

**Moultonborough Planning Board**  
**P.O. Box 139**  
**Moultonborough, NH 03254**

**Public Meeting**

**May 24, 2023**

**Minutes**

Present: Members: Allen Hoch, Sandra Kelly, Scott Bartlett, Norman Larson, Brendan Connolly,  
John Annaian  
Alternate: Peter Claypoole  
Excused: Kevin Quinlan (Selectmen's Representative)  
Staff Present: Dari Sassan, Town Planner; Bonnie L. Whitney, Administrative Assistant

**I. Call to Order:** Chairman Hoch called the meeting to order at 7:00 PM.

**II. Pledge of Allegiance:** The Pledge of Allegiance was recited, led by Mr. Hoch. The members and staff then introduced themselves to the public.

**III. Citizen's Forum:** – None

**IV. Review/Approval of Minutes:**

**Motion:** Mr. Bartlett made the motion to approve the Planning Board Minutes of May 10, 2023, as amended. Mr. Connolly Seconded. Motion carried unanimously.

**V. New Submissions:**

1. David C. & Christine M. Hart (147-26.1) (Wentworth Shores Rd)  
Conditional Use Permit

Chairman Hoch stated that this was a request for a Conditional Use Permit (CUP) to permit the construction of a driveway within the wetland setback and buffer (in accordance with Section 9.1.7.1) to access upland area for the construction of a leach field for Tax Map 131 Lot 24 and for a future single family home.

Planner Sassan stated that this was a standalone application for encroachment into the wetlands buffer for a driveway. Mr. Sassan suggested that the Board discuss and determine as to whether there is a Regional Impact or the potential of Regional Impact for the application. The Planner stated after his review of the Regional Impact Checklist, he believes there is no potential for Regional Impact or potential for Regional Impact.

**Motion:** Mr. Bartlett made the motion that the Board determines that the Application of David C. & Christine M. Hart (147-26.1) does not have the potential for regional impact. Mr. Larson Seconded. Motion carried unanimously.

The Chair asked if there were any questions or comments from the Board as to the completeness of the application. Hearing none, he called for a motion.

**Motion:** Mr. Bartlett made the motion to accept the application of David C. & Christine M. Hart (147-26.1) (Wentworth Shores Road), and to schedule a hearing for this evening to be Hearing #1. Ms. Kelly Seconded. The Motion carried unanimously.

2. Peter Viano (48-9) (357 Gov. Wentworth Hwy)  
Major 2-Lot Subdivision

Chairman Hoch stated that this was a request for a Major 2-Lot Subdivision.

Planner Sassan referred to his Staff Memo, noting that the proposal is compliant with Zoning. Applicant has demonstrated that minimum lot-size and frontage requirements are met. He recommended as a first order of business is to determine regarding potential for regional impact with this application. Staff recommends that the Board move to determine the proposal does not present a potential regional impact as defined in RSA 36:55.

**Motion:** Ms. Kelly made the motion that the Board determine that the Application of Peter Viano (48-9) does not have the potential for regional impact. Mr. Bartlett Seconded. Motion carried unanimously.

Mr. Hoch noted that the applicant has requested three partial waiver requests, asking if there was anyone present to address the waiver requests.

Jim Hambrook of Hambrook Land Surveying noted that there are three waiver requests. A request for a boundary survey, unit density calculations and a wetland delineation of the proposed new lot. Mr. Hambrook noted the rationale for granting the waivers were that the large residual lot is 83 +/- acres and includes an existing residence. The unit density for the residual lot is already residential use and easily exceeds the Town minimum lot size requirements, and wetland delineation of proposed lot as there already is a NH DES approved septic system design and a drilled well. The septic design does not indicate any wetlands in the vicinity of the proposed building site.

**Motion:** Mr. Bartlett moved to grant the waiver request for a boundary survey of the residual lot as requested as the strict conformity with the regulation would pose an unnecessary hardship to the applicant and would not be contrary to the spirit and intent of the regulations. Ms. Kelly Seconded. The Motion carried unanimously.

**Motion:** Ms. Kelly moved to grant the waiver requests from the requirement to provide Unit Density Sheet (Subdivision Regulations Section 4.3.1.11) for the residual lot at this time as requested as the strict conformity with the regulation would pose an unnecessary hardship to the applicant and would not be contrary to the spirit and intent of the regulations. Mr. Bartlett Seconded. The Motion carried unanimously.

**Motion:** Mr. Connolly moved that the board grant the waiver requests for Wetlands Delineation for new Lot 9.1 (Subdivision Regulations Section 4.3.1.13) at this time as requested as the strict conformity with the regulation would pose an unnecessary hardship to the applicant and would not be contrary to the spirit and intent of the regulations. Mr. Annaian Seconded. The Motion carried unanimously.

Planner Sassan spoke to the completeness of the application as noted in the Staff Memo. Noting with the granting of the waivers the application is substantively complete for the purposes of application acceptance and he recommended acceptance of the application for hearing this evening.

The Chair asked if there were any questions or comments from the Board as to the completeness of the application. Hearing none, he called for a motion.

**Motion:** Mr. Bartlett made the motion to accept the application of Peter Viano (48-9) (Governor Wentworth Highway), and to schedule a hearing for this evening to be Hearing #2. Ms. Kelly Seconded. Motion carried unanimously.

**VI. Boundary Line Adjustments:** – None

**VII. Hearings:**

1. David C. & Christine M. Hart (147-26.1) (Wentworth Shores Rd)  
Conditional Use Permit

Jim Hayden, representing Horizons Engineering’s White Mountain Surveying division, and the applicants. Mr. Hayden gave a brief description of the property. The request is for a Conditional Use Permit to construct a driveway through the wetland’s setback and buffer in order to gain access to the buildable area on the westerly side of the lot. The most immediate aspect of the project will be the driveway construction and also the construction of a new Effluent disposal area (EDA) or septic system for the applicant’s abutting lake front lot.

As part of the application there will be 2,800 sq. ft. of driveway within the wetland setback, 130 sq. ft. of that will be in the wetland buffer. There will be 1,806 sq. ft. of grading within the wetland setback; 320 sq. ft. of that will be in the wetland buffer. There will be no disturbance to the wetland itself. There will be proper erosion and sediment control measures taken along the edge of disturbance.

Mr. Hayden noted that the subdivision had come before the Planning Board 2021, and at that time it was understood that in the future a conditional use permit would be required for access, which is what he was here for this evening. Mr. Hayden answered any questions.

A discussion ensued regarding the construction of the driveway, what preventative measures were proposed to protect the wetland, grading of the driveway (slope/crown), paved or gravel surface and the location of the septic lines for the EDA on the rear of the lot.

Planner Sassan referred to his staff memo prepared May 18, 2023, noting that the Fire Chief has visited the site of the proposed driveway and has no concerns regarding this application. Installation of any culverts or bridges if required to cross wetlands shall be designed and installed to support the weight of fire apparatus. The driveway shall extend to within 50 ft of at least one exterior door that can be opened from the outside and that provides access to the interior of the building. The Public Work Director noted that he had no comment on the conditional use permit, however, a driveway permit will be required for the parcel prior to construction.

The Chair opened the hearing for public input. Hearing none, he closed the hearing for public input.

There being no further comments or questions from the board, the following motion was made.

**Motion:** Mr. Bartlett moved to **approve** the Conditional Use Permit for David & Christine Hart allowing for the placement of a driveway at Tax Map 147 Lot 26-1, subject to compliance with the following conditions:

- 1) Perpetually comply with Wetlands Ordinance requirements, to include continual satisfaction of the criteria set forth in Zoning Article 9.1.7.8.
- 2) Construction phase and permanent erosion control and drainage features shall be installed and maintained to function as proposed.
- 3) Prior to construction of driveway, all required federal, state, and local approvals, including a town driveway permit, shall be obtained.
- 4) E-9-1-1 addresses shall be obtained at the time driveways are placed, and prior to occupancy.

- 5) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.

Mr. Annaian Seconded. Motion carried unanimously.

2. Peter Viano (48-9) (357 Gov. Wentworth Hwy)  
Major 2-Lot Subdivision

Jim Hambrook of Hambrook Land Surveying presented the application for the Applicant. Present in the audience were Peter Viano and his son. Mr. Hambrook briefly described the lot. The proposal is for a Major 2 Lot subdivision of an existing parcel, creating one new lot of 5.12 acres with a residual lot of 83.24 acres. The residual lot is fully developed with a single-family home, well and septic. The access is via an existing driveway.

Mr. Hambrook noted the board had recently approved a boundary line adjustment (BLA) with the abutting property of Timothy Morrison. As a result of that BLA the existing right of way over the Morrison property became Mr. Vaiano's. Mr. Morrison granted a 50' easement over the area which is now part of the Viano Lot.

The proposed lot is accessed by the gravel drive, it has a state approved septic system, and a drilled well.

Mr. Hambrook noted the plan has been revised from the plan submitted, showing the pins that were set, and added the sight distance at Route 109. The distance is over 1000 feet to the northwest, and well over 500 feet to the southeast. There is an existing NHDOT driveway cut, noting they have applied to DOT for an amended permit to update the use for two residential properties. Mr. Hambrook noted that there is an additional driveway that accesses the field to the rear of the Morrison farmhouse. There are two main accesses for the Morrison lot directly from Route 109.

Mr. Hambrook stated Unit Density Calculations were noted at 3.51 units for proposed Lot. Mr. Hambrook answered any questions from the board.

Mr. Hoch questioned the length of the driveway up to the split accessing the new lot. Mr. Hambrook noted approximately 1,000 ft. As a result of that question and answer a lengthy discussion ensued regarding if the gravel driveway would be considered a road as it was accessing three lots.

Planner Sassan noted the comments received from the Fire Department. *The Fire Chief has reviewed this application for Fire Department access and water supply as defined in NFPA 1, 2018 Edition adopted by reference in the New Hampshire State Fire Code Saf-C 6000.*

*Access: This proposed subdivision has a gravel road constructed wide enough and with a base capable of providing access for fire apparatus. There is a gate installed, Mr. Viano has previously purchased a Supra key safe box for the gate. The Supra box needs to be installed at the gate with a key or combination for the lock contained inside the Supra box. The fire department will verify that the key/combination works for the locking mechanism and secure the Supra box. The Supra box shall only be used by the fire department to access the properties beyond the gate for emergency purposes only. Any other access shall be provided with permission of the owner.*

*Water Supplies: There are three existing waters supplies within 3,000 feet of this proposed subdivision.*

- Dry Hydrant at Ridgewood Country Club
- Fire hydrant on Paradise Drive (near Skelley's Market)
- Fire hydrant on Governor Wentworth Highway (in the area of 414 Gov. Wentworth Hwy.)

*The Fire Department has no concerns or objections to this application.*

Planner Sassan made the following additional comments on the proposed subdivision:

1. Although the driveway serving the 2 resultant lots is already in existence; its use is being expanded in that it shall now serve an additional lot. As such, it shall be necessary to demonstrate that an updated driveway permit has been obtained from NH DOT (or to provide documentation that NH DOT will not require an updated permit).

2. Although the Subdivision Regulations do not contain any language prohibiting bowling alley lots, flag lots or other oddly configured lots, Subdivision Section 7.1.3 establishes that the Board may withhold approval of proposed lots if they are of questionable suitability for their intended use. As such, Staff recommends that the Board require the applicant to demonstrate that, within the proposed configuration, access can be provided in compliance with the Driveway and Subdivision Regulations. Governor Wentworth Highway is not a town road, however certain provisions of the Town Driveway Regulations pertaining to traffic safety, emergency access and impact to neighboring properties may factor into the suitability of the lot for development. It is within the purview of the Board—in pursuit of assuring the suitability of proposed lots per Subdivision Section 7.1.3—to require adequate access, safety provisions and adequate spacing from abutting properties, using the Driveway Regulations as guidance in establishing appropriate standards.

a. Section 6.3 of the Driveway Regulations requires no driveway, including flare, shall be within 5 feet of a side property line, except for shared driveways or when the Planning Board has approved a subdivision with side-by-side driveways to alleviate road cuts. Staff interprets these exceptions to pertain to the line between the two lots sharing a driveway or between two newly created subdivision lots, and not to other abutting lots. Although the intersection with Governor Wentworth Highway is already established, the proposed expanded use warrants that the Board may require the relocation of the driveway such that it does not come within 5 feet of the abutting properties, to include the driveway flare. If the Board chooses to impose such a requirement, Staff recommends that an accordant condition of approval be added to any possible approval.

b. Section 6.10 of the Driveway Regulations requires the following:

*6.10.1 Driveways longer than 300 feet must include a turnout no farther than fifty (50) feet from the primary residence or building. The turnout must be perpendicular to the driveway and be at least ten (10 ft.) feet in width and twenty (20) feet in length as measured from the edge of the driveway. The area of the turnout may not be steeper than five (5) percent and have an inside radius of fifteen (15) feet. Other dimensions may be approved, provided the applicant can demonstrate that vehicles can safely back in and drive out.*

*6.10.2 Driveways longer than one thousand (1,000) feet must include a passing area at least every eight hundred (800) feet, exclusive of the required turnout in (1) above or turnaround in (3) below. This passing area shall be at least twenty-four (24) feet wide for a length of at least fifty (50) feet, tapered back to the ten (10) foot width on both ends. The grade along the entire length of the passing area must not exceed five (5) percent.*

These provisions, which are intended to ensure public safety, are no less important on state or private roads than they are on town roads. As such, a condition of approval has been proposed which would require that turnarounds and passing areas be incorporated into the subdivision and depicted on the final plan.

3. Plan Note #6 establishes that necessary access provisions will be deeded in accordance with Subdivision Section 6.2.1.

Members discussed the need for the driveway to be brought up to Town Road standards requiring the turnouts and a turnaround. It was noted that the width of the road would negate the need for turnouts and the driveway entering into the field on the abutting (Morrison) lot could serve as a turnaround. The Fire Chief's comments (noted above) indicate that *"This proposed subdivision has a gravel road constructed*

*wide enough and with a base capable of providing access for fire apparatus’.*

The Chair then opened the subdivision hearing for public input. Hearing none, he closed the public input portion of the hearing.

There being no further questions or comments from the Board, the Chair closed the Public Hearing.

**Motion:** Mr. Larson moved to approve the proposed subdivision of Tax Map 48-9, into two lots with the following conditions:

Conditions precedent, to be completed prior to signature of final plans by the Planning Board Chairman:

1. Add the following plan notes/revisions prior to submission of final plan for Planning Board signature:

- a. All pins to be set and identified on plan.
- b. Denote safe driveway sight distances which comply with Section 6 of the Driveway Regulations.
- c. Affix wet stamps and signatures of all professionals and scientists and obtain wet signature of the owner in the designated signature block.
- d. Reference updated NH DOT driveway permit, or current driveway permit if verification has been provided that NH DOT will not require an updated permit.
- e. Depict driveway turnarounds and passing areas which comply with Section 6.10 of the Driveway Regulations.
- f. Add Plan note stating “Future development shall comply with the Town Driveway Regulations requirements for turnouts”.
- g. All conditions subsequent shall be included as plan notes.

2. All required federal, state, and local approvals shall be obtained.

3. Conditions precedent to be completed by 5/24/2024.

Conditions subsequent, to be continually complied with:

4. Approved uses: Lots may undertake uses permitted in the Residential/Agricultural Zoning District, subject to applicable application and permitting requirements.

5. All lots shall be required to perpetually comply with Wetlands Ordinance requirements, as any exemptions per Zoning Article 9.1.5 shall no longer apply.

6. Comply with Groundwater Protection Ordinance requirements.

7. The portion of accessway which extends from Governor Wentworth Highway to the access point to the field on lot 69-19 (measuring approximately 630 feet in length) shall be upgraded to Town Road standards as set forth in Table 1 of the Subdivision Regulations prior to use or occupancy of any new development.

8. E-9-1-1 addresses shall be obtained at the time driveways are placed and prior to occupancy.

9. All representations made by the applicant and applicant’s agent shall be incorporated as a condition of approval.

Ms. Kelly Seconded. Motion carried unanimously.

### **VIII. Other Business/Correspondence:**

Mr. Annaian stepped down from the Board for the application for voluntary merger for Big Dog Holdings, LLC. Mr. Claypoole was seated with full voting privileges.

1. Chairman Hoch noted that the Board was in receipt of an Application for and Notice of Voluntary Merger for Big Dog Holdings, LLC (18-39 & 40) (Whittier Highway).

**Motion:** Ms. Kelly made the motion that the Board determines that the Application of Big Dog Holdings, LLC (18-39 & 40) does not have the potential for regional impact. Mr. Bartlett Seconded. Motion carried unanimously.

**Motion:** Mr. Connolly moved to approve the Voluntary Merger for Big Dog Holdings, LLC (18-39 & 40) subject to compliance with all requirements of RSA 674:39-a, and that no more than one unit suitable for use or occupancy as a dwelling unit shall exist on the lot unless necessary approvals are obtained, including required relief from the Zoning Board of Adjustment, and further authorizing the Chairman to sign the application. Mr. Claypoole Seconded. The Motion carried unanimously.

Mr. Annaian returned to the board at this time with full voting privileges.

2. Michael Muise requested to speak with the board on an informal basis regarding his property located at 919 Whittier Highway, TM 66-19. Mr. Muise stated that he had received site plan review for the property in 2021. They have recently completed construction of the building to run his Plumbing & Heating business from the location, but he has determined that he doesn't need all the amount of space and would like to pursue this option for other contractors or someone else to possibly do the same. Mr. Muise would like to see what the possibilities are for converting the building into 4 individual garage bays and making them condos for someone to purchase individually. Mr. Muise questioned if this was a possibility and what his next steps and requirements would be in regard to getting approval for this change.

It was noted that this was an informal discussion for the board and the applicant to discuss this proposal without any binding decisions made by either the board or the applicant.

Members discussed the idea as presented by Mr. Muise. It was noted that the zoning board of adjustment (ZBA) had granted a variance to permit a post-development peak runoff volume that exceeded the pre-development level for a 50-year storm event. The planning board granted waiver for a reduction in parking spaces and a waiver to allow three sides of the building to remain metal siding, two Conditional Use Permits required by the Village Center Overlay district (VCOD) regulations for a building size of 5,040 square feet and with total impervious area of 25.6% for Map 66, Lot 19 at 915 Whittier highway, located in the Residential/Agricultural Zone, Commercial Zone A and the VCOD.

Planner Sassan stated that during the deliberation of the 2021 site plan review case there was considerable concern expressed that the use might not fall within the intended spectrum of uses for the VCOD, and that when Mr. Muise approached him with the concept of dividing the building into multiple condo units, Planner Sassan felt that similar concerns would likely surface.

Members noted that any changes to the site would require site plan approval, subdivision approval for a condominium form of ownership, as well as the possibility of ZBA approval if there were an increase in the number of parking spaces that would change the stormwater runoff volume for the site.

**IX. Committee Reports:** – None

**X. Project Updates:** – Planner Sassan noted that there were no new submissions or continued hearings for the meeting on June 14, 2023. It was the decision of the board to not hold a work session on May 31st and to use the June 14<sup>th</sup> meeting date as the annual organizational meeting as well as a work session. Suggested items for discussion that evening included review of the Work Plan, Master Plan chapter updates and possible zoning amendments. There will not be a meeting held on May 31, 2023.

**XI. Adjournment:** Mr. Bartlett made the motion to adjourn. Ms. Kelly Seconded. The Motion carried unanimously, and the Board adjourned at 9:30.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant