



Stratham Planning Board
Meeting Minutes
January 7, 2015
Municipal Center
10 Bunker Hill Avenue
Time: 7:00 PM

Members Present: Mike Houghton, Chairman
Bob Baskerville, Vice Chairman
Bruno Federico, Selectmen's Representative
Jameson Paine, Member
Tom House, Member
Christopher Merrick, Alternate
Nancy Ober, Alternate

Staff Present: Lincoln Daley, Town Planner

1. Call to Order/Roll Call.

The Chairman took roll call.

2. Review/Approval of Meeting Minutes.

a. December 3, 2014

Mr. House noted that the minutes from December 3, 2014 had already been approved at the meeting of December 17, 2014

b. December 17, 2014

Mr. Federico made a motion to approve the minutes from December 17, 2014 with the noted amendment that Ms. Ober agreed to be a full voting member. Motion seconded by Mr. House. Motion carried unanimously.

3. Public Hearing(s).

- a. **ST Holdings Company, LLC, 37 Portsmouth Avenue, Stratham, NH 03885 for the property located at 37 & 39 Portsmouth Avenue, Stratham, NH Tax Map 9, Lots 2 & 3.** Site Plan Review Application to construct a 7,125 square foot auto dealership building expansion, parking lot and roadway improvements, and related lighting, landscaping, drainage enhancements. (*Continued from December 3, 2014*).

The Chairman explained that there had been some modifications made to the structure and invited the applicant to bring the Board up to date. Mr. Michael Donahue, attorney for the applicant started by saying they had been before the Technical Review Committee

1 (TRC) and he shared the changes they had made to the plans. These changes have been
2 driven by the need for additional cubic footage within the building without increasing the
3 square footage of the footprint of the building, meaning additional height to the building.

4 Mr. Donahue introduced Scott Vlasak, the project architect. Mr. Vlasak went through
5 the changes. One corner of the building that was used for external deliveries has been
6 enclosed, and the second floor area of the building has been increased. They have tried
7 to meet the intent of the Gateway standards by adding a gable and some shed dormers.
8 Mr. Vlasak said they had received some favorable feedback from the TRC and had made
9 a few small changes based on that feedback. They had added some extra windows to the
10 service bays and relocated the customer entrance to the service on the south elevation.
11 This improves the separation of pedestrian and vehicular circulation of traffic and allows
12 the rear of the site to be dedicated for service technicians to drive the cars in and out of
13 the building. A second cupola has also been added.

14 Mr. Merrick suggested instead of having the big flat surface of the trim at the base, they
15 use some kind of molding, or azak or other similar pieces that aren't greatly expensive to
16 really help dress up the front of the building. Mr. House suggested bringing the shingles
17 on the roof a little bit more around. Mr. Daley asked Mr. Merrick and House why they
18 wouldn't extend that architectural enhancement around the entire building. Mr. Merrick
19 said he didn't think it was necessary, and he is trying to be sensitive to cost. Mr. Daley
20 commented that the connector road will face the rear of the building and there are
21 residential properties that abut this property so consideration should be given to that fact.
22 Mr. Vlasak said that they have wrapped the overhang on all sides of the building creating
23 a shadow line. Mr. Merrick said if they put a small crown on the eave trim which
24 wrapped around the whole building that would help. Mr. Yanofsky, Exeter Subaru said
25 that they had been talking about screening in the back and they have spent a lot of money
26 to accomplish that goal; cost is becoming a huge factor now. Mr. Daley said these were
27 just suggestions for consideration. Mr. Merrick said it would be nice to see these
28 suggestions on at least the front of the building. Mr. House said they are showing the
29 corner boards as hardy plank siding; if they just put a straight piece on the corner siding
30 that would save them some costs.

31 Mr. Daley said it was worth mentioning that the TRC supported the amendments being
32 made by the applicant and their overall design.

33 Mr. Baskerville said he likes the designs, but the legend says "color by architect"; he
34 asked if the color would be the color in the photographs. Mr. Vlasak said the intent is
35 for gray siding and white trims. Mr. Houghton checked that the applicant could add that
36 to the legends. Mr. Vlasak said they could. Mr. Paine asked if the overhangs on the
37 north and south elevations were just intended for pedestrian traffic. Mr. Vlasak said they
38 were, and the overhangs are all in the 5' – 6' area.

39 Mr. Federico asked if they had eliminated the customer drive through. Mr. Vlasak
40 confirmed that was the case. Mr. House, also member of the TRC, said it looks like the
41 applicant has made the changes recommended by the TRC. Mr. Houghton said from the
42 north it would appear that mechanical equipment is on the roof and will be low shielded.
43 He asked if any changes had been made to the roof line to create a parapet to hide the
44 mechanicals. Mr. Vlasak said there hadn't, but the extra height will serve to further

1 screen mechanical equipment especially when viewed from the north. He showed a
2 rendering of what you will see when traveling south bound and explained there is only
3 one existing mechanical unit which will remain on the roof and any additional
4 mechanicals will be placed immediately on the other side of the second floor area where
5 they will be properly screened. Mr. Paine asked if the new space on the second floor was
6 intended to be used just by the Subaru dealership or would it be used for sub leasing. Mr.
7 Yanofsky said they need all the space for the Subaru dealership.

8 Mr. Donahue suggested they look at staff's review so they can respond to the various
9 issues raised. The Chairman agreed.

10 Mr. Donahue started with point B.b; 2 new waivers have been submitted; one from
11 Section 5.8.a referring to overspill of lighting onto the front sidewalk and trail area which
12 could potentially be installed on River Road. The second one is from Section 5.15.1.
13 concerning vehicle entry doors facing the road. They have 3 doors to the rear that face
14 the Gateway Road and 3 on the side that face River Road at the rear of the property. Mr.
15 Houghton referred to the vehicle entry door in the rear and said it was already part of the
16 original plan. Mr. Donahue replied that they had added one to the side.

17 Mr. Donahue continued with the staff review and discussed point C.a. about signage. He
18 said they are trying to quantify what their existing signage is and because it's
19 grandfathered they have to be careful not to inadvertently lose their right to that signage.
20 Mr. Houghton confirmed that everybody agrees there is insufficient information
21 currently on the plan. Mr. Donahue said they are going to suggest that a condition be
22 added that the sign permit itself must be ready before the plan is signed by the Planning
23 Board. Mr. Daley checked with the Board that they felt comfortable with Mr. Donahue's
24 suggestion. The Board felt comfortable.

25 Mr. Donahue moved to C.b. next; securing permits from other levels of government as
26 part of the approval process. Mr. Donahue explained that they don't have the NHDES
27 sub surface permit yet as they don't have the final component of the well water supply
28 permit because the well has to be physically drilled. The wetlands permit has been
29 submitted and is under review. Mr. Donahue said he had checked with Jim Gove on that
30 who said he has heard nothing from Frank Richardson yet.

31 Mr. Donahue said the next point for discussion was D.a. He said they would remove the
32 wording "and the discontinuance of River Road" from Sheet B1, Notes # 7. Mr. Donahue
33 said they would be preparing conditions of approval that they will submit to Mr. Daley
34 for his review in the middle of next week or so which will relate to these kind of things.

35 Mr. Donahue moved to Section D.b. about vegetative screens; he asked Mr. Hyland,
36 landscape Architect to talk about the screening. Mr. Hyland started by going over the
37 changes made in landscaping since they were last before the Board. He said the sidewalk
38 on Portsmouth Avenue has been reworked to bring it more along the right of way, the
39 lighting will now be illuminating the side walk as well as the parking lot via spot lights,
40 and some of the trees and shrubs have been shifted around as the plan has been refined
41 for the new changes. Vines will be planted to grow up the retaining wall which grow
42 very quickly and have a great fall foliage. The fence has been reconfigured to a 3 rail
43 paddock style fence which is low maintenance and made with a high quality PVC. Mr.
44 Hyland then talked about the screening; he said they have beefed it up several times

1 because there is a residential property at the back. They have evergreen trees and large
2 viburnums so there is a layered effect with deep plantings and lots of visual interest.
3 There is a native meadow grass area too which is a pocket park that has been developed.
4 They have realigned the walkway a little bit and the positions of the benches in the pocket
5 park have changed. They have moved some trees and based on Mr. Daley's comments
6 about snow, he will move them again to allow for snow to be pushed a little easier. Mr.
7 Hyland pointed out that there is a change in grade between the property and the residential
8 abutter, and the regulations allow topography as a form of screening. He feels they have
9 done a really good job.

10 Mr. Baskerville asked if the trees would be phased or would everything go in at once.
11 Mr. Hyland said he can think of no reason to phase it. Mr. Houghton asked about Mr.
12 Daley's comment in the staff review that there will be a minimum of 75% vertical opacity
13 to a height of 6', year-round, within one year of installation. Mr. Hyland said he feels
14 that they are achieving that just by the topography and with the layered effect. There is
15 a mix of evergreen and deciduous trees that helps also, even though the deciduous trees
16 aren't in full foliage all year around. He said there is one small area that might not reach
17 the 75% criteria as you can get a small glimpse underneath the trees so he suggested that
18 they put a few shrubs in that area. Mr. House referred to the trees in the center in the rear
19 and said he wasn't sure they needed to be moved. Mr. Hyland said he is on the fence
20 about it. Mr. Paine asked about the bio retention area behind the retaining wall and
21 wondered where the water would discharge to. Mr. Scamman, engineer for the project,
22 said the discharge will go through the catch basin and end up discharging at the far end
23 of the Gateway Road. Mr. Scamman said they are trying to get as much of the discharged
24 water as they can over to the west side of the Gateway road. Right now they have a swale
25 that runs across the end of the Gateway Road, but they have piped everything to the other
26 side because they believe eventually there will be a storm water swale that runs down to
27 the back of Market Basket. They have chosen the west rather than the eastern side
28 because the ability to put pipes underneath the new Gateway Road further down becomes
29 more questionable. Mr. Paine asked if the water from the whole site was going to this
30 off site location. Mr. Scamman said there is traditional pavement over the leach field
31 and that's the reason they have a bio retention there so the water can be treated before it
32 is either infiltrated or leaves the site.

33 Mr. Hyland addressed Section 5.2.M.1 in the staff memo about landscape maintenance
34 bonds. He said traditionally in the landscape industry, one year guarantees are the norm
35 and in his experience the one year is when plants are going to die; if plants make it to a
36 second year, especially in bio retention areas, the plants are much more subjective to
37 harsh conditions. He thinks the 3 year maintenance bond requirement for all bio-
38 retention areas and rain gardens was a little excessive. Mr. Daley responded that if the
39 Town is required to maintain the rain garden and pocket park area, plantings need to be
40 established, grown and matured prior to the Town taking it over. Mr. Hyland said the
41 establishment would be achieved in the first year. Mr. Daley said he wasn't opposed to
42 doing a one year bond. Mr. Merrick asked if there were any trees in the bio-retention
43 area. Mr. Hyland said there were a few and showed where they were on the plan. Mr.
44 Baskerville asked when the one year starts. Mr. Daley said on the installation of the trees.
45 Mr. Daley asked the Board if they were in support of a one year bond instead of a 3 year
46 one. Most members agreed; Mr. Federico said he'd be amenable to a 2 year bond. Mr.

1 Paine agreed with Mr. Federico. Mr. Donahue confirmed it would be for their bio-
2 retention area. Mr. Houghton said that was correct.

3 Mr. Houghton said the Board was still waiting to hear more about storm drainage, storm
4 water management, and erosion control. Mr. Donahue said they weren't sure what
5 Civilworks would say, but they were pleased to have their A.O.T. permit from the State.

6 The Board was satisfied about the snow storage and sidewalk comments made in the staff
7 review.

8 Mr. Scamman said there were a couple of other tweaks to the sidewalks that the TRC
9 requested; they were asked to add a cross street area for handicapped people to turn
10 around and to add crossbars. He showed where those had been added. Additionally
11 about a year ago they had submitted lighting plans and said he could re submit those if
12 the Board wanted. Mr. Daley said it would be beneficial to have them for the entire
13 packet. Mr. Scamman said they had done a lot of work on the retaining walls at the
14 request of the Board and as part of that, some fencing was added to the plan. He has a
15 concern about kids and as such would like to have railings top and bottom as the retaining
16 wall is as high as 10' in places. Elevations for footers for the walls have been added to
17 the plans too. Mr. Merrick asked if a smooth paste would be used for the step on one of
18 the walls. Mr. Scamman replied that it is a keystone wall which is a smooth paste.

19 Mr. Donahue addressed the parking requirements listed in the staff review. Mr.
20 Scamman said with the additional square footage, the sales area would require 16 spaces,
21 the service bays would need 14, and the remaining square footage would require 8 spaces.
22 The overall total is 52 spaces required; due to some door realignment issues, they have
23 ended up with a total of 59 marked spaces so 7 more than required. Mr. Scamman said
24 it would be on the revised plans for the next meeting. Mr. Scamman said they would be
25 adding a note on the plans that allows for parking as long as it stays within display areas
26 except for during storm events. Mr. Houghton said that would also apply to any cleaning
27 of the porous pavement. Mr. Scamman said they had talked about the note that refers to
28 on-site loading and unloading; they have a note that states this now. He said they will
29 probably make a reference that encompasses the use of the site at Frying Pan Lane so
30 they still have the ability to load off-site.

31 Mr. Daley said there will be a point in time when the Gateway Road will not be able to
32 be used for unloading vehicles. MR. Scamman said a tractor trailer can make it through
33 the site. Mr. Merrick said he wasn't sure the note was needed, but he understood the
34 thinking behind the comment. Mr. Houghton thought Mr. Scamman's suggestion was a
35 sensible one. Mr. Paine said if the applicant is allowed to unload and park vehicles on
36 the private road, is the Board requiring that the trees on the west side be placed prior to
37 that happening because of the residential property there. Mr. Daley said his concern
38 would be the idling of vehicles on that road near the residential property, but deferred to
39 the Board. Mr. Donahue stressed that the applicant had spent a lot of money, and had
40 agreed to pay for a portion of the Gateway Road which probably won't be built for
41 another 5 years anyway. The affected residential property is in a commercial zone. Mr.
42 Merrick felt Mr. Donahue's comments were fair and it should be left open ended. Mr.
43 Donahue addressed Mr. Paine and said the trees could go in to help with screening for
44 any cars the park on what will eventually be the Gateway Road.

1 Mr. Daley said it might be helpful to articulate the use of that connector road during the
2 interim period. The applicant said there would be display vehicles there; Mr. Daley asked
3 if they would take customers out there too. Mr. Yanofsky said yes. Mr. Houghton said
4 they would be doing the same thing as Nissan does. Mr. Paine said the applicant will be
5 approved for a certain number of spaces on the approved site and then they will have the
6 additional parking across the street; would the area in the street be part of the approved
7 number of vehicles or in addition to. Mr. Daley said it is worth noting that there won't
8 be an excess of vehicles on that connector road as trucks have to be able to deposit and
9 pick up vehicles. Mr. Houghton added that until such time that the connector road is
10 built and becomes a public way, the property owner has the use of that land. He feels it
11 is appropriate especially taking into account the extra expense the applicant has incurred
12 for the Town's future use of the connector road. It would be helpful if the applicant could
13 clarify how many vehicles he thinks would be stored on that part of the property.

14 Mr. Daley said he was asked a question by a person who actually farms a portion of the
15 conservation land just west of this property. Currently the access to that land is via what
16 will be the connector road; will that access still be usable? Mr. Scamman explained that
17 the end of the road has about an 8' drop and there is a swale at the end so he doesn't think
18 it is feasible.

19 Mr. Donahue turned to the subject of water and sewer; he said they are suggesting a
20 condition that will say they are ready to put in the stubs, but the Town needs to let them
21 know what size they should be by "x" date otherwise the condition is waived. Mr.
22 Merrick said he wouldn't put them in because it's premature. Mr. Daley clarified that
23 the Public Works Commission (PWC) has had an ongoing discussion and enlisted the
24 services of several engineering companies to approximate the location of water and sewer
25 lines. They have a pretty good idea, but as yet they don't have a size. Mr. Houghton
26 said he agreed with Mr. Donahue's suggestion.

27 Mr. Donahue suggested putting the issue of fire protection aside until the next meeting.
28 Mr. Daley added that the Fire Department does have the plans already and he has asked
29 for their input.

30 Mr. House asked for an explanation of the comments referring to additional fixtures. Mr.
31 Daley said the applicant should make sure that the ornamental lights are what the Town
32 envisions. The Town will give the applicant as much guidance as possible. Mr. Donahue
33 said they had submitted a spec for this and unless the Town tells them that they have to
34 have something else, they don't want to be held hostage while the Town figures out what
35 the something else is. Mr. Houghton asked if the Town had made a decision on the design
36 for the street lamps. Mr. Daley said the Town was close to choosing a design.

37 Mr. Daley said that Phase 2 includes a portion of the Sullivan Tire property and he asked
38 Mr. Donahue to walk the Board through the envisioned work for that. Mr. Donahue said
39 they are particularly interested in the Sullivan Tire option as it will improve the Sullivan
40 Tire site as well as the traffic flow. Mr. Donahue said that they will ask for a condition
41 of approval that says they will come back before the Board, with a nominal filing fee to
42 pay for the notifications, with a site plan that has been approved by Sullivan Tires. Mr.
43 Federico commented that it is dependent on the connector road and Market Basket. Mr.

1 Daley asked about the landscaping. Mr. Donahue and Hyland both said they needed to
2 look at it some more.

3 Mr. Baskerville made a motion to continue the application until February 4, 2015.
4 Motion seconded by Mr. Paine. Motion carried unanimously.

5 Before the next agenda item was discussed, Mr. Daley explained that as this was the first
6 public hearing on the proposed amendments to the Zoning Ordinance, he would be going
7 into detail for the benefit of the public.

8 **b. Proposed Zoning Ordinance Amendments**

9 **i. Town Warrant Article – Agriculture, Agritourism, Farm, Farming, and**
10 **Farmers’ Market.** To see if the Town will amend the Zoning Ordinance, Section
11 II Definitions by replacing Subsection 2.1.6 Agriculture, Farm, Farming with 2.1.6
12 Agriculture, Agritourism, Farm, Farming, and Farmers’ Market to reflect the
13 statutory changes to NH RSA 21:34-a. The amendments further seek to replace
14 Section 3.6 Table of Uses, D. Agricultural/Forestry Uses to incorporate the uses
15 defined by NH RSA 21:34-a relative to all zoning districts and to amend Footnotes
16 to Table 3.6 by inserting language detailing the purpose, permitted activities, and
17 regulations for farm stands, farmer’s markets, and agritourism.

18
19 Mr. Daley gave an overview and then went into details for each definition including
20 such items as maximum allowable size, setbacks and permissible items for sale.
21 Foot note # 3 creates a purpose and intent for farmers markets which, like farmer
22 stands also requires site plan approval if it is a permanent structure and must
23 provide on street parking in compliance with Sections 5.9.2 and 5.9.3 of the Site
24 Plan Review regulations. Signage for farmers markets must comply with the sign
25 ordinance pertaining to agricultural uses. The amendment also talks briefly about
26 storage of outdoor display produce, plants and crafts. A property owner would go
27 before the Board of Selectmen to hold a farmers market on their own property. For
28 agritourism, there is a description of what would fall under agritourism. If there is
29 a permanent structure associated with agritourism, it must comply with the zoning
30 ordinance, the site plan regulations and life safety codes. There will be a fee
31 associated with agritourism and the farm must be actively producing agricultural
32 products for sale; where this is not the case, a special exception will be required
33 from the ZBA.

34
35 Mr. Daley asked if there were any questions. There were none. Mr. Daley went on
36 to explain that this amendment was spurred on by the 300th Anniversary Committee
37 and there will be a meeting with them to further clarify what falls under crafts.

38
39 **ii. Town Warrant Article – Sanitary Protection & Septic Ordinance.** To see if the
40 Town will amend the Zoning Ordinance, Section XX Sanitary Protection & Septic
41 Ordinance, Subsections 20.1, 20.2, 20.4 and insert new subsection 20.5
42 Subdivisions to further clarify and update the requirements, design specifications,
43 and regulatory review process for sewage disposal systems in Stratham.

44

1 Mr. Daley said this is an effort to update the septic design ordinance to encompass
2 provisions or standards that fall more in line with State standards. There are some
3 existing differences which the Board would like to maintain.
4

5 Mr. Norton Newborn, resident of the Vineyards in Stratham asked why this
6 amendment was being made and does it apply in any way to an existing system.
7 Mr. Daley replied if they replaced the system in kind then probably not, but if a
8 brand new system is installed then this amendment would apply.
9

10 Mr. Daley gave an overview of Sections 20.1.1, 20.2 and 20.4. Mr. Rob Graham,
11 real estate consultant for Mark Stevens said that in 20.1.1 the language in general
12 refers to both new and replacement systems. He wondered if a sentence could be
13 added saying that replacement systems are governed separately because currently
14 a replacement system has to go through several steps of review. Mr. Daley said
15 Section 20.2 discusses the various scenarios of replacement. With replacements in
16 kind, the Code Enforcement Officer has the authority to waive all the requirements
17 of that section if points a, b, and c are satisfied. Mr. Graham said he understands,
18 but it says “may” and not “shall”. He added it’s a duplicitous process from the
19 replacement stand point and it makes sense that if the Town is not going to take
20 jurisdiction over it and allow it to be replaced in kind anyway, why create the step
21 of the review and open it up to the stricter determination.
22

23 Mr. Daley said that Stratham does have stricter regulations than other towns in the
24 area, but there is a reason for that. Mr. Graham asked if the general intent of this
25 ordinance is to create a burden for someone who is replacing in kind or not. Mr.
26 Daley said that is what Section 20.2 tries to look at. It gives the authority to the
27 Code Enforcement Officer to look at the existing system and make the call as to
28 whether or not it complies with State regulations and criteria a, b, and c, and
29 therefore she will grant the approval. After some discussion it was felt the word
30 “may” should be replaced with “shall” concerning the granting of an approval.
31

32 Mr. Mark Stevens, Property owner, felt there should be nothing in the ordinance
33 about replacing systems in kind as it’s a person’s right to do so, and disagrees that
34 Stratham is different from any other town in the Seacoast area. He said the State is
35 the right body to inspect septic systems in this situations as they possess all the
36 necessary scientific knowledge. He agrees that doing test pits and having them
37 witnessed by an independent source is a good safety measure as is having it
38 reviewed by an independent source before it goes to the State.
39

40 Mr. Houghton asked Mr. Newborn if his question had been answered. Mr.
41 Newborn said not entirely. His concern is that when he read the amendments, it
42 wasn’t clear to him if it is talking about new systems or a complete replacement of
43 a system. Mr. Stevens added that if the current septic system in the Vineyards was
44 to fail, he would have to go through the Town to get it approved because today’s
45 Zoning Ordinance would be different to the Zoning Ordinance back then when he

1 designed the system. Mr. Daley corrected Mr. Stevens, and reminded him that
2 whatever regulations were in place at the time of approval, are the ones that apply.
3 Mr. Merrick said it may read easier if the wording was changed. After some
4 discussion “at the time of initial construction” was the favored choice.
5

6 A resident referred to Section 5.6.2 which refers specifically to the Retirement
7 Planning Community (RPC); the last sentence states that where conflicts arise, the
8 more restrictive requirements shall apply. She feels this seems to conflict with what
9 was just said. Mr. Merrick said this would only apply if it was a new system, not a
10 replacement system. Mr. Newborn sought further clarification on what falls under
11 s septic system. Mr. Merrick said even if one small section of a septic system fails,
12 it would still be considered a replacement in kind.
13

14 Mr. Daley continued to go through the suggested amendments for Section 20
15 including the deletion of the section pertaining to sloping lots. Mr. Baskerville
16 commented on Section 20.1.4.b saying he would like to make a motion to change
17 the requirement of 2’ of natural permeable soil above the seasonal high water table
18 to 18”. He said changing it to 18” doesn’t change any of the designs of the systems;
19 in some people’s opinions it might have a small impact on the quality of the system.
20 Mr. Federico said his only concern is that most of the good developable land in
21 Stratham has gone, leaving marginal and, wetlands, and a lot of high seasonable
22 water table. By changing to 18”, it may allow people to put septic systems where
23 they shouldn’t and may impact the quality of water in the future. The Town is
24 under stricter regulations from the EPA nowadays. Mr. Baskerville said he didn’t
25 think it would affect anything at all. The science has changed and in the south some
26 septic systems are even built in wetlands because the plants are good at absorbing
27 a lot of the nutrients, better than upland plants. Mr. Merrick said at the workshop
28 about this, Mike Cuomo from the RCCD wanted 12”. Mr. Daley and Baskerville
29 remembered it as 24”. Mr. Baskerville asked if this could be discussed at the next
30 meeting procedurally to give Mr. Daley time to talk to Mr. Cuomo. The Board
31 agreed.
32

33 Mr. Deschaine wanted to clarify Mr. Federico’s point concerning the EPA. He
34 explained that if there continues to be an increase in nitrate migration to the Great
35 Bay, the Town’s MS4 permit will continue to get tighter and the EPA will tell the
36 Town to do certain things to help decrease that migration. They won’t ever say the
37 requirement has to be changed from 24”. Mr. Deschaine said he remembered when
38 it was 18”; the addition of 6” came about because of how much loam had to be
39 scraped off the top. There were many times people were left with 12” of soil.
40

41 Mr. Daley continued to go through the amendments for Section 20. Mr. Graham
42 wanted to make sure he understood about the change from 5 to 4 feet of natural soil
43 above bedrock or any impervious substratum and point d. about fill. It was agreed
44 that it would be helpful if natural soil was defined. Mr. Paine asked about urban
45 fill. A discussion ensued as to what natural soil is. Mr. Daley asked the Board if

1 they would like a clarification from Mr. Cuomo of the RCCD. The Board agreed
2 they would.

3
4 Mr. Graham asked if a conditional use permit was really necessary for an expansion
5 of design capacity per Section 20.3. Mr. Baskerville said the intent of this is to take
6 the responsibility away from the ZBA and give it to the Planning Board. Mr.
7 Graham said people might just replace in kind instead of using a more efficient
8 system with a larger design capacity to avoid going through the process.

9
10 Mr. Stevens asked for confirmation about the suggested change from 24” to 18”
11 above the seasonal high water table. Mr. Baskerville said the minutes from the
12 discussion with Mr. Cuomo show Mr. Cuomo wanted to stay with 24”. Mr.
13 Baskerville said Mr. Cuomo was probably looking at it from a design stand point
14 whereas the Board discusses where they want a system to be located. He feels it
15 does more harm than good forcing someone to put a system in a location that may
16 be less than ideal. Mr. Baskerville would prefer an engineer to decide where a
17 system should go. Mr. Houghton said he was comfortable with 18”, but there
18 should be a conversation with Mr. Cuomo.

19
20 **iii. Town Warrant Article – Retirement Planned Community & Septic Design.** To
21 see if the Town will amend the Zoning Ordinance, Section 5.6 Retirement Planned
22 Community by adding a new Subsection 5.6.2 Septic Design to further clarify the
23 septic design requirements and specifications for developments within the
24 Retirement Planned Community Zoning District.

25
26 Mr. Daley read out the change to Section 5.6 concerning the RPC; all sewage
27 disposal systems within the RPC shall adhere to the requirements and design
28 standards in accordance with Section 20. Mr. Stevens said there are no other RPC
29 zones in town. Mr. Daley explained that all other zones had to comply with Section
30 20 so it is to bring the RPC zone into line with other zones. Mr. David Johnson,
31 resident from the Vineyards, said he could understand the change if there were other
32 RPC zones in town; he felt putting a clarification in Section 20 as requested by Mr.
33 Newborn earlier would take care of the situation. Mr. Graham said if these changes
34 don’t pass then they have a result they are not intending to have. Mr. Merrick
35 suggested tabling 5.6.2. Mr. Stevens replied that in the meantime he and his team
36 could come up with language on their approval that would meet the goals that they
37 want to meet.

38
39 Mr. Deschaine explained why he thought Mr. Merrick’s suggestion was not a good
40 one; the Board has experienced this issue first hand and discovered the ambiguity.
41 To postpone it means interpretations will be lost and it won’t be until the next time
42 this issue arises that they will have to learn the lesson again. If it’s this Board’s
43 belief that clarity is appropriate, then it should be done now. Mr. Merrick believed
44 the legal interpretation versus the Town’s interpretation had not had any great
45 detriment in the first place. Mr. Paine asked what would happen if this doesn’t get
46 approved.

1 Mr. Houghton asked Mr. Graham why in his view there could be an adverse impact
2 when their developments are grandfathered. Mr. Graham responded that it is clear
3 that the current project has passed, and is under the current regulations; the concern
4 would be that absent the change in word in Section 20.2 of “may” to “shall”, they
5 don’t really have an innate right to replace in kind without a permit process in which
6 you could be denied and forced to comply with the stricter rules. If that change
7 doesn’t pass, then it will be open to further reviews that are laid out. Mr. Deschaine
8 said he didn’t know of any in kind replacement that had to be changed unless the
9 State standards have changed anything but what was being replaced in kind.

- 10
11 **iv. Town Warrant Article – Zoning Board of Adjustment.** To see if the Town will
12 adopt the recent statutory changes to NH RSA 674:33 Powers of Zoning Board of
13 Adjustment involving the duration of approval for Variances and Special
14 Exceptions by inserting a new Subsection 17.11 Duration of Approval. The
15 amendments also seek to amend Subsections 17.5 Applications and 17.8 Scope of
16 Review to include Equitable Waivers pursuant to NH RSA 674:33-a and amend
17 Subsection 17.8.2 by adding language allowing the Board of Adjustment to seek
18 guidance from the Planning Board for special exception applications.

19
20 Mr. Daley explained that an equitable waiver is a process to resolve a mistake which
21 was made by the applicant and the Town. The Town is trying to incorporate a scope
22 of review for the ZBA for equitable waivers. The next part of the amendment is to
23 include an amendment under Section 17.8.2 which gives the ZBA the opportunity
24 to take a “time out” to reach out to the Planning Board and ask for its guidance.
25 Mr. Deschaine asked under what context an applicant would have to appear before
26 the Planning Board. Mr. Daley said it would be as a preliminary review. Mr.
27 Baskerville said he doesn’t like the wording, “if further information is needed” as
28 to him it means the applicant has to prove there is something he needs. Mr.
29 Baskerville suggested instead “the Board of Adjustment may refer an application
30 to the Planning Board if in its judgment it wants the Planning Board’s opinion”.
31 Mr. Deschaine preferred “non-binding” opinion otherwise the Planning Board
32 could get themselves boxed in by saying one thing only for them to come back and
33 find another thing. Mr. Baskerville added there are also people who will want to
34 avoid going before the Planning Board. Mr. Houghton said he would say something
35 like the Board of Adjustment is recommending they go before the Planning Board
36 for a preliminary consultation. Mr. Baskerville said that the ZBA can then read the
37 meeting minutes. Mr. Federico said the ZBA would need something stating the
38 Planning Board’s opinion; not just read the minutes. Mr. Daley said he would
39 reword it.

40
41 Mr. Daley said the major change to this section is adding a new section 17.11
42 Duration of Approval which is basically in compliance with a revised State statute
43 that changes the period for a valid special exception and variance from 1 to 2 years.

- 44
45 **v. Town Warrant Article – Floodplain Management District.** To see if the Town
46 will amend Section XVIII Floodplain Management District to meet the Federal

1 Emergency Management Agency (FEMA) updated regulations and remain in
2 compliance with the National Flood Insurance Program.

3
4 This change is to bring the Floodplain Management district into compliance with
5 the FEMA updated regulations so Stratham remains in compliance with the
6 National Flood Insurance Program. Mr. Deschaine added if this amendment is not
7 passed, the Town will not qualify for the flood insurance program. The Board
8 agreed this was for the benefit of homeowners living in those affected areas.

- 9
10 **vi. Town Warrant Article – Non-Conforming Structures And Uses.** To see if the
11 Town will amend Section V, Subsections 5.1.2 Expansion of Non-Conforming
12 Uses and 5.1.3 Non-Conforming Structures to establish the criteria and permitting
13 process for an expansion of an existing non-conforming structure and use within
14 the Gateway Commercial Business and Town Center Zoning Districts.

15
16 Mr. Daley suggested looking at this one a bit more at the next meeting.

17 **4. Miscellaneous.**

- 18 c. Other.

19 Mr. Daley shared with the Board that at the next meeting there would be 2 additional
20 warrant articles added for discussion.

21 **5. Adjournment.**

22 Mr. Baskerville made a motion to adjourn the meeting at 10:48 pm. Motion seconded by
23 Mr. House. Motion carried unanimously.

24