversely affect any downgrading property owners, and the proposal is going to meet the intent of the SMO, the proposed recommendations would give just a little bit more window for us to get the applicant through the permitting process.

Town Engineer Korber said it is understood that the development community has a lot of angst regarding the time it takes to get through the permitting process. This is a way to expedite the permitting process.

Selectmen's Representative Robinson added that the reason they are discussing this was due to the feedback received from homeowners, developers, etc. over the process and the frustration with the timeline. Selectmen's Representative Robinson explained that he is not an expert in this area and will trust and rely on the recommendations from Town Engineer Korber and Planner Bont. The issue is not that the process is unfair but that the process takes too long.

Selectmen's Representative Robinson disagreed with Acting Chair Beaudin and felt the Town staff should be able to grant waivers for projects that are just over the current threshold of fifty percent (50%) of the lot or fifteen thousand square feet (15,000 SF).

Planner Bont brought to the Planning Board's attention a recent situation that came before the Planning Board that was handled by the Town Engineer and the Director of Public Works who recommended that the property owner and engineer consider building a mirror image of the house and redirecting the stormwater runoff into the town's stormwater drainage system instead of into an onsite retention pond. So, instead of having to redo the stormwater management plan because their first plan was not viable, the applicant could use an alternate solution and did not need to go through the entire Stormwater Management Plan process again. Requiring the property owner and his engineer to come before the Planning Board for approval of a request for a waiver added at least another month to the process.

Town Engineer Korber explained that the intent of the Memorandum and its recommendations was not to change the threshold, but to adhere to and make sure that the purpose and intent of the SMO was being honored in all cases. If the Stormwater Management issues cannot be worked out then the applicant can apply for a full waiver from the Planning Board.

Raise the Thresholds?

Acting Chair Beaudin stated that if the SMO is working, why couldn't the thresholds just be raised or increased. Why not try it and see if raising the threshold cures some of the concerns people are having?

Selectmen's Representative Robinson brought up the fact that small hillside lots with very steep grades would definitely need to follow the current SMO guidelines. The SMO thresholds should remain the same due to the steep grade of the lots. Flat lots would be a different scenario and maybe the gradient of the slopes on the lot should be evaluated as well as disturbed area.

Take into Account Soil and Grade of Slopes?

Acting Chair Beaudin referred back to the Model Language and Guidance for Implementation, Permanent [Post-Construction] Stormwater Management Model Ordinance) prepared by NH Department of Environmental Services (DES) (“Stormwater Model Ordinance”). Acting Chair Beaudin mentioned that soil and grade are considered in those recommendations of the “Stormwater Model Ordinance”.

Keep Purpose of the SMO in Mind While Making the Permitting Process More Efficient

Town Engineer Korber discussed the frustration of some was based on the amount of time it takes to get a Land Use Permit and there has not been anyone who has been denied a Land Use Permit because of the SMO. There has always been a way to meet the intent of the SMO.

Acting Chair Beaudin agreed and wondered what the causes of the delays were in permitting process.

Town Engineer Korber stated that increasing the thresholds will make it so some property owners will not have to comply with the SMO and make the permit process move faster, yes. As a result, however, there will be more runoff because increasing the thresholds will increase the amount of runoff.

Acting Chair Beaudin wondered what the tipping point for the threshold is. He suggests raising the threshold a little and see what happens. He says that if raising the threshold does not work the Planning Board could put it back.

Selectmen’s Representative Robinson asked why. He feels that the SMO is working it just is not working efficiently. He wants to work on the efficiency and not change the threshold.

Fire Chief Beard added that if the thresholds were to be increased the size of the homes will increase as well, causing more impervious area and more stormwater runoff. He explained that an examination of the soil on flats lots could be done to determine whether or not the soil could handle the added square footage.

Town Engineer Korber agreed with the Fire Chief’s comments. He said that during his reviews he sees that people always take the amount of square footage to the limit. If the thresholds are increased people will take them to the limit, which will add to the square footage of impervious surfaces on each on of those lots which could potentially affect the down-stream property, infrastructure, etc.

Acting Chair Beaudin wondered why the process takes so long.

Town Engineer Korber explained that there are a number of reasons why. For example, often the applicants and/or their engineers do not complete what is required of them in a timely manner and the Town staff has to wait for applicants’ consultants to complete their work before moving forward.

Town Engineer Korber feels that focusing on the process and doing what is needed internally to help expedite the permitting process is the way to handle this issue before the Planning Board moves forward to changing the SMO.

Opposition to Changing the Threshold

Selectmen's Representative Robinson read a statement:

"I am strongly opposed to expanding or increasing the thresholds across the board".

Selectmen's Representative Robinson feels that the professional staff should be able to grant waivers for applicants up to 10% above the threshold.

Would a Technical Review Board with Planning Board Members Help?

Acting Chair Beaudin brought up the subject of a Technical Review Board which was discussed at the prior meeting and said that the Planning Board has not addressed that subject today.

Town Engineer Korber said he feels that the process could be slowed by having a Technical Review Board. The intent of his recommendation is to expedite the Land Use Permit process, not slow it down.

Acting Chair Beaudin said he does not agree that the process will be slowed down by having a Technical Review Board and having a review with a Planning Board member would be good for the public perception.

Planner Bont listed a number of people who are already involved in the staff technical review process which includes: Town Manager, Public Works Director, Fire Chief/Code Enforcement Officer, Deputy Fire Chief/Code Enforcement Officer, Town Planner, Town Engineer and administrative staff.

Town Engineer Korber feels Planner Bont made a good point as all of the people she listed have expertise in different areas. They would collectively come to a decision as to whether or not they can allow for a percentage increase. He does not feel the addition of a Planning Board member would add any more expertise to the decision process.

Process For Making the Change to the Stormwater Management Ordinance – Or Is the Change Simply a Change in Policy?

Selectmen's Representative Robinson asked Town Engineer Korber and Planner Bont, if they change the meaning of "area of disturbance", as the Town Planner, Town Engineer and Town Attorney are proposing, does this change need to go before the annual Town Meeting and be voted on.

Selectmen's Representative Robinson asked if the Planning Board decided to give the Town staff this authorization to grant limited waivers, would that be part of the Stormwater Management Ordinance or would that be part of the approval procedures for the Town that is not written in the ordinance.

Planner Bont responded that she thinks when the change was discussed before, it was considered a policy change, but she is not certain if they specifically asked Town Attorney Malia that question.

Town Engineer Korber added that they consulted with Town Attorney Malia and asked that within the context of the SMO does the Planning Board have the authority to grant certain

limited waiver authorization to Town staff to which Town Attorney Malia signed off on in the memo saying it “looks great”. Town Engineer Korber is assuming that Town Attorney Malia has rendered that decision. Town Engineer Korber suggested confirming that with Town Attorney Malia.

Town Engineer Korber stated that this is more of a policy than it is an ordinance. Selectmen’s Representative Robinson made a recommendation:

The Planning Board could accept this new procedure for a period of twelve (12) months and if the Planning Board sees that the town staff has made any questionable, erroneous or biased decisions it would revoke the policy. After twelve (12) months there would be a vote to determine if we would continue with the policy or not.

Vice Chairman Chenard agreed that is a good idea and brought up the language that was going to be added to the memo regarding temporary disturbance.

“Permanent Disturbance” added to “Temporary Disturbance” Goes Over the Threshold – Language Needed

Selectmen’s Representative Robinson said that a provision should be made that if the “permanent disturbance” was under the threshold and the “temporary disturbance” added to the “permanent disturbance” put it over, the Planning Board would have the right to make the same waiver (under Item C 4) requiring an erosion control plan. Robinson said he will put the language together for that.

Quarterly Reports

Fire Chief Beard suggested “there could be” quarterly report on any waivers that were granted by the Town staff as a way of keeping the Planning Board apprised. (A Quarterly Report prepared by whom?)

Planning Board Members agreed that a quarterly report would be “a good idea”.

Process For Making the Change to the Stormwater Management Ordinance – Or Is the Change Simply a Change in Policy?

Acting Chair Beaudin added that the SMO was adopted at the annual Town Meeting. If the Planning Board was going to change any part of the SMO, the proposed amendments may have to go to a Town Meeting again.

Summary of the Discussion

Selectmen’s Representative Robinson summarized:

1. Planning Board will put forward a twelve (12) month allowance for this new process.
2. Quarterly Reports on all waivers granted by staff will be presented to the Planning Board.
3. Selectmen’s Representative Robinson will provide language.
4. Town Attorney Malia will be asked if a Town Meeting is required.

What Does the Term “High Load Areas” Mean?

Member Noseworthy inquired about the term high load areas. Mr. Korber explained that a “high load area” refers to a large volume, high rate and water quality. Typically, high load areas are in urban settings, industrial parks as they mainly consist of roofs and pavement and there are possible contaminants in that type of setting that need to be addressed.

How Many Waivers Can the Planning Board Look Forward to?

Acting Chair Beaudin asked Planner Bont how many permits are issued in one (1) year. Planner Bont replies that it is sometimes over one hundred (100). Acting Chair Beaudin wondered how many of those would be requesting a threshold expansion. Town Engineer Korber clarified that most of these permits would not necessarily be requesting a threshold expansion but the Town staff would be able to offer it under limited circumstances. There will not be new threshold limits but rather a focus on an assessment of the stormwater runoff impact.

Acting Chair Beaudin wondered if a quarterly report was sufficient or should the Planning Board receive more frequent reports based on the number of potential waivers.

Town Engineer Korber said he does not believe more frequent reporting will be necessary as the staff usually works with consulting firms and is typically able to find a solution.

The Planning Board thanked Town Engineer Korber and he left the meeting.

II. CONSIDERATION of meeting minutes from:

- **August 25, 2021**

- (Vice Chairman Joe Chenard, Board of Selectmen’s Representative O.J. Robinson, Member Steve Noseworthy, Member Paul Beaudin)

MOTION to approved as amended by Acting Chair Beaudin

Second Selectmen’s Representative Robinson

All in favor

- **September 8, 2021**

- (Vice Chairman Joe Chenard, Board of Selectmen’s Representative O.J., Member Steve Noseworthy, and Member Paul Beaudin)

MOTION to approved as amended by Acting Chair Beaudin

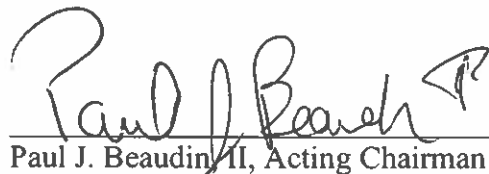
Second Member Noseworthy

All in favor

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: October 13, 2021


Paul J. Beaudin II, Acting Chairman

