

**Members Present**

Drew Carter, Chairman  
Roger Sample, Vice-Chair  
Doug Brown, Member  
Scott Williams, Member  
Brock Mitchell, Selectmen’s Rep.  
Lee Hillsgrove, Alternate  
Tom Diveny, Alternate

**Others Present**

Jessica A. Call, Town Planner  
Trisha DeRoche, Planning Assistant  
Dana Huff, P.E., Town Engineer  
John Dever, III, Code Enforcement Official  
Kelly Sullivan, Master Plan Committee Chair

**Others Present via Zoom**

Tara Bamford, Master Plan Consultant

**Call to Order**

Meeting called to order at 6:00 +/-

**Appointment of Alternates**

Mr. Carter appointed Mr. Diveny and Mr. Hillsgrove as regular members in place of Tom Hoopes and Bill O’Neil for tonight’s meeting.

**Approval of Agenda**

Changes to the Agenda: Ms. Call stated there is a change under Old Business, Alternative Housing Committee, she provided the first invoice and asked the Board to add a small (i) for invoice #2022-136; Under the Master Plan Update, she added a small (ii) for the invoice #2022-135; Ms. Call stated that Tara Bamford will be attending the meeting via zoom for a further discussion on the Master Plan, Chapters 3 & 5.

**Mr. Mitchell MOVED to approve the agenda as amended. Mr. Hillsgrove seconded the motion and it PASSED unanimously.**

**1. Completeness Review of Application and Public Hearing if Application is Accepted as Complete  
(Continued from the June 21, 2022, meeting)**

Case #P22-18 DMC Surveyors, Agent for Andrew & Shannon Kenney, Owners	Map 56 Lot 38 200 Woodlands Road	Final Minor Subdivision Lakeshore Residential (LR) Zone
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Proposal: To subdivide Map 56 Lot 38 into two (2) lots of record. The parent lot would consist of 5.663AC, and the subdivided lot would consist of 1.298AC.

The Chair read the case into the record.

Ms. Call stated there are waivers to address before completeness; Mr. Carter stated there are six (6) waivers to review before the Board can determine if the application is complete. The first waiver is for Section VII, E.2.h.3- submission of a soils map; Ms. Call interjected and suggested the applicants come to the table to discuss the waivers. Mr. Carter asked the applicant to the table; Randel Shuey, CSS, of Northpoint Engineering, and Dean Clark, LLS, of DMC Surveyors, Agent came to the table.

Mr. Williams recused himself from the discussion. Mr. Carter stated there is test pit data included in their packets. Mr. Shuey stated he did the test pits and they are all uniform, moderately, well drained soils except for the soils in the wetlands, which they wouldn't count towards lot sizing; so a soils map would only break out soil slopes and really wouldn't provide any additional information. Mr. Carter asked for feedback from the Board; Mr. Brown asked if there was a precedent for granting this waiver in the past; Mr. Carter responded and stated they have granted this kind of waiver in the past.

**Mr. Carter MOVED to grant the waiver to Section VII, E.2.h.3, the submission of a soils map. Mr. Mitchell seconded the motion and it PASSED unanimously.**

Next waiver, Section VII E.2. j. Driveway Profiles and Cross Sections; Mr. Carter stated that in the waiver request, they noted they were waiting for the Wetlands Crossing Permit; Mr. Shuey stated they received the permit. The owner does not have a location to place the house just yet so they do not know where the driveway will be placed. Mr. Shuey stated that there were plans submitted to the State and to the Conservation Commission and a copy was to be given to the Planning Department; the Planning Department did not receive a copy. Mr. Carter stated that he would like confirmation that a copy was provided to the Planning Department as he would like to look at the plans because it would void the waiver request. Mr. Carter asked if they would like to formally withdraw the waiver; they stated yes. Mr. Carter asked if the waiver withdrawal needed to be in writing, Ms. Call stated yes, they should put the waiver withdrawal request in writing. Mr. Shuey asked if the Board was looking for just one cross section in the wetlands as opposed to every 20'; Mr. Carter responded and stated the regulations call for every 20', but there is reasonableness here as well so a detailed profile of the driveway would be good. Mr. Carter stated they are somewhat limited as to where the house will be placed, so they should try to get the driveway as close as possible.

Next waiver, Section VII E.2.k.- Driveway Site Distance- Mr. Clark stated they have the site distance on the plan, its 490' from the roadway, right in front of the proposed driveway and its 375' towards the East. Mr. Sample stated he believes they only need 30'. Mr. Carter reviewed the plan and asked why the applicant was requesting a waiver; Mr. Clark stated they were instructed to request a waiver during the last discussion. Mr. Carter stated being the site distance is shown on the plan, there is no need for a waiver and they should submit a waiver withdrawal in writing.

Next waiver, Section VII E. 2. n- Information on subdivisions located within Special Flood Hazard Areas- Mr. Shuey stated that every lot in the Town that touches Lake Winnepesaukee is in a special flood zone because the elevation of the lot for the flood zone is 506, which is in the 100 year flood zone. Mr. Carter stated that on the waiver request they stated that the Board would be supplied with the final State approval. Mr. Shuey stated they do not have the final approval from the State, however he did speak to the State today and they would like one more test pit done further out on the small lot to show that there is an alternate location for the septic system; they are still waiting on the State site inspections. Mr. Carter stated this waiver request may not be needed and instead, this could be listed as a Conditions Precedent; Ms. Call agreed and stated under Conditions Precedent, NHDES subdivision approvals are already listed.

Next waiver, Section VII E. 2. o.- Applicable Required Legal Documents, Sample Deeds- Mr. Carter stated the Board will grant this waiver, however, they will have to provide them after the fact.

**Mr. Carter MOVED to grant the waiver for Section VII E. 2. o. Mr. Brown seconded the motion and it PASSED unanimously.**

Next waiver, Section VII E.2. p.- Applicable Agency or Permit Approvals- Mr. Carter stated these are State approvals so they will be put under Conditions Precedent, and noted that the outstanding items for the application were submitted by the applicant.

**Mr. Mitchell MOVED to accept the application as complete. Mr. Hillsgrove seconded the motion and it PASSED unanimously.**

Ms. Call stated there are two (2) additional waivers submitted by the applicant.

Waiver for Section VIII F. 2.- Lot Shape Formula- Mr. Carter asked for an explanation on the lot shape; Mr. Clark stated he has been surveying for 56 years now so he knows where that 4:1 ratio came from; back in 1973, the Locke family was doing subdivisions on Stockbridge Corner Road and they didn't want to build any roadways so they were making lots 100-150 feet wide by 1500-2000 feet wide, so the five (5) acres wouldn't have to go to the State and they wouldn't have to build a road. He stated they requested the waiver because they are not trying to do a big subdivision with a lot of lots; they have the narrow lot because the septic system is on that lot.

Mr. Carter stated he is of the understanding that the existing lot configuration is a lot on either side of the road; Mr. Clark stated that is correct. Mr. Clark stated when they did the original subdivision, they did the lot adjacent to it, which he was just referring to; he stated that was Bill Evans who used to work for the State as a director, he reviewed and signed off on that subdivision. Mr. Carter asked if the existing leach field serves all of the houses; Mr. Clark stated, yes, and that the applicants have an inspection agreement with the Clean Solutions Company who come out every two (2) years to inspect.

Ms. Call noted that the application had been continued for a few months and within that timeframe, the waivers submitted on the current list are different from the originals, waiver eight (8) is actually seven (7) and seven (7) is actually eight (8). Mr. Carter stated that what they were discussing as waiver number seven (7) is actually waiver number eight (8) on the revised 6/3/2022 subdivision plan, but to continue with discussing Section VIII, F. 2. Lot Shape Formula and then they can discuss Monumentation. Mr. Carter stated denying the waiver may impose a hardship on the applicant. He stated being that the septic is already across the street, that this is probably not a bad solution; Mr. Carter asked the Board for feedback. Mr. Diveny stated he does not see a problem with the waiver.

**Mr. Carter MOVED to grant the waiver for Section VIII F.2. Lot Shape Formula on the grounds that strict conformity with the regulations would be an unnecessary hardship. Mr. Mitchell seconded the motion and it PASSED unanimously.**

Next waiver, Section VIII M. - Property Monumentation- Bounds and Pins- Mr. Carter stated that if he understood correctly, Mr. Clark felt a rebar set is a much better solution. Mr. Clark stated that what happens with the rebar's which most people don't understand until you try to pull one out, they won't come out if you try to remove them; what happens is they build up a block of rust at the bottom and the only way to get rid

of them is to pound them in flush. Mr. Sample asked what the normal practice is for this type of waiver; Mr. Carter stated the normal practice would be bounds. Mr. Clark stated if the Board wants them to use bounds, they do not have a problem with that. Mr. Carter stated the rest of the road appears to be rebar and it is a fairly narrow road, so it could be subject to plow. Ms. Call interjected and stated on page five (5) of the Planner Review, there is an entire section that describes monumentation and what is required. Mr. Carter stated the regulations do require monuments but he is not sure on a thirty-five (35) foot wide easement that is plowed. Mr. Clark stated he recently did some re-survey work on a piece of property in Gilford that was a recent subdivision and three out of every five bounds were snapped off from ditch work and what not and it's a new road. Mr. Sample suggested they go with the concrete 4x4 and that way they have both, that would take care of the monumentation request and cheaper than granite. Mr. Clark stated granite is actually more expensive; Mr. Carter stated it is a reasonable request and asked the Board for any additional thoughts. Mr. Hillsgrove interjected and stated he has no problem with the use of rebar. Mr. Sample stated the rebar is for the back pins; Mr. Hillsgrove stated they are not doing that on all of the subdivisions in the Town of Alton, they use rebar on the highway side too. Mr. Carter stated he cannot speak to what Mr. Hillsgrove is talking about but he knows the ones the Board has seen have required either the granite or the concrete at the road. Mr. Hillsgrove stated that all of Dudley Road is steel pins and all of Prospect Mountain Road are steel pins; these were subdivisions that were completed recently within the last two (2) or three (3) years. Mr. Carter asked if any other Board members besides Mr. Sample have any input; Mr. Sample stated he suggested they can use either granite or concrete. Mr. Carter stated this is already in the regulations which means if the Board agrees with this suggestion, they would be denying the waiver request.

**Mr. Sample MOVED to deny the waiver request. Mr. Brown seconded the motion and it PASSED with Mr. Hillsgrove abstaining.**

Mr. Carter stated they discussed under the Conditions Precedent, that when they have the NHDES subdivision approval this would also include the driveway being in compliance with Alton's regulations. Mr. Brown asked if that would be reflected in the permit; Mr. Carter stated yes it would in the driveway permit. Ms. Call asked Mr. Carter if he felt a separate Conditions Precedent needed to be added regarding the driveway or noting that he will apply for a driveway permit; she stated she feels it does not need to be added. Mr. Carter deferred to the Board and they stated they do not feel it needs to be added to the Conditions Precedent.

Ms. Call stated the only other condition she added was under number eight (8), to submit a letter withdrawing the two (2) waivers.

Open Public Input... David Livingston, a direct abutter, came to the table and stated he does not think this should be done. He stated he would like to give some history and produced a map of Woodlands Road which showed the property he purchased from the Bentley's in 1974 and the piece of property next to it is marked Bishop. He stated he sold the Bentley property to the Canes and they insisted that a major subdivision be done so they could build a house on the waterfront in addition to the house that was already there; and that's what's shown on the map. He stated the house the Canes built was too big for the land it was on and they had to obtain land across the street. How can they subdivide the land across the street if some of the land belongs to the house across the street? Mr. Clark stated this took place in 2004; the subdivision was completed prior to the Cane's house being built in 2011, it was a bi-furcated lot. Mr. Sample asked if the Canes bought the entire lot or only a portion of the lot; Mr. Clark stated they only bought a portion of the lot. Mr. Clark stated the subdivision was completed by Mr. Livingston, which included the lot on the waterfront, however no one was buying at the time so he combined the back land (6.96 acres) and the front land to allow

someone to build on the front; the only amount they needed for the back is what they are proposing right now to go with the front lot (56,000 sq. ft.).

Mr. Livingston stated he is not sure they can subdivide the same lot legally. Mr. Carter stated it has been done before and it is legal. Mr. Carter stated they still need to obtain the State's approval so the State will be reviewing the aspect of adequate land. Mr. Livingston thought that it would interfere with the wetlands crossing; Mr. Clark stated they have taken the wetlands into account. Mr. Livingston stated he does not think the subdivision should take place.

Public Input Closed.

**After due hearing, Mr. Sample MOVED that the Alton Planning Board hereby approves the above cited application for Case #P22-18, Andrew F. & Shannon R. Kenney for a Final Minor Subdivision for a two-lot subdivision of property located at Map 56 Lot 38, Woodlands Road, Alton, NH, with the following conditions:**

**CONDITIONS PRECEDENT**

**The following conditions precedent must be satisfied prior to the Planning Board Chair signing of plans:**

- 1. Submission of revised plans in the number required by the Subdivision Regulations and that include all of the Checklist corrections listed under PLAN REVIEW in the Planner Review, any corrections as noted at this hearing, and any waivers granted by the Board.**
- 2. Addition of a note to the subdivision prior to plan signing by the Planning Board Chair to state the following:  
"This subdivision plan contains a total of \_\_\_ sheets: [this is to be listed and dated by the applicant on the subdivision plan itself]. In combination, these plans constitute in their entirety the subdivision as approved by the Town of Alton Planning Board. All sheets are on file at the Town of Alton Planning Department."**
- 3. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair to state the following:  
"This subdivision plan is subject to the Conditions of Approval itemized in the July 19, 2022, Notice of Decision on file at the Town of Alton Planning Department."**
- 4. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair to state the following:  
"Best Management Practices shall be utilized during any timber cutting on site."**
- 5. Submission of sample deeds.**
- 6. Acquire and submit copy of NHDES Subdivision Approval.**
- 7. Monuments to be placed as indicated in Section VIII, M. in the Subdivision**

Regulations, and noted as “Set” on the plan before signing by the Chair; or a Certificate of Monumentation shall be submitted and then recorded by the Planning Department at the Belknap County Registry of Deeds at the owner’s expense.

8. Submit waiver withdrawal requests for Section VII, E.2., j. and k.

**SUBSEQUENT CONDITIONS**

The following subsequent conditions shall be met during construction and on an on-going basis:

1. All subdivision improvements are to be completed as per the approved subdivision plat.
2. The applicant shall comply with all of the Town of Alton’s Subdivision Regulations and Zoning Ordinances, and with any State and Federal Permitting Regulations.
3. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and require additional Planning Board approval.
4. A subdivision plan which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.
5. Once any and all conditions of approval have been met and the Chairman of the Planning Board or his designee signs a subdivision plan, the applicant has twelve (12) months from the date of signing to start construction and, unless a different schedule is approved by the Board, must complete construction within thirty-six (36) months unless an extension has been formally requested and granted by the Board. Normally the Board shall not grant more than one extension per project, shall only grant an extension for reasonable cause, and shall normally not grant an extension for more than six months.

**ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND SUBSTANTIAL COMPLETION OF IMPROVEMENTS**

1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/ordinance changes:  
Place monumentation.
2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39,II, relative to final vesting:  
Satisfy all conditions of approval.

**Unless otherwise approved by the Board, the applicant shall have one (1) year from the date of the meeting at which the application is approved with conditions to complete any conditions precedent that are required prior to signing and recording the subdivision plat. Failure to complete any conditions within the one (1) year timeframe shall invalidate the Board's approval, unless an extension is approved by the Board per Section IX, A., 1., of the Town of Alton Subdivision Regulations.**

**Mr. Diveny seconded the motion and it PASSED unanimously.**

**2. Continued from the June 21, 2022, meeting**

Case #P22-14 Varney Engineering, LLC, Agent for Green Oak Realty Development, LLC, Owner	Map 5 Lot 72 NH Route 28/ 398 Suncook Valley Road	Excavation Permit Application Rural (RU) Zone
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Proposal: To continue the existing excavation pit operation.

The Chair read the case into the record.

Mr. Williams and Mr. Diveny both recused themselves from the discussion and sat in the audience.

Joshua Tibow, who was present in place of Tom Varney, P.E., Agent, and Keith Babb, Owner of Green Oak Realty Development, LLC, came to the table to represent the application.

Ms. Call stated the writing in the Planner Review that is in red was from the initial Planner Review, from there Mr. Babb submitted the updated plans and additional documentation, so she reviewed those and the new items, and then added additional comments in the Planner Review in blue. Mr. Carter would like to address the most recent items in blue on the Planner Review; the estimated volume of materials to be removed during the permit period, 50 years, and the estimate should be based on that number and should be added to the final plan; a separate sheet for the estimated volume of excavated materials was submitted; the Board determined that the information should be added to the final plan, it should all be in one place.

Next, Groundwater Water Sampling Plan... RSA 155-E:8; the list of the 10 property owners who have wells within the 2,000' of the blasting area needs updates; Ms. Call stated she sent the list to Mr. Varney to update. Mr. Babb stated the new AOT permit paperwork was filed but they have not approved it yet; Mr. Tibow stated the new set of plans have been submitted to the State and they are waiting for a response; he stated they are also waiting for a response from the State on the driveway permit.

Next item, the Comprehensive Site Safety Plan- there was a waiver submitted and withdrawn; Mr. Babb stated they submitted an updated letter that paralleled the previous waiver. Ms. Call stated she has not seen the updated Site Safety Plan; Mr. Babb stated there is a page that was submitted last time because everything was done under EMTA which is the US Department of Labor. Ms. Call stated she sent that over to Attorney Sullivan and he was supposed to return an updated plan; Mr. Babb stated Attorney Sullivan has been on vacation all week so he may have fallen behind in getting that submitted. Mr. Tibow interjected and stated they have a copy from the 2019 Site Safety Plan and it will basically be the same. Mr. Babb stated they will resubmit it without the original date and time stamp.

Next item, Brush/slash disposal- Mr. Carter stated there is an area indicated on the plan that has a disposal of stumps and brush/slash will be located in the stump dump area; the new disposal location of the brush/slash location should be indicated on the final plan. Mr. Tibow stated he believes it is on the plan but if not he can note it and make sure it is on the final plan. Mr. Babb stated come mid-winter they will process it and move it down and burn it in the pit during snow fall.

Next item, the Aquifer Zone Map & 100 Year Floodplain Map- Mr. Carter stated the cover sheet indicates that Sheet 1 is the Existing Conditions Plan and Sheet 2 is the Existing 1" = 100"; Ms. Call stated if you look on Sheet 1 it is not listed as Existing Conditions, Sheet 2 is labeled Existing Conditions; she would like that to be clarified on the final plans. She also addressed the Boundary Survey that indicated it was attached to the plan as she did not find any survey. Mr. Tibow stated he can discuss this with Mr. Varney but he does not believe there is a boundary survey included.

Next item, Noise Impact Study- Ms. Call stated she had a question regarding the rock crushing, in the report it stated it was going to be done at a specific time of the year and there will be a rock crusher on site; the report indicates rock crushing will be done no more than five (5) times a year and the wording on the plan is different from the wording in the study. Mr. Babb responded and asked if he should have the language match on both the plan and the study; Ms. Call stated yes, the language should be the same on both.

Next item, Maximum Excavation Limit- Mr. Carter stated they will amend the waiver request to indicate the Town's Excavation Regulations, as amended in 2017; the amended waiver request had not been received. They will remove the last sentence in the second paragraph, "The elevation has not and will not affect the water quality and quantity."

Next item, the Planning Department has not received the waiver withdrawal regarding no off-site stumps buried within 25' of a property line and that there are no off-site stumps buried in the slope of at least four (4') feet above the seasonal high groundwater table. Ms. Call stated when the waiver withdrawal requests were submitted for the other waivers, there was not a withdrawal waiver for this. Mr. Babb stated they will submit a waiver withdrawal.

Next item, Excavation Bond Waiver Request- Mr. Babb stated he requested this waiver because it would cause an undue financial hardship as he would have to possibly refinance his home to obtain the money for the bond. He stated in all his years in business he has never been required to post a bond for anything other than pit surety of \$10,000 or \$15,000; he has never carried a construction bond. He stated the simplest path would be to forgo the bond in lieu of the pit permit and allow him to complete the slope; it would take him less time to complete the slope than it would to secure the bond.

Ms. Call interjected and stated it is her opinion that the Board should address the fact that this waiver request is requesting a waiver from RSA 12-E:6, which has to do with quarries and not excavation so this request needs to be revised to reflect the correct RSA before the Board can discuss the waiver. Mr. Babb stated they can resubmit the waiver request with the correct RSA; but if the Board were to grant conditional approval, he could get started with the completion of the slope right away. Mr. Sample asked if the \$185,000 bond was for the slope; Mr. Carter responded yes, it is for the slope. Mr. Sample asked if it was the same thing, allowing Mr. Babb to complete the slope while waiving the bond. Mr. Babb stated he would ask for 60 days but would most likely be able to complete the slope in two (2) weeks. Mr. Hillsgrove stated he does not agree with the bond if it will place Mr. Babb in a financial hardship; he stated it doesn't seem the Board can legally require this of Mr. Babb. Ms. Call stated the Board does have the legal right to require the bond as it is in the



regulations. Mr. Brown interjected and stated the bond needs to be posted simply because the work needs to be completed with certainty before the excavation, so there is no reason as he sees it, if Mr. Babb does that work in advance, he's in compliance, it seems to be a pragmatic approach. Mr. Hillsgrove agreed and stated Mr. Babb should be able to finish the slope. Mr. Babb stated he feels they have demonstrated to the Board that they have already done approximately two thirds to three quarters of the slope. Mr. Sample asked if one of the regulations allowed for Build or Bond; Ms. Call stated no, not for excavation regulations; she stated the regulation states, "*prior to the granting of any permit or to the removal of any top soil of other overburden material from a new area and an existing excavation site, the applicant shall submit to the regulator a bond with sufficient surety as determined by the regulator*"... this is what the Town Engineer, Dana Huff, P.E., prepared, the \$185,000 bond. Ms. Call stated this bond should have been put in place back in 2010 when he purchased the property. Mr. Sample interjected and stated Mr. Babb is trying to finish the existing slope. Ms. Call responded and stated when Mr. Babb purchased the property in 2010, he was supposed to come before the Board to obtain an excavation permit and at that time he should have submitted a bond to the Town; permits are not transferable, so when he purchased it in 2010 from the prior owner, he should have gone to the Town to be in compliance which did not take place. She further stated now the Board is trying to deal with two (2) issues, get Mr. Babb permitted to operate and repair the slope he excavated over the property line. Mr. Sample stated one solution to this would be to allow Mr. Babb to finish the slope. Mr. Brown stated he wouldn't be able to excavate, only work on the slope; Mr. Sample stated excavation is considered removal; Mr. Carter interjected and stated that is not correct, excavation is removal and putting materials back. Mr. Babb stated there is a surety bond currently on file with the Town of Alton for the pit operation, it's been in place for the last four (4) or five (5) years. Mr. Babb stated they are discussing two (2) different entities, the construction of the berm versus the pit operation; he stated he has no issue foregoing the pit permit to allow him to finish the berm, and if the Town Engineer is happy with it he does not see a reason for the Town to have any further issues. Mr. Hillsgrove interjected and asked if Mr. Huff could approach the table to discuss this further; Mr. Sample interjected and stated they need to determine if they can or cannot allow Mr. Babb to bypass posting a bond but still be allowed to complete the berm. Mr. Carter interjected and stated that the Town Engineer cannot give Mr. Babb permission to complete the berm without a bond. Mr. Hillsgrove stated he is not asking the Town Engineer to give permission, he is asking him to inspect the work as it's completed. Mr. Carter stated that is already a requirement that the Town Engineer witness the construction; Mr. Huff has submitted an estimate for his observation time. Mr. Babb stated he just received that invoice but he has not had a chance to submit payment to the Town. Mr. Sample interjected and asked the Board for an answer; Mr. Carter stated he does not believe the Board can waive the bond. Mr. Sample responded and stated it's the option of Build or Bond, even though the excavation regulations may not say you can, they do not state that you cannot; with every other element of construction, it's Build or Bond. He stated to allow Mr. Babb to complete the berm would not be a hardship on the Town. Mr. Carter responded and stated that Mr. Sample's point is the same point he is making, if Mr. Babb walks away and the work is not done, if there is a bond in place, the Town will be able to finish the work; \$185,000 for a bond is not an unreasonable request. Mr. Babb stated they are going to require that he put up equity to cover the bond and he does not have enough to cover that amount. Mr. Carter stated he feels strongly that this is not your typical Build or Bond situation, this is fixing a wrong. Mr. Sample interjected and stated Mr. Babb is not asking for a waiver to not repair it, he is asking to be allowed to repair it; he asked if he could make a motion and have the Board vote on it. Mr. Carter stated the Board can't vote on this yet because the actual waiver submitted is wrong, so they are just discussing the waiver request. Mr. Babb interjected and asked if it would be acceptable to the Board if he changed the waiver request to reflect the correct RSA and initialed it; Mr. Carter stated he thinks that would be sufficient; however, being that his attorney drafted the waiver request, he would need permission to alter the document. Mr. Carter stated, instead, Mr. Babb could draft a new waiver request himself with the correct RSA and the Board could accept that. Ms. Call thought the correct

RSA was 155-E: 8, which talks about issuance of permit and a bond requirement, but she informed Mr. Babb to ensure for himself that it was the correct RSA.

**Mr. Sample MOVED to allow the pit to be reclaimed without requiring the \$185,000 bond, and that no permits are issued until the inspection is completed. Mr. Hillsgrove seconded the motion and it PASSED with Mr. Carter opposing.**

Mr. Brown asked if the Cease and Desist would prevent Mr. Babb from reclamation of the slope; Mr. Carter stated it would not impede the work on the slope.

Ms. Call stated the Board did not address all of the blue items on page six (6) of the Planner Review and they are important; In order for the Board to issue a permit, a bond needs to put in place for reclamation; the Town currently has a bond of \$10,000 but it was not for the slope. Mr. Sample interjected and asked if the \$185,000 bond was for pit reclamation; Mr. Carter responded no, that amount was strictly for the northern slope. Mr. Sample asked about the \$16,000 bond, Mr. Carter stated that is for the maintenance of the slope after it is completed. Mr. Carter stated the \$10,000 bond that is currently in place is for the reclamation of the rest of the pit. Ms. Call stated the Board needs to determine an appropriate amount for a bond for the reclamation pit after the slope is completed; she asked if the Board felt that \$10,000 was a reasonable amount, if so they can renew the \$10,000 bond or they can obtain another estimate. Mr. Sample asked where the \$10,000 bond came from and what it was for; Ms. Call stated the \$10,000 was a number that the applicant and the Board agreed upon without any research, estimates, or documentation at the July 2018 Planning Board meeting. Mr. Carter stated the question before the Board was, does the \$10,000 seem like a reasonable number?

The Board asked Mr. Huff, to come to the table to discuss the amount of the bond sufficient for reclamation. Mr. Huff stated that Mr. Babb mentioned a vertical wall but that's not what the plans show; they show that all of the slopes in the pit are to be a 2:1 covered with six (6") inches of loam and seed. Mr. Babb stated the updated plans show the vertical slopes. Mr. Babb stated this is a 50-year plan and there is more of the pit to be opened so we can clean up the plans to show the vertical slopes. Mr. Huff stated that he has seen phasing plans in other applications. Ms. Call interjected and stated on the reclamation plan, the note regarding phasing states it is to coincide with the AOT permit that is the only information they have on phasing. Mr. Huff recommended phasing on the reclamation plan; Mr. Babb stated that once they submit it to the AOT it will be updated every 5 years per the regulations. Mr. Carter believes \$10,000 would not be enough to cover what is shown in the most recent plans for reclamation; knowing what the State anticipates would be helpful. Mr. Babb stated Tom Varney just recently submitted the amended AOT request after June's meeting, so they are waiting for a response. Mr. Carter requested a copy of the AOT amendment and table the discussion of the bond amount. Mr. Huff stated the plans need to be revised to show the vertical walls and not to forget they are raising the elevation to the remaining ledge so it is six (6') feet above that groundwater mark; he stated he did not see that on plans; Mr. Huff stated as far as a reclamation amount for the remainder of the pit, he suggested that Tom Varney work up an estimate for the reclamation bond and have him review it. Mr. Huff stated generally he is used to seeing a final excavation plan because that is what the Board would build their bond amount off of, but this is up to the Board to determine.

Next items....Mr. Carter stated the escrow funds were submitted but there was an amendment to the original Task Order; Ms. Call asked Mr. Babb if he had a chance to view the amended Task Order, he stated he did see it and will submit the additional \$3,000. Mr. Huff stated that their geotechnical engineers agreed with the Miller Report findings.

Mr. Carter continued with the next item, the Noise Impact Study which indicated that one month out of the year, the site will have a rock crusher on site; Mr. Carter asked Mr. Babb if the rock crushing of no more than five (5) times a year will take place within that one month or will it be spread out. Mr. Babb stated he could change it to be one (1) to two (2) weeks per visit. Mr. Carter stated that would be better and the language should match on the Noise Impact Study as well.

Mr. Carter addressed the Cease & Desist letter from the Code Official, John Dever, III, and stated they have covered the letter in the earlier discussions; however, there was additional information in the letter that is worth discussing, the topic of bringing in product from other locations and being sold from the pit, which would constitute a separate use as a Contractor's Yard. Mr. Babb stated they discussed this topic a few meetings ago, they were bringing in septic sand from Ossipee which was just ancillary to the pit operation. Mr. Carter stated that the Code Official's interpretation is that it is a sale of a product which would classify the pit as a Contractor's Yard and he is not permitted to be a Contractor's Yard. Ms. Call interjected and stated the Board had a discussion regarding the Contractor's Yard use, but it had to do with the number of times rock crushing would be occurring on site. Mr. Babb stated he believes they classified it as a transfer yard at the 2018 meeting. He further asked if the Board would need to approve the Contractor's Yard use; Mr. Carter stated that requires ZBA approval. Ms. Call stated that is a separate use to sell off-site materials. Mr. Babb asked what John Jeddrey's yard was classified as; Ms. Call stated she is not sure what zone he is in but she does know that he was approved for a Contractor's Yard and he was the reason the town created the Contractor's Yard use. Mr. Babb asked for the date of Mr. Jeddrey's approval; Ms. Call stated she believes it was around the time the Excavation Regulations were being discussed because Mr. Jeddrey was transitioning from an excavation pit to something the town did not have a use for. Mr. Babb asked if he was required to go before the ZBA for a Special Exception; Ms. Call stated that she did not have that information readily available. Ms. Call stated if Mr. Babb did not agree with Mr. Dever's interpretation of the zoning ordinance, then Mr. Babb could appeal Mr. Dever's interpretation to the ZBA.

Next item, Driveway Permit- Mr. Carter noted the permit has been submitted; Mr. Tibow stated the permit has been submitted to the State and they are waiting to see if there is anything additional they need to add to update it.

Open public input.

Kelly Sullivan came to the table to voice her opinion- she asked why the Board could not decide on a different amount for the bond being that \$185,000 was too high; she stated it is unfortunate that the pit has been closed for this long, but they have to do what is right for the Town, but there should be a bond in place. She stated she does not feel Mr. Babb needs to register his pit as a Contractor's Yard, it is ridiculous but it is a regulation that is in place that needs to be followed.

Public input closed.

Mr. Babb asked if he would be able to start the reclamation; Mr. Carter stated they need to make sure all of the monies are in place for the Town Engineer. Ms. Call interjected and asked if he needed to have his AOT permit in place before Mr. Babb was out working on site; Mr. Carter stated yes, the AOT permit would need to be in place first. Mr. Carter stated the Board had given Mr. Babb permission to do the work once he had all of his other legal State requirements in place. The Board continued the application to the next Planning Board meeting scheduled for August 16, 2022.

Mr. Williams interjected and asked to make a suggestion; he asked if staff could look into what Mr. Jeddrey and Mr. Greymont needed to do to regarding their Contractor’s Yards because he does not recall any ZBA approvals being given, and he would like to be certain of that. He also recommended that a copy of RSA 155-E be emailed to each Board member.

**3. Completeness Review of Application and Public Hearing if Application is Accepted as Complete**

Case #P22-23 Prospect Mountain Survey, Agent for CNA Holdings, Inc., Owner	Map 14 Lot 6 84 Jesus Valley Road	Final Major Subdivision Rural (RU) Zone
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Proposal: To subdivide Map 14 Lot 6 into four (4) lots of record. The parent lot would consist of 43.5AC, lot 1 would consist of 2.10AC; lot 2 would consist of 2.03AC; and lot 3 would consist of 2.35AC.

The Chair read the case into the record.

Mr. Carter stated the Board needs to review the application for completeness. Ms. Call interjected and stated last month the Board discussed that an Equitable Waiver of Dimensional Requirements was needed for the front of the house as it was in the front setback; she stated the applicant submitted his application to the ZBA, however, the meeting was cancelled due to a lack of quorum. Ordinarily, if approval from the ZBA is needed, this takes place before the Planning Board grants their approval, but being the meeting was cancelled she recommends that the Board list this as a Conditions Precedent. The Board agreed.

Mr. Carter stated next item to address were the waivers; Ms. Call interjected and stated the waivers submitted do not have to do with completeness, she recommended the Board review for completeness first. Mr. Carter stated he feels the application is complete. Mr. Brown asked about the soils map; Mr. Zuzgo stated there is no separate soils map, it’s on the topo map instead. Mr. Carter stated the Board will often accept that as sufficient.

**Mr. Williams MOVED to accept the application as complete. Mr. Mitchell seconded the motion and it PASSED unanimously.**

Applicant, Andrew Kierstead and agent, Paul Zuzgo came to the table. Board reviewed the waivers submitted; First waiver, Section VII, D.1.b.- Complete boundary survey showing metes and bounds of the entire contiguous parcel- Mr. Carter stated this waiver is for the complete boundary but they can still do metes and bounds for the new lots; Mr. Zuzgo agreed.

**Mr. Carter MOVED to grant the waiver request for Section VII, D.1.b. Mr. Hillsgrove seconded the motion and it PASSED unanimously.**

Mr. Zuzgo stated the second waiver request, Section VII, D.1.c.1. follows the first waiver request- existing and proposed lot lines with all bearings and distances.

**Mr. Williams MOVED to approve waiver request for Section VII, D.1.c.1. Mr. Carter seconded the motion and it PASSED unanimously.**

Third waiver, Section VII, D.1.c.4.- location and type of all proposed and existing survey monuments- Mr. Zuzgo stated this request follows with the entire boundary survey, they are not going to show the monuments

in the back; he is asking for a waiver to not show all of the existing monuments, he will propose monuments on the new lots.

**Mr. Carter MOVED to approve waiver request for Section VII, D.1.c.4. with the clarification that all proposed monuments will be put in place and identified on the plans. Mr. Williams seconded the motion and it PASSED unanimously.**

Fourth waiver, Section VII, D.1.j.- Show all jurisdictional wetlands as defined by the Z.O. and the 25' wetland buffer- Mr. Zuzgo stated he had identified all of the wetlands within the four (4) lots and the first red line outside of the wetlands is a 25' buffer.

**Mr. Williams MOVED to approve the waiver request for Section VII, D.1.j. wetlands defined on all three (3) lots, not the remaining lot. Mr. Sample seconded the motion and it PASSED unanimously.**

Fifth waiver- Section VII, D.1.n.- Show all areas with slopes in excess of 25%- Mr. Carter stated Mr. Zuzgo has shown all the slopes over 25% for the three (3) small lots and asking not to show them on the remaining land.

**Mr. Williams MOVED to approve the waiver request for Section VII, D.1.n, to not have the 25% slope shown on the remaining portion of the lot. Mr. Hillsgrove seconded the motion and it PASSED unanimously.**

Sixth waiver- Section VII, C.10- Road and Driveway profiles, Cross Sections and Details- Mr. Carter stated all driveways are existing; Mr. Zuzgo stated the only driveway permit needed was for the vacant lot, Proposed Lot one (1).

**Mr. Williams MOVED to approve the waiver request for Section VII, C. 10, driveway profiles to approve the driveways as existing and no cross sections. Mr. Hillsgrove seconded the motion and it PASSED unanimously.**

Mr. Carter addressed the aquifer information and asked where the information was obtained; Mr. Zuzgo stated it was from the aquifer overlay map that USGS did years ago. Mr. Carter stated he needs to identify this as his source on the plans. Mr. Carter asked about the utility poles; Mr. Zuzgo stated they are shown, but the poles do not follow the road, they go into the woods across the street and then come back out onto the road further down. He stated there is a pole in front of the vacant lot and starts going into the woods as well.

Mr. Carter addressed the other items, the overall plan date 12/2/2021 has a note stating reference plans 5/25/22 and asked for assistance from Ms. Call; she stated the overall plan has a date of 12/2/2021 and then the notes section where it states "this subdivision plan contains a total of three (3) sheets" and it was dated 5/25/22. Mr. Zuzgo stated he just didn't change the date but he will do so.

Ms. Carter stated the project narrative states the remaining lot has an existing driveway to the rear of the lot to a future building site; Mr. Zuzgo stated on Sheet 2 you will see the driveway. Mr. Brown asked if it was an existing driveway; Mr. Zuzgo stated it is there right now. Ms. Call stated the checklist didn't clarify whether future development was taking place on lot six (6); Mr. Zuzgo stated they will not be able to do any future development on the remaining land, not enough road frontage and the wetlands are located there as well.

Mr. Carter stated that Ms. Call noted on the Planner Review that the project narrative should include the projected increase in auto trips per day and overall positive/negative impacts on the community and whether there is potential for further subdivision. Ms. Call stated they can just update the project narrative with that information.

Ms. Call stated that during the Design Review the Board determined that electrical poles should be indicated on the subdivision plan and that a separate utilities plan was not necessary; but the Board can decide otherwise. Mr. Carter thought it would be a good idea to have the poles indicated on the plan.

Mr. Carter addressed Fire Protection- He stated the Fire Department provided comments during the Design Review phase and the Board suggested the applicant look into installing a dry hydrant. Mr. Williams stated there is a dry hydrant program the Fire Department had a complete map of appropriate sites which was done about nine (9) years ago and if they want to put one in, it would be greatly needed; however, the Board of Selectmen have not mandated fire protection.

Open Public Input.... Sandy Wyatt, a direct abutter came to the table and stated she realized now that Mr. Kierstead did have building permits and she apologized to him.

**After due hearing, Mr. Williams MOVED that the Alton Planning Board hereby approves the above cited application for CNA Holdings, Inc./Andrew Kierstead for a Final Major Subdivision Review for a four (4) lot subdivision of Map 14 Lot 6, 84 Jesus Valley Road, Alton, New Hampshire, with the following conditions:**

**CONDITIONS PRECEDENT**

The following conditions precedent must be satisfied prior to the Planning Board Chair signing of plans:

1. Submission of revised plans in the number required by the Subdivision Regulations that include: *all of the checklist corrections, any corrections as noted at this hearing, and that are listed under "PLAN REVIEW" and "OTHER COMMENTS", and any waivers granted.*
2. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair stating that:  
"Best Management Practices shall be utilized during any timber cutting on site."
3. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair:  
"This subdivision plan contains a total of \_\_\_ sheets: *[to be listed and dated by the applicant on the plan itself]*. In combination these plans constitute in their entirety the subdivision plan as approved by the Town of Alton Planning Board. All sheets are on file at the Town of Alton Planning Department."
4. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair:  
"This subdivision plan is subject to the Conditions of Approval itemized in the July 19, 2022, Notice of Decision on file at the Town of Alton Planning Department."

5. A copy of any necessary Federal, State, and/or local permits shall be received by the Planning Department and the permit numbers shall be added in a note on the plat prior to plan signing. This includes Subdivision Approval by NH DES.
6. Submission of sample deeds.
7. Identify the source used to obtain the aquifer information on the plan.
8. Indicate electrical poles on the plan.
9. Submit revised Project Narrative to include that there is no plan to further subdivide; projected increase in auto trips per day; and overall positive and negative impacts on the community.
10. Obtain ZBA approval for an Equitable Waiver of Dimensional Requirements for the front of the house being within the 25' setback from the road.

**SUBSEQUENT CONDITIONS**

The following subsequent conditions shall be met during construction and on an on-going basis:

1. All subdivision improvements are to be completed as per the approved subdivision plat.
2. The applicant shall comply with all of the Town of Alton's Subdivision Regulations, the Zoning Ordinance, and any other Local, State, or Federal procedures and regulations that may apply.
3. Driveway permits will be required to be obtained from the Town of Alton Highway Department in accordance with the Town of Alton Driveway Regulations.
4. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and require additional Planning Board approval.
5. A subdivision plan which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.
6. Once any and all conditions of approval have been met and the Chairman of the Planning Board or his designee signs a subdivision plan, the applicant has twelve (12) months from the date of signing to start construction and, unless a different schedule is approved by the Board, must complete construction within thirty-six (36) months unless an extension has been formally requested and granted by the Board. Normally the Board shall not grant more than one extension per project, shall only grant an extension for reasonable cause, and shall normally not grant an extension for more than six months.

**“ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING” AND “SUBSTANTIAL COMPLETION OF IMPROVEMENTS”**

1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39, I, relative to the 5-year exemption to regulation/ordinance changes:  
Set monumentation.
2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39, II, relative to final vesting:  
Set monumentation.

**Unless otherwise approved by the Board, the applicant shall have one (1) year from the date of the meeting at which the application is approved with conditions to complete any conditions precedent that are required prior to signing and recording the subdivision plat. Failure to complete any conditions within the one (1) year timeframe shall invalidate the Board's approval, unless an extension is approved by the Board per Section IX, A., 1. of the Town of Alton Subdivision Regulations.**

**Mr. Brown seconded the motion and it PASSED unanimously.**

**Other Business:**

**1. Old Business:**

- a. Alternative Housing Committee Update-  
Ms. Call stated she has included a breakdown with the invoice for Tara Bamford to keep track; Mr. Sample gave a brief update, he stated they are trying to find a way to regulate Short-Term Rentals so for instance, if a buyer from out of state wanted to buy a home here without seeing it to rent it out, they were discussing what would be required of the buyer, possibly having to live in the home or have someone local to manage the home; Mr. Williams stated they are leaning towards a possible permit issued by the Board of Selectmen if they have met the criteria and have no complaints. Ms. Call stated the next Alternative Housing Committee meeting is Monday, July 25, 2022, and they are starting to touch on the Open-Space Subdivision Ordinance that they started talking about last year.
- b. Master Plan Update-  
Discussion on Chapter 3. Natural Resources and Chapter 5. Land Use  
Mr. Carter stated he knows the Board hoped to cover this material at the last meeting but were unable to do so; Ms. Call stated they will not be able to go over the material tonight as the Consultant, Tara Bamford, had to leave the meeting; Ms. Call suggested setting up another workshop to review the Action Plan and Chapters 3 & 5 of the Master Plan- the Board decided on August 2, 2022 at 6pm.



- c. CIP Committee Update
  - i. Board to consider and approve two (2) Citizen Member applications- Ms. Call stated the first meeting is on Tuesday, July 26, 2022 at 6pm; she placed an ad for two (2) citizen members but she did not receive any applications.

**2. New Business:**

- a. ZAC Committee Update  
Ms. Call stated that the first ZAC meeting will take place soon; she stated she had created a list and she was going to review it with Mr. Dever.

- b. **Approval of Minutes:** Planning Board Meeting minutes of June 21, 2022.

**Mr. Carter MOVED to approve the minutes. Mr. Brown seconded the motion and it PASSED with Mr. Mitchell abstaining.**

**3. Correspondence for the Board's review/discussion/action:**

- a. Board to motion to release the remaining Stormwater Drainage Review escrow funds in the amount of \$465 for Kemper Land Holdings, LLC- approved.

Ms. Call stated these are remaining funds that need to be returned to Kemper Land Holdings, LLC, regarding the Stormwater Drainage Review.

**Mr. Sample MOVED to release the remaining Stormwater Drainage Review escrow funds. Mr. Williams seconded the motion and it PASSED unanimously.**

- b. Board to motion to release the remaining Stormwater Drainage Review escrow funds in the amount of \$20 for Meadow Lark Holdings, LLC/Roberts Knoll Campground- approved.

**Mr. Sample MOVED to release the remaining Stormwater Drainage Review escrow funds. Mr. Hillsgrove seconded the motion and it PASSED unanimously.**

- c. Voluntary Merger of Pre-Existing Lots Application, Case #P22-22.

Ms. Call stated an applicant submitted an application for a Voluntary Lot Merger, but after review of the application, it was determined they needed two (2) variances from the ZBA because the lot size was not large enough and they did not have enough road frontage.

**4. Correspondence for the Board's information:**

- a. Letter dated June 28, 2022, from Ryan Heath, Town Administrator, re: The Dive, LLC.

Ms. Call stated this was just for the Board's information.

Any Other Business to Come Before the Board

Public Input on Non-Case Specific Planning Issues

Adjournment:

Drew Carter, Planning Board Chairman

**Mr. Williams MOVED** to adjourn the meeting. **Mr. Mitchell** seconded the motion and it **PASSED** unanimously.

Meeting adjourned at 9:34pm.

Respectfully Submitted,

Trisha DeRoche

Minutes approved as amended: September 20, 2022