

**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT [ZBA]**  
**July 17, 2023**  
**DRAFT-1 MEETING MINUTES**

**I. Roll Call**

*Chair Audrey Cline called the meeting to order in the Great Hall, 84 South Main Street, at 7:00 p.m.*

**Members Present:** Audrey Cline (Chair), Suzanne Ryan (Vice-Chair), Luke Freudenberg, Charles Sumner.

**Alternates Present:** Catherine McMahon, N. Sabet Stroman (designated by Chair to vote today).

**Recused and/or Excused Absence:** Sarah Silk (Clerk)

**Staff Planner:** Tavis Austin

**II. Public Hearings**

**III. Unfinished Business**

**a) Add a 2<sup>nd</sup> ZBA Meeting Every Month to Make Findings of Facts:**

**Chair A. Cline:** I have one item on the agenda for discussion first before we get going, and that is: I want to ask the Board about scheduling a second meeting per month. The main reason being: the law changed in August 2022, to require Findings of Facts [FOF]: they must be turned in at the same time as the Decision and the same time as the Draft Minutes, which is five days after a Decision and I don't know how we can, with quite a few Cases: 1) Hear a Case, 2) Close the Public Hearing, 3) Discuss the Case, 4) Make a Decision, and then 5) Go through the Application and list the Findings of Facts.

- My suggestion is that we set another standing hearing every month, a couple of weeks after the first hearing, so that in the first hearing, we can hear the public input, ask all the questions we have of the Applicant and the Public. We can then close the Public Hearing and continue it until two weeks later, when we have the second hearing: at which point we can deliberate, render a Decision, and then write the Findings of Facts. This will put it off a little bit but not as long as a month; also, we won't be bumping into the next month, to hear other Cases.
- I did a search for more information about what the Findings of Facts are supposed to be. It says a couple of things: 1) The degree to which a local jurisdiction should make detailed Findings of Facts in support of an Approval may be based on the level of controversy associated with the Application. If there is a level of controversy the Board should consult with their Town Counsel to prepare complete and legally sound Findings of Facts [FOF]. That two-week period would also allow us [ZBA] to consult with the attorney, if we should need to, on any given Case.

- In the Findings of Facts, the Board [ZBA] should be clear with identifying how the Application meets the regulations and checklist requirements for the Findings of Facts portion of the Approval. Findings of Facts do not replace Conditions of Approval. For Denials, a local land use Board [ZBA] should consider what are the things about the Application that is preventing the Board [ZBA] from saying "Yes." These things should be anchored in the Standards of the Regulations and describe how the Application does not meet the Standards of the Regulations; but may also include, the exercise of 1) Independent Judgment, 2) Experience, and 3) Knowledge, to be carried out by the Board [ZBA].
- The Findings of Facts should be complete so that a Court Review knows your reasons and the Applicant has instructions if they want to try to seek a ZBA Approval a second time. The Board should always enlist Town Counsel to aid in the issuance of Findings of Facts. Failure of the Board [ZBA] - this is really important – failure of the Board to make specific, written Findings of Facts supporting a Disapproval shall be grounds for automatic Reversal and Remand by the Superior Court upon Appeal, unless other grounds exist for Disapproval. We don't want anybody to have to go through that process just because we didn't take the time to do accurate Findings of Facts.

**Chair A. Cline:** As it turns out, we have another hearing in two weeks anyway, on July 31<sup>st</sup> 2023. The August ZBA Hearing is scheduled a week later, on Monday, August 7<sup>th</sup> 2023; therefore, I don't think we need a second hearing. We don't have to start the 2<sup>nd</sup> scheduled ZBA Meeting until mid-August, at some regular date that we decide is okay: either every third Monday night of the month or the third Thursday night of the month, or whatever works best for everybody's schedule. Let's have a discussion:

**Vice-Chair S. Ryan:** We have, by statute, 90 days to render a Decision from the date the Application was submitted. This Case# 03-SE-23, Harriman Hill Phase III Affordable Housing, will be going right up against the 90-day deadline. So, yes, the July 31<sup>st</sup> ZBA meeting is critical for us to do a Decision that night and the Findings of Facts. If the Applicant were to be agreeable to an extension, if we run into difficulties? But yes, to try and do the Findings of Facts in the same evening, given that it's a new process to us, will be difficult. So, I'm in favor of holding a 2<sup>nd</sup> meeting every month.

**Chair A. Cline:** Also, we may have more than one Case to hear in one night. So, I was trying to find a way through the Findings of Facts we must write for each Case. When we have another Case or two to hear, other Cases are waiting to be heard, I think it's going to not work very well.

**b) Appoint Alternate for A Full Board at Tonight's Hearing:**

**Chair A. Cline:** Yes, if we're going to discuss and vote on this, Sabet, it's your turn, is there any reason that you wouldn't want to sit [vote] tonight, as an Alternate?

**Sabet Stroman:** So, there's not another meeting between the 17th and the 31st? No? Then I'm okay.

**Chair A. Cline:** But the question was a scheduling question.

**Sabet Stroman:** I do have a scheduling issue. So, I didn't want to commit to being a voting Alternate if Cate were available.

**c) Return to Discussion about Scheduling a 2<sup>nd</sup> ZBA Meeting Every Month:**

**Chair A. Cline:** We could think about this Case and vote on it July 31<sup>st</sup> 2023, or at the first meeting in August. But I think we should start with the 2<sup>nd</sup> ZBA meeting in mid-August and carry that through as long as we need to.

**Vice-Chair S. Ryan:** Yes, we don't get to vote on Findings of Facts [FOF], we have to write that. Regardless, the idea of two meetings, Chair, it's your call. And when we finish up with any Application, we'll have a sense of: 1) Whether we need that 2<sup>nd</sup> meeting, or if 2) It's something simple we can do the same night.

**Chair A. Cline:** I was hoping to schedule a regular ZBA 2<sup>nd</sup> meeting because we could use those nights for Work Sessions, or we have the option to cancel that 2<sup>nd</sup> meeting.

**Vice-Chair S. Ryan:** Okay, yes. Put it right on the calendar then.

**Chair A. Cline:** Does that require a vote? Okay, what about the third Monday night of the month, to schedule the 2<sup>nd</sup> ZBA meeting?

**Tavis Austin:** There is the Conservation Commission, I know Sarah Silk has concerns over possible meeting conflicts. Would you conclude the Public Hearing and then set Deliberation and Findings of Facts for the 2<sup>nd</sup> ZBA Meeting, or would you begin Deliberation? I don't know where the statute lands on continuing Deliberations. Or, could you simply use the 2<sup>nd</sup> ZBA Meeting to do Findings of Facts?

**Chair A. Cline:** So, my preference would be that we have general discussion in the first meeting, on the issues that we see, so that we can then ask the Applicant if we need more things [such as information, submittals]. When we get to the point when we say, "Let's go through the Criteria for this Case," at that point, we close the Public Meeting and we take the Case to the next scheduled ZBA meeting. We may come up with some new discussion while doing the Criteria; but essentially, everybody will have asked everything they need to ask, and we can move that part of the meeting along pretty quickly.

**Tavis Austin:** To answer your question, it appears that the Conservation Commission is meeting is on the second Monday of each month. Now I'm just going back to the Town Calendar to see if anything is popping up on the third Monday.

**Chair A. Cline:** The 2<sup>nd</sup> ZBA Meeting would also be helpful for those months when Monday Federal Holidays cause us to cancel our ZBA meeting. We would still have the 2<sup>nd</sup> ZBA Meeting on the third Monday, instead of trying to reschedule every time we have a Monday Federal Holiday, which occurs four times a year.

**Tavis Austin:** It appears the third Monday is clear, if that's the date you want to target for now.

**Chair A. Cline:** If there's not any other objection, I would like to schedule the 2<sup>nd</sup> ZBA Meeting for the third Monday in August.

**C. Sumner:** I like the idea. I would also like to suggest we make it optional. Some cases may be straight-forward enough that we can settle everything properly, and agree on Findings of Facts, all in one night.

**Chair A. Cline:** Yes, the less complicated Cases, probably.

**C. Sumner:** I agree with scheduling the 2<sup>nd</sup> ZBA meetings but leaving open the option to not use them.

**Tavis Austin:** At least it puts it on everybody's schedule and gets the room bookmarked.

**Chair A. Cline:** Right. And I agree with you, Chuck. There are a number of Cases that are pretty straight-forward. Once we get the hang of Findings of Facts; for example, when we're doing a sideline setback for a Variance, it shouldn't be too hard to do that in the same evening,

**Sabet Stroman:** Audrey, for clarification for the public: this proposed 2<sup>nd</sup> ZBA Meeting will be a public meeting and recorded, so people can watch it?

**Vice-Chair S. Ryan:** We'd be closing the Public Hearing.

**Chair A. Cline:** There would be no Public Discussion for the 2<sup>nd</sup> ZBA Meeting. The Applicant doesn't have to come back with their attorney. In fact, the Applicant doesn't have to be present, at all.

- So, to clarify for staff, the 2<sup>nd</sup> ZBA Meeting would not be for the Receipt of any Application. It would be similar to the Planning Board's schedule: the 1<sup>st</sup> Hearing of the month is only for Receipt of Application(s) by the Zoning Board of Adjustment [ZBA].
- The 2<sup>nd</sup> Meeting of the month should be a Work Session for ZBA. Yes, it will be a Public Meeting, because all Board meetings are public.
- Could we coordinate for TV coverage, and see if YouTube is able to do live coverage for ZBA on the third Monday of the month?

**Tavis Austin:** Okay. Did you make a motion for ZBA to meet on the third Mondays?

**Vice-Chair S. Ryan:** Consensus. We're doing this by consensus.

**Tavis Austin:** I just want to know if I should book it tomorrow or not.

**Chair A. Cline:** So, let's move forward with that.

**d) Purview of the Zoning Board of Adjustment [ZBA] to Ask Questions of an Applicant re: their Proposal:**

**Chair A. Cline:** I have a comment to make about the last ZBA hearing, on June 26<sup>th</sup> 2023. My counterpart, Luke Freudenberg, commented that he felt some of the questions asked of the Applicant were outside of this Board's purview. For example, that questions about funding sources and any profit for the Proposal are completely irrelevant to the review of the Case. So, I'd like to say a word about why I asked so many questions:

- First, unless I'm assuming I know everything about everything, I don't know what the answer is going to be, and whether it's relevant to what I'm looking at, until I ask the question.
- Many times, the answer doesn't enter my process when I'm deliberating. But I don't know that until I ask the question and get the answer.
- Secondly, new Board members may also be interested in the same question but not yet comfortable extending the conversation.
- Finally, I believe it's very important for the public to understand as much as possible about projects that are Approved or Denied by ZBA; especially projects with a wider impact, such as commercial projects.
- So, at the 6/26/2023 hearing, I learned a number of things about this Affordable Housing project that may not influence the Decision rendered, but that I believe are important to know and for the public to know, as well.
- So that is everything I have to say about that, Luke, and I appreciate your opinion. There are five of us on this Board and everybody has an opinion. I just wanted to point out that I don't randomly ask questions, I have a purpose for it.

**N Sabet Stroman:** Interesting, good point. May I say something else? So, I was also intrigued by your point, because for me, context is very important, especially as a newer ZBA member. But I did think, "Well, is there a point where we, the Zoning Board of Adjustment [ZBA], go out of bounds?" So, I did some reading to try to better understand the purpose of [additional information as] context. One of the important things I learned: sometimes the information that comes out can shape future laws. Things come up that make you look, holistically, at what we're doing. Not solely ZBA, but also the Public, can shape future planning laws and shape future zoning laws. So, it really does sometimes bubble up useful information.

**Vice-Chair S. Ryan:** Ditto.

- e) **LACONIA AREA COMMUNITY LAND TRUST doing business as LAKES REGION COMMUNITY DEVELOPERS, BECK DRIVE, Tax Map 175-20-1, Case# 03-SE-23: Two Special Exceptions for Phase III of Harriman Hill [an Affordable Non-Profit Workforce Housing Development], under Chapter 175 Section 72.J - Multifamily Dwellings, and Chapter 175 Section 27.2 - Affordable Non-Profit Workforce Housing, of the Wolfeboro Planning and Zoning Ordinance, to allow 30 Affordable Rental Units in place of 20 Affordable For-Sale Units that were previously approved by a Special Exception granted in August 2008, modified in 2009.**

**This Meeting is Continued from 6/26/2023. ZBA made a Site Visit at Beck Drive on 6/26/2023.**

**Chair A. Cline:** I'm going to quickly talk about the Order of Business, as it's part of educating the public about the process here. We don't have the Clerk of the Zoning Board of Adjustment [ZBA] tonight because Sarah Silk is excused. So, another one of us can read the Case back into the record. In any event, this a Continued Hearing.

- Read the Case into the record.
- Any Board member who needs to recuse themselves on the Case will say so.
- Chair will seat any Alternates that need to be seated [designated to vote by the Chair].
- A quorum of this Board [ZBA] has three voting members, a full Board has five voting members.
- After seating any available Alternates, if the Board is not full, the Applicant will generally be given the opportunity to Continue the Hearing to a time and place certain;
- Or, have their Case heard with a Short Board, which thereafter cannot be used as a reason for a rehearing.
- The Applicant presents their Case, the Board will ask questions to the Applicant re: their proposal.
- Then the Public is invited to step up and speak in Favor or Opposed, or just plain speak, if they want.
- If you do come up to speak, please come to the microphone.
- Identify yourself by your name, that you live in Wolfeboro [important for Recording Secretary to have your name in the record, for your testimony].
- Address all your comments and questions through the Chair.
- Don't deliberate directly with other attendees in the room.
- Please contain your input to the Criteria used by the Zoning Board of Adjustment [ZBA] in evaluating Applications.
- The ZBA is tasked with hearing four distinct Appeal types, each with specific evaluation processes dictated by State law. So, we [ZBA] strive to stay within those bounds and we'd like to hear comment that speak to those points that we are looking at.
- We want to hear from you and when possible, please refrain from extensively duplicating talking points that have already been made by other speakers.
- After hearing Public Comments, the ZBA members will discuss the Case, if we have any questions, we'll ask the Applicant more questions.
- Then we'll close the Public Hearing.
- Then we'll Continue to the next ZBA Meeting [typically two weeks later] to deliberate, render a Decision, and write the list of Findings of Facts [required by the State].
- So that is the process of the Public Hearing.

I'd normally ask the Clerk to read the Case into the record; would the Vice-Chair like to do this tonight?

**Suzanne Ryan:** Sure. Public Hearing for Laconia Area Community Land Trust d/b/a Lakes Region Community Development, Beck Drive, Tax Map 175-20-1. Case Number 03-SE-2023, a Special Exception under Chapter 175 Section 72.J, Multifamily Dwellings and Chapter 175 Section 27.2 of the Wolfeboro Planning and Zoning Ordinance for a Modification of a Special Exception granted August 2008, modified in 2009: to allow 30

Affordable Rental Units in place of the 20 Affordable For-Sale Units that were previously approved. This Meeting is Continued from 6/26/2023. A site visit by this Board took place at Beck Drive on 6/26/2023.

**Chair A. Cline on Special Exceptions:** This is an Application for two Special Exceptions to two different Sections of the Town Zoning Ordinance.

- A Special Exception is one of four processes the Zoning Board of Adjustment [ZBA] hears.
- What a Special Exception is: a specific, permitted Land Use that is allowed when clearly defined Criteria and Conditions contained in the Zoning Ordinance are met.
- Providing for Special Exceptions makes it possible to allow Uses where they are reasonable, in a uniform and controlled manner, to prohibit them when the specific Conditions cannot be met. Requirements, in this sense, are measured qualifications which are the same all the time, in designated places, and can be expressed in specific terms.
- All Special Exceptions shall be made in harmony with the General Purpose and Intent of the Town Zoning Ordinance.
- Many people don't recognize the difference between a Special Exception and a Variance: there's quite a bit of difference.
- As ZBA Chair, I'm trying to define for everyone what this process is. Clerk Sarah Silk has recused herself, so I've assigned Alternate 'Sabet' Stroman to vote. We have a full Board, with five people voting tonight.

**Chair A. Cline to Applicant:** I want to recap where we left off at the last ZBA meeting, on 6/26/2023. We had questions about the status of the Special Exceptions and the previously approved Site Plan. We were given info in the Application about the 2009 Site Plan. We also had a 2020 Site Plan as part of the documents that showed the Project Area. Also, I noticed there was a Conservation Commission Decision in 2020.

- Those are the three things that the Board [ZBA] was looking at when we received guidance from our land use attorney. Basically, we're both on the same path, I think. We're both going the same way.
- We just want to clarify what the processes are to ensure that this Case will be correct in the Record File.
- We believe that the current site plan is not Vested for Phase III of the Harriman Hill Affordable Housing development; however, this doesn't make a difference at this time, because the Applicant is applying for the same things for which they would be applying if they were Vested.
- This Application is for Special Exceptions for 1) Multifamily Housing, and 2) Increasing the number of Affordable Dwelling Units.
- So, if there's anything else to be discussed about this project being Vested, or Not Vested, please tell us.
- I don't know specifically whether it makes any difference to the process, at this point.
- My second point is that you had three Applications to the Planning Board in 2020: 1) A Site Plan Review, 2) A Condo Conversion, and 3) A Conservation Adjustment, three separate applications.
- You told us that the 2020 Site Plan was not followed up because the Conditions of Approval could not be met.
- But what was the Conservation Commission Plan that was approved? Was that fully approved, through all the steps, or did that also not get completed?

**Steve Dwyer for Applicant:** The Conservation Plan was fully approved and, actually, registered at the State.

**Chair A. Cline:** Okay, then it was registered. I don't know what the Conditions were afterwards, but the requirements were all met.

**Steve Dwyer for Applicant:** *That's correct. The TRC [Technical Review Committee] representative of the Town Wetlands Commission was there, they had no issues whatsoever. This is because the boundary line we're working with for our new project is within the Adjustment that was made in 2020. So, we're not changing the parameters of where we're going to build.*

**Chair A. Cline:** So, my question is: when the Conservation Commission looked at your Site Plan in 2020 and approved it during that Site Plan process, they were looking at a different plan for a different reason, is that correct? And if that Site Plan was registered as reviewed and approved in 2020, in my mind, I'm wondering whether that change in the Site Plan has any effect on a New Site Plan, going forward? My sense is that the Conservation Commission should probably comment again, on the New Site Plan.

**Steve Dwyer for Applicant:** So, there was a Conservation Commission representative at the TRC [Technical Review Committee], a meeting we previously had with the Town, saying they have no concerns whatsoever. We felt that that was the purpose of the TRC meeting.

**Chair A. Cline:** The Conservation Commission has a whole Board, right? Don't they look at things as a Board? So, one person at the TRC? I don't know how they do their Approvals.

**Steve Dwyer for Applicant:** I can't speak to that.

**Vice-Chair S. Ryan:** The Conservation Commission representative at TRC makes a comment, or not.

**Chair A. Cline:** But do they do the Comment in front of a whole Board, or not?

**Vice-Chair S. Ryan:** Just one person, in front of the TRC [Technical Review Committee].

**Chair A. Cline:** So, we don't have the TRC notes, but if we had some information from the Conservation Commission that they don't feel they need to review this again, that would be fine. I just want to be sure that ZBA doesn't step on any other Board's toes, by making Approvals that should have included input from other Boards.

**Vice-Chair S. Ryan to Applicant:** Agreed. One question I have is, what configuration did you look at when you first asked to make a land swap, or whatever it was, for the Conservation Easement? It wasn't a Lot Line Adjustment, it was a transfer of land between Abutting Property Owners, correct?

**Steve Dwyer for Applicant:** It changed the shape of the land we could build on.

**Vice-Chair S. Ryan:** So, from what I understand, it had to do with a configuration that you needed because of garages. It was controversial at the Conservation Commission: whether or not they wanted to facilitate your request. I would feel more at ease knowing that they've seen this New Site Plan, and that they accept it. I also understand there was supposed to be a trail installed by the Lakes Region Coalition, and maintained. Has that been done, or not? They might have comments on this. It would be nice to know where they stand.

**Chair A. Cline:** I'm assuming this part of the site has what's needed to go to the Planning Board for a change in a portion of the site plan. I don't know whether their process also requires comment again, or not, from the Conservation Commission. But I would be more comfortable hearing from them, and I would like to have that happen, whether or not the Planning Board requires it.

**Steve Dwyer for Applicant:** We are certainly amenable to ZBA placing that as a Condition of Approval. Because we're working within the Wetlands land swap, if you will, the process that we went through delineated the boundaries of where we can build, using the proper setbacks. I don't think that's changed.

**Chair A. Cline:** I don't think of this as a setback issue, and I don't know much about land conservation regulations. But apparently, it is fairly stringent because the agreement goes to the Secretary of State of New Hampshire. So, I don't think there's an issue with Wetland Setbacks. Perhaps it is a matter of an increase in buildable area and a decrease in conservation area. There was an agreement by everybody back in the day, but this is different.

- So as long as the Conservation Commission gives this a nod, I want to be sure that we don't step on another Board's toes because we forgot, or didn't recognize, that they had a part of this process and we should have brought this up.

- On another topic, there was angst about the language for an Amended Application or a New Application.

The Site Plan is going to be an Amendment, because there's a Site Area that's changing, so it's all part of being Amended with a Special Exception. Phase III of this project, not having been Vested, in our opinion, is basically a New Special Exception. It's not an Amended Special Exception. Does that make any difference? I don't see why because you're going through the same process with both things. Or maybe it does make a difference. Let's go here.

**Megan Carrier Esq:** Hi, Megan Carrier, nice to see you all again. Our position is that it doesn't make a difference, because we're still considering the same factors. So, I think it is a distinction without a difference in the circumstances. Right?

**Chair A. Cline:** That's right. And the language I'd be more comfortable with, is saying this is a New Special Exception and the two-year period restarts. It's not an Amended Special Exception, which doesn't make sense to me. So, if you're in agreement with that, we can move forward. You're doing the same, by going over the same requirements, then it's kind of a moot point.

**Steve Dwyer for Applicant:** If I could make a comment on the timing [for permits and for funding for this project]. This goes back to the context and your questions at the last meeting: a key source of funding for an Affordable Housing Rental Units is the Federal Low Income Housing Tax Credit Program.

- That's a once-a-year application process every September, which is why we started the Board review process and TRC meetings in early May.
- We're scheduled for the Planning Board on August 1<sup>st</sup> and we submitted a set of detailed plans to them.
- We are looking forward to working with you to answer all your questions and concerns and would encourage you to make an Approval with Conditions; such as a letter from the Conservation Commission.
- If we miss the September Application Process, we're going to spend a year sitting on our hands and Wolfeboro will have no housing. So, that's a piece of context and why we began this process three months ago.

**Chair A. Cline:** In the schedule that I laid out earlier, if ZBA needs an extra meeting to make a Final Decision and Findings of Fact on July 31<sup>st</sup>, I'm wondering why that wouldn't work?

**Steve Dwyer for Applicant:** We've submitted to the Planning Board our Application and a significant amount of engineering details. We will supply any additional documentation ZBA needs. If there's wording ZBA wants to change, we'll make sure that happens, to enable you to make a definitive ruling at the end of July.

**Chair A. Cline:** My feeling is that the wording can be made in the Approval language. I don't think we need a different Application from them, do you?

**Vice-Chair S. Ryan:** No.

**Chair A. Cline:** It's called an Amendment, but our Approval can state it's a New Special Exception we're approving. I have another question: you said you have a fully engineered Site Plan for the Planning Board. In your Application paperwork, you said there wouldn't be any significant changes to that. I'm looking at your Site Plan, and it's absolutely 2-D [Two-Dimensional]. No grades are shown here, yet I know the land isn't flat. My question is: how far have you taken that Site Plan and are you comfortable that you don't need to return to the Planning Board after August 1<sup>st</sup>?

**Steve Dwyer for Applicant:** If there's more, we could go to the September meeting. Again, we're charging forward. One of the first things the Application Process is going to look for - and it is a competitive situation - the first thing they're going to look for is: does the community want this? And that will be largely answered



by whether the Boards have approved that we're ready to go forward with funding. So that's the context there.

- What you're looking at here is an updated rendering exactly as it's been presented in the colored set [of drawings]. It's easier to see but to the point made at the last meeting about well, what if things shift around and we would have no anticipation - obviously pending approval at the planning board - that what you have in front of you in a paper copy and what you see on this board is a finished submission. In fact, it didn't move from what you saw two weeks ago.
- What you might consider to be more positive is: the building is actually taking up a slightly smaller surface area within the confines of Land Unit C, so we've actually moved the tree line in a bit, from the 20 homes that were approved three years ago.
- But to the question about being far enough along that something significant might change at this point, that's what you have in front of you as a Site Plan.

**Chair A. Cline** I have one more question. In the Multifamily Section, it talks about parking being behind the buildings. So, is that something I mean, how does that play into this plan and what the Planning Board is approving?

**Megan Carrier Esq** Sorry, when you referring to the multifamily section, which section is that? there's a bunch of on that addressed multifamily, so I just wasn't sure.

**Chair A. Cline** it's the development standard, the development requirement for multifamily section 175 43. Thank you, 44 140 311 44.

**Tavis Austin** 144.C, I think

**Chair A. Cline** my question is, I don't know the answer to this. Is this also a Conservation Subdivision?

**Steve Dwyer for Applicant** I don't believe so.

**Chair A. Cline** it's not a Conservation Subdivision. Oh, so all those things are conserved. Land we're talking about isn't part of the boundary.

**Steve Dwyer for Applicant** So, none of the Conservation Wetlands are inside.

**Chair A. Cline** Well, my question was, did the conservation subdivision section supersede parking in the multifamily section, if this is a conservation subdivision? And I don't know because I don't know the site regulations .

**Tavis Austin** The only subdivision that occurred here was a condo subdivision. Everything else is under the Affordable Housing Section.

**Chair A. Cline** Well, unless it was a Conservation Subdivision originally,

**Tavis Austin** it's all on the same parcel. There's no subdivision other than removing the body shop from the major parcel.

**Chair A. Cline** So in the conservation subdivision you, you just have land that's conserved,

**Tavis Austin** In this case, the Conservation Subdivision was applied because they're only proposing two lots and they agreed to put X amount of open space ie conservation,

**Chair A. Cline** Okay, so it's not a Conservation Subdivision. So there's no way that anything in that section conservative supersedes the parking in the multifamily section. As far as I can tell,

**Tavis Austin** I did want to point out: because a question came up, the Conservation Commission did receive a notice as an Abutter. No comments were received.

**Kevin Leonard PE** I'm Kevin Leonard from Noth Plains Engineering, the surveyor on this project, The original approval back in 2009, when it was approved as condo development for an affordable housing project, but there wasn't conservation easement. But years later, Eastern Lakes said, "Well, wouldn't it be nice. We got an extra land, that they're not using. It's outside the land you see for the homeowners association, for the larger tract. They granted the Conservation Easement as something to benefit the Town. It had nothing to do with any approval associated with the rest of the development.

**Chair A. Cline** Okay, I had no idea, but I hear what you're saying. So it doesn't apply in any case

**Kevin Leonard PE** So the second thing I wanted to clarify is: when Land Unit C is redeveloped with a new concept in 2020 There was one application at a time was for a boundary line adjustment. Basically, adjusting the area of Land Unit C, to make it larger (as you spoke about). At that same time, they modified the conservation easement by trading some land. This was a long, drawn-out process because the Attorney General had to be involved. It took about six months. There was a Condo Subdivision, the third application, which was applying for the Affordable Housing development, the Affordable For-Sale Homes project didn't happen, so that's a moot point. And the third was the Site Plan for Affordable For-Sale Homes, which is not moving forward. I wanted to clarify the Conservation Easement for you, because that's unrelated to the bigger picture.

**Chair A. Cline** Okay.

**Megan Carrier Esq** Okay, so just a couple things: on the parking light without looking at the ordinance the other parking provisions in the ordinance I can't say for sure. I'm happy to look into that. I mean, I'm thinking what this might mean is that we're parking might not normally be permitted in the side and rear yards. It is in this context, and it doesn't necessarily mean it is prohibited where it is here. But without looking at the organs. I can't confirm that. I can try to pull it up in a minute here.

**Megan Carrier Esq** And there were just a couple of things. I wanted to clarify the question about how the the plan that we've put up here doesn't show any contours. It's actually part of the 23 sheets that that were given to the planning board and we we just wrote this one sheet for you guys. We don't want overwhelm with details that might not be relevant. We do want you to know what the final layout was. And the last comment I wanted to make: I know the trail was mentioned and I have been informed that the trail actually has been approved. It was built last year and there was a dedication ceremony last June 2022, so that is in place.

**Chair A. Cline** I saw that. I didn't know it was the same trail that Suzanne was talking about. I did see that dedication in the paper.

**Vice-Chair S. Ryan** because they don't have the topographical and all that whole thing. All right. Well, this is the first time we've seen that.

**Steve Dwyer for Applicant** It was actually not near Land Unit C. It's actually closer to Pine Hill Road.

**Vice-Chair S. Ryan** So that's outlined in blue. One on the left. Is that the entire holdings? That's correct. And the entire holding is how many acres?

**Steve Dwyer for Applicant** I'm going to say 36 acres.

**Megan Carrier Esq** I think it's somewhere around 34 acres.

**Vice-Chair S. Ryan** Okay, and could be 30 out of that. I think it's 34 point something and out of that. You have two developed projects and one that's here before us tonight. Do anticipate a fourth project?

**Steve Dwyer for Applicant** No.

**Vice-Chair S. Ryan** And I would think that's because of...

**Steve Dwyer for Applicant** I would just say it's because this was designed as a three phase project. We were asking to go from the original 68 to a total of 78 units with the same number of bedrooms. And I do want to make sure that you all have a copy of the letter. That was the other concern. So make sure you have a copy of the letter from the sewer water department. Yes, we hopefully saw that question. But the short answer is no in fact that the vast majority of the remainder of the land is now in a conservation easement,

**Vice-Chair S. Ryan** conservation land and open space. okay, I think that answers most of my questions

**Chair A. Cline** and answers most of my questions

**Steve Dwyer for Applicant** I wanted to add on I think it's relevant topic related to the parking and that is we exceed the required number of spaces, which is beneficial to the residents here, in terms of visitors. We have 59 parking spaces and I believe the requirements us 45.

**Chair A. Cline** Okay, Chuck, do you have any questions?

**C. Sumner** No, I think they've answered the questions pretty thoroughly.

**Chair A. Cline** Do you have any questions? Can you bring your microphone up?

**C. McMahon** No, we don't have any questions at the moment. I know some of the things that I was going through the special exception criteria winded about stormwater drainage and some of those things and it sounds as if there was criteria have been met the first time and not changed. Is that correct?

**Steve Dwyer for Applicant** So those criteria were all met in the plan approved in 2020 for the original 20 homes, and they are part of the submission to the planning board for August 1. We're also able to apply for an alteration of terrain permit at the state there's a lot of motion at the moment given given our timeline. Thank you.

**Vice-Chair S. Ryan** Yes, I get the sense from when we did the site visit that the retention pond the method of which the stormwater was going to travel has changed. And I thought there was some sort of a proposal to have a retention pond where you've got that open space, a smaller one

**Kevin Leonard PE** In 2020, when we designed the for-sale home project, it was the same Land Unit C that we're talking about today. We have a copy of that plan. You're looking at Land Unit C in the 2020 version, the 20 affordable homes for sale. And that project when through the full planning process, and it met some requirements at that time. Because we're modifying the design from what you see over there, to the principles. We filed a comprehensive application back to then, with the current layout. And there are other things that impact the Access Drive.

**Kevin Leonard PE** So it actually increases the disturbance on the property so we've gone back from our comprehensive analysis in our management report. It's all at the Planning Board. The different design relies on us to handle stormwater runoff in our basin system. They'll base in the lower left corner of the plan was potentially built in Phase I that was sized for the future Phase III. So it's actually it was always intended to take flow from Phase III with regard to the 2009 approval with the expansion of governmental agency from the original approval to the proposal today. We're getting into more land and therefore the larger basic envelope is old undersized. So we're introducing the second phase in which we didn't doesn't want it. We're redoing it again now.

**Kevin Leonard PE** So, that is the plan that has been to the Planning Board which has a detailed catch basins...

**Vice-Chair S. Ryan** I don't need the detail. I just need a visual of where it's going to land on the ground.

**Chair A. Cline** I'm not a traffic expert, but is this a two-way street or is it one-way?

**Steve Dwyer for Applicant** The design is a two-way circular parking street.

**Chair A. Cline** Yes. Again, this is a Planning Board thing. It's just hard to imagine cars doing this with all the people, bicycles, kids and all that stuff going on there as well.

**Steve Dwyer for Applicant** On an 11 by 17 piece of paper, it's hard to gauge distances and measurements and size. But, of course, it will meet all the requirements.

**Chair A. Cline** Are we able to pinpoint exactly where it said parking needed to be side or back? Because I know for sure that I saw that and I put it in my notes and now I can't find exactly where things are going to address that when

**Megan Carrier Esq** They found it. It's 175 144 C one says parking areas and accessories are permitted within the side or rear yards shall be no closer than 10 feet to any property line shall be screened from view of abutting properties.

**Chair A. Cline** I mean, I don't think they were anticipating this kind of development with that wording but I mean, I'm not even sure how you would go about doing that.

**Tavis Austin** But the wording says I'm permitted to park in my side yard it doesn't say I have to put my parking in my side or my backyard. No parking is provided in the yard as defined by 175 one so can you read that again for the beginning? No parking is provided in a required yard as defined by 175 175. So yard is a distance between the property line and whether it's front side or rear. None of the parking is in those yards in this case. I'm gonna have a look at I can't

**Kevin Leonard PE** realize it's a condominium development the track is the blue line on that plan. So your setbacks are the offset on the behind the plan that we need to see is a development area in order to kind of win well with inside the inside all those events.

**Tavis Austin** Correct with the yard extends from the side and rear or front property line to the first plane of the building in which case all of this is interior to those therefore not in the side rear or front yard.

**Kevin Leonard PE** I agree with that.

**Vice-Chair S. Ryan** Can I can I? Yep. I guess I probably would like to have that written out. For me. It's in the definitions of your I know it is but it's gonna take me a while to get to what I was gonna say before my counterpart says with asking questions are into the site plan and not relevant to us. I would say number three, in our special exception requirements that there will be no London nuisance a serious hazard to pedestrians or vehicle traffic including the location and design of access lanes and off street parking. So I'm not picking on it right now. But what I'm saying we are within our purview by asking these questions.

**Steve Dwyer for Applicant** No, I don't need an answer. I just want to point out something to you that this design actually have a sidewalk that goes all the way around the perimeter of the of the area where the prior design of 20 homes was designed but no sidewalk around the street. So I actually think we've enhanced the walkability of this land. You can see that even though we've added 10 units,

**Vice-Chair S. Ryan** I think he told us that on the sidewalk. I think you mentioned that on the sidewalk. I'm just letting people know that we are within our purview of asking these types of questions.

**Tavis Austin** So you were reading the one offline when you read that. Okay. Sometimes mine isn't the same. I don't believe the definition of yours is changed in 25 years.

**Megan Carrier Esq** I just found the definition of “yard” and 175.175 defines it as any open space that lies between the principal building or group of buildings engineers lot line and it's not accompanied by any structure unless specifically permitted and is further defined as front yard side yard, rear yard and short front yard so I think Travis is correct that where there the yard would be the areas between the buildings and the lot line and here all the parking is interior there's no parking between the buildings and a lot lines. So there's no parking in areas of the yard that were submitted to them.

**Tavis Austin** To Susan's point, if the Board believes that the change from the single family orientation that's left but the single family orientation has had to draw just backing out and there was a similar Loop Road I think the board should could evaluate whether the proposed is different or significantly different from the original single family layout with regard to traffic and pedestrian safety.

**Vice-Chair S. Ryan** I think it just would have been a lot cleaner if we hadn't gotten into the 2020 plan. You know, if we just came up with a straightforward proposal for Phase III as you wish it to be.

**Chair A. Cline** Any other comments, Luke? No, not this time. Thank you.

**Vice-Chair S. Ryan** I have a question that it's been answered in part

**Vice-Chair S. Ryan to Applicant:** What criteria can you state for the record that is going to guarantee that this will be a project that it is initially approved for, and adheres to, being Affordable Housing? I know you've addressed it - especially when I asked you how do you make money as a Non-Profit Developer - but can you just state for the record: what grants, how you're going to secure the funding, and what that funding is, to ensure that this project is for low and moderate income housing? Can you make a broad statement?

**Steve Dwyer, for Applicant:** So, I think the first question was, are we effectively guaranteeing that it will be for Affordable Homes? If this as a new Application for a Special Exception, we are not asking for any change.

- The commitment that was made in 2009, that 50% of Harriman Hill will be residents that are Very Low and Low Income. That is part of the original approval, and we're not asking for any changes to that. So that's Number One.
- Number Two: you have a defined term of what Affordable Nonprofit Workforce Housing is in your Definitions Section of the Town Zoning Ordinance, which we will comply with.
- Funding is interesting, it's a puzzle. As was explained last time, we hope the majority of the funding will come from the Federal Low Income Housing Tax Credit Program, which will have its own requirements as to the affordability levels. This has already been done for Harriman Hill Phase I and Phase II, which are your best reference point.
- I have not heard anything other than positive comments about, not only the construction but also the management of Harriman Hill Phase I and Phase II.
- As was stated last time, there is a waiting list of 30 families that could potentially move into Harriman Hill Phase III. So that commitment is there. The funding will require it. To get other sources of funding, we might have little tweaks [make small adjustments] in it.
- But there's no change in our commitment that 50% of the residences of Harriman Hill will be Very Low and Low Income rental housing.

**Chair A. Cline:** Isn't Permanent Affordability for housing also in the Town Zoning?

**Steve Dwyer:** Yes, Section 75.175 defines Affordable Nonprofit Workforce Housing as: "Housing developments constructed or rehabilitated to be affordable for rent or purchase solely by individuals or households whose incomes are less than 120% of the Area Median Household Income, as published by the United States Dept of Housing and Urban Development [US HUD] for Carroll County NH. Developments must reserve a minimum of 50% of their units for Low and Very Low Income Households as defined by the US HUD. Affordable Nonprofit Workforce Housing may include Single-Family Dwellings, Duplex Dwellings and Multifamily Dwellings." So, we

are mirroring your language, we're committed to that language, and Harriman Hill Phases I and II are the best representation of that.

**Chair A. Cline:** Anything else, Board members? Is there any public comment now?

**Public Comments:**

***Bonnie Medico, Easter Lakes Region Housing Coalition:*** Bonnie Medico, Chair of the Eastern Lakes Region Housing Coalition. I live in Tuftonboro. I'd like to read a letter of support from the Taylor Community, from the President and CEO Mr. Michael Flaherty:

- "Dear Zoning Board of Adjustment Members, on behalf of Taylor Community I write today to express my strong support for Lakes Region Community Developers Application for a Modification of a Special Exception to allow for 30 Affordable Rental Units at Harriman Hill Phase Three.
- Since 1988, Lakes Region Community Developers, formerly Lakes Laconia Area Community Land Trust, has developed high-quality Affordable Rental Housing throughout the Lakes Region.
- Their projects are well done, well managed and much needed here in the Lakes Region.
- We applaud their work in partnership with Eastern Lakes Region Housing Coalition, that brought Harriman Hill Phases One and Two to fruition, and look forward to the development of Phase Three.
- As a longtime Lakes Region Organization, employing 240 employees at our Laconia and Wolfeboro campuses, we understand that Affordable Housing is a critical component for businesses to attract and retain valuable employees.
- The people living in Affordable Housing in the Lakes Region are valued members of the local labor force, including members of our team at Taylor Community. They truly contribute to the success of this organization and many others in the greater Lakes Region.
- Simply stated, a strong local labor force makes everything work! In this difficult hiring climate, additional Affordable Housing is a vital piece of the puzzle for communities that are looking to support local businesses.

We encourage the Town of Wolfeboro to support any reasonable venture that will help improve the hiring landscape in Wolfeboro: Harriman Hill Phase III most certainly fits those criteria."

Received as a letter to ZBA to attach to the Minutes, by request of ZBA Chair and Vice-Chair.

**Suzanne Ryan made a motion to Approve a Special Exception, upon Findings of Fact [pending 7/20/2023 ZBA meeting] and subject to Conditions of Approval as provided below. Charles Sumner seconded the motion. Roll call vote: Luke Freudenberg, Yes. Nancy Sabet Stroman, Yes. Suzanne Ryan, Yes. Audrey Cline, Yes. Charles Sumner, Yes. The motion passed unanimously (5-0-0).**

**Conditions of Approval:**

1. *The Applicant shall, within 30 days of the date of this Conditional Approval, request written comment from the Wolfeboro Conservation Commission to the Zoning Board of Adjustment [ZBA], regarding the current proposed plan, which proposes an increased development area footprint and correspondingly decreased conservation area from the 2009 plan, and shall file proof of such request with the Planning Office.*
2. *The Applicant shall apply for and obtain Final Site Plan Approval from the Planning Board for the redesign of Phase III and the Final Approved Site Plan shall be recorded at the Registry of Deeds. Should that Final Approved Site Plan not comply with the plans, terms or conditions that are the subject of this Conditional*

*Approval, this Conditional Approval will not become final, and the Applicant will be required to seek an Amendment to this Conditional Approval to bring it in conformance with the Final Approved Site Plan.*

3. *All federal, state, and local permits to be received, including but not limited to the Town of Wolfeboro Building Permit approval.*
4. *All the documentation submitted in the application package by the Applicant (on May 11, 2023) and any requirements imposed by other agencies are part of this approval: unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this Notice herein shall generally be determining.*
5. *The application, as submitted to the Zoning Board of Adjustment [ZBA], does not satisfy the submittal requirements for a Building Permit.*
6. *The Notice(s) of Decision shall be recorded at the Registry of Deeds and the applicant shall be responsible for the payment of all recording fees.*
7. *This approval shall be valid if exercised within 2 years from the date of the Notice of Decision.*

**Suzanne Ryan made a motion for the Zoning Board of Adjustment to meet again this Thursday, July 20<sup>th</sup> 2023 at 5:00 p.m. at the Great Hall, to make Findings of Facts and render a final Decision for Case #4-AAD-23 Harriman Hill Phase III. Seconded by Luke Freudenberq. The motion was approved unanimously (5-0-0).**

#### **IV. New Business**

#### **V. Minutes of Previous Meetings:**

**Suzanne Ryan made a motion to approve the 6/26/2023 meeting Minutes. Seconded by Audrey Cline. The motion passed unanimously (5-0-0).**

**Suzanne Ryan make a motion to approve the Amended Minutes of 6/5/2023, which were revised to include testimony and discussion about the Town's exterior lighting issues. Seconded by Audrey Cline. The motion was approved unanimously (5-0-0).**

#### **VI. Communications and Miscellaneous**

#### **VII. Motion to Adjourn:**

**At 9:00 p.m. Suzanne Ryan made a motion to adjourn. Seconded by Luke Freudenberq. The motion passed unanimously (5-0-0).**

Meeting Minutes respectfully submitted by the Recording Secretary, LNicolescu@WolfeboroNH.us  
Eivia M. Nicolescu