

Mr. White asked if the Conservation Commission had issued a favorable letter for the CUP permit yet.

Mr. Camm explained that the Commission had heard the case, asked for two conditions but could not vote due to a lack of quorum.

Mr. White asked Mr. Perkins to confirm. Mr. Perkins confirmed as accurate and related that a letter has been drafted for a vote and signature on 12/21/23.

Mr. Camm continued to present that both properties will have adequate frontage and have adequate building space just beyond the wetland crossing.

There will be a minimal amount of grading necessary. The width of the driveway is compliant with NFPA fire standards.

Mr. White confirmed that there are two waiver requests for the road shoulder and recreation component. Mr. Camm answered that is correct.

Mr. Mencis made a motion to accept the plan, a Subdivision of Land Application and Conditional Use Permit. Submitted by Greenman-Pedersen INC. on behalf of their client Richard Towne & Michael Higgins. The site is identified as 31 Reed Road, Sandown and further identified on Sandown Tax Map 21 Lot 83. For Jurisdiction. Seconded by Mr. Tombarello. All in favor 6-0-0.

Mr. White then read Mr. Keach's (Town Engineer) memo and comments.

As you may recall, on November 21st we issued a letter report in response to the subject application. Within that report we offered a series of comments and recommendations generated upon consideration and review of the applicant's initial submission of project plans and application materials. On December 14th we received a subsequent submittal consisting of copies of the following documents:

- A cover letter, addressed to the Planning Board, prepared by the applicant's consultant on December 14, 2023.
- A written request for waivers of the requirements of Sections 9.19 and 9.23 of the Subdivision Regulations dated December 12, 2023.
- A subdivision plan (4 drawings) dated October 30 and last revised December 13, 2023.

Based upon our careful consideration and review of the cited information we offer the following comments and recommendations at this time:

General Comments

1. This application contemplates dividing the subject 8.09-acre parcel into two lots. As such, this application qualifies as a *minor subdivision* under the terms and conditions of Section 7.11 of the Subdivision Regulations.

1. Both NHDES Subdivision Approval and a NHDES Wetlands Permit are required under this proposal. We recommend each permit be received prior to or as a condition of local subdivision approval with receipt acknowledged in the form of notes on the final plat.

1. We recommend the Sandown Fire Department review and comment on this application.

Mr. Grivas asked who would be responsible for checking erosion controls once under construction. Mr. Camm advised that site manager would be responsible for that function.

Mrs. Edris inquired about setbacks. Mr. Camm advised that all setbacks will be withing zoning regulations.

With no additional Board questions, Mr. White asked for public comment. Hearing none, Mr. White asked for a motion for conditional approval.

Mr. Mencis made a motion for conditional approval of a **Subdivision of Land Application and Conditional Use Permit. identified as 31 Reed Road, Sandown and further identified on Sandown Tax Map 21 Lot 83. Subject to the following conditions:**

- **Receipt of NHDES Subdivision Approval.**
- **Receipt of a NHDES Wetlands Permit.**
- **Receipt of favorable review of application by Fire Department.**
- **The addition of notes to final subdivision plan acknowledging planning board approval of CUP and waiver requests.**
- **Receipt of acknowledgment by a Licensed Land Surveyor that boundary monuments shown on final subdivision plan have been installed.**

• **Receipt of letter report from Town Engineer confirming comments and recommendations offered in his letter report of December 15, 2023, have been resolved to his satisfaction.**

• **Maintenance of a positive PREA balance.**

With the inclusion of the two requested waivers:

• Section 9.19 (Road Shoulder Improvements). Since Reed Road was reconstructed by the Sandown Highway Department in 2018 no shoulder improvements along the frontage of the subject parcel are warranted at this time. Accordingly, we recommend the Board approve this waiver as presented. Approved by 6-0-0 vote.

• Section 9.23 (Recreational Improvements). Based on discussion with the applicant's consultant it is understood the applicant is prepared to make a voluntary contribution, to the Town of Sandown's Revolving Fund, in the amount of \$1,000 at the time certificates of occupancy are issued for future dwellings constructed on each of the two proposed parcels, in lieu of constructing on-site improvements for exclusive benefit of the two future homes. Given the extent of public benefit potentially realized from \$2,000 in donated funds we support approval of this request. Approved by 6-0-0 vote.

Seconded by Mr. Tombarello. All in favor 6-0-0 motion approved.

7:05 p.m.

Public hearing at Sandown Town Hall 320 Main Street, for the Sandown Planning Board to consider amendment to the Sandown Zoning Ordinance for the March 2024 Town Meeting.

The proposed amendment, if approved, will remove and add new language to replace the existing Article 1, Part B, "Wetland Conservation District" ordinance and replace the Ordinance. The intent of this amendment is to increase protection of surface water resources and wetlands, and to clarify regulations for administrative and legal purposes.

Presenting: Jenn Rowland Rockingham Planning Commission

Ms. Rolands presentation based directly on the Proposed Wetland Amendments which is available to review on the Town's Website and attached to the Public Hearing Notice.

At the completion of Ms. Rowlands presentation, Mr. White asked if any members of the Conservation Commission would like to add anything at this time. Mr. Tim Robinson from the Commission responded. Mr. Robinson related that the Commission has been working for months, since last March, on updating the 40-year-old ordinances. With great focus on not making life difficult on existing homeowners. The importance of protecting the water supply is very necessary.

Vice Chairman Earnie Brown arrived at meeting at approximately 7:10 p.m.

Mr. White then read Mr. Keach (Town Engineer) into the record as he was unavailable for tonight's meeting.

Based on this review I offer the following remarks for your consideration:

1. Definition 5. (Page 3) reads as follows: "Wetland Conservation District: All wetland areas and adjacent *buffer zones* defined by the District Boundaries within Section ..." Further, District Boundaries 3. (commencing at bottom of Page 3) specify *Buffer Zones* having dimensions ranging from 25 to 100-feet measured outward from the edge of wetlands proper. These amendments represent a fundamental change from the current Ordinance as it expands the area of the Wetlands Conservation District (WCD) to include not only wetlands, but also land within a buffer zone of specified dimension. While this approach to defining the boundaries of a Wetland Conservation District is "rather ordinary" in local zoning ordinances throughout Southern New Hampshire, it represents a major change for Sandown. Based on the Board's two previous (unsuccessful) experiences in attempting to update the Wetlands Conservation District Ordinance, I anticipate some past and present members of the Planning Board, as well as some residents/landowners, may strongly oppose expansion of the District to include a buffer provision. Approximately a decade ago I recall one former long-time member (a former chairman) of the Planning Board providing an illustration of impact resulting from expansion of the Wetland Conservation District boundaries to include land located within buffer zones. His example went something like this: If I have a circular wetland with a 50-foot diameter, the area of that wetland is 1,964 square feet. If you add a 75-foot buffer zone around the perimeter of this wetland, the regulated area (area of the Wetland Conservation District) expands to 31,416 square feet which

is roughly 16 times larger than the area of the wetland itself. From my perspective, the concept of the boundaries of a wetland conservation district including land comprised not only of jurisdictional wetland, but also a reasonable buffer zone beyond is neither unusual nor unreasonable; however, it must be understood that the point made in the hypothetical example noted above is what effectively killed adoption of ordinance amendments twice in the past.

2. Buffer Zone Dimensions (See District Boundaries 3 ... beginning at bottom of Page 3). Perhaps a good way of mitigating the concern expressed above would be to reduce the required buffer zone dimension specified under Sub-Section 3 (b) from 75 to 50-feet. I say 50-feet since that is the current building setback dimension from wetlands specified under the current ordinance. This should help mitigate the notion that something is being taken away from landowners since an owner would continue to be able to construct a building within 50-feet of a wetland (same as now). It would also reduce the resulting WCD area (31,416 SF) and ratio of WCD to wetlands area (16:1) values noted in the hypothetical example to 17,671 SF and 9:1 respectively. Perhaps one other way of addressing unintended consequences is to amend the ordinance to impose wetland buffers only to wetlands whose contiguous area meets or exceeds a certain area dimension. A threshold area invoking applicability of something on the order of ½ acre is not unusual in other municipalities.
3. Use Regulations - Prohibited Use D - "No stormwater discharge structure, outfalls, or other conveyance of water that will de-grade water quality." This sounds reasonable but is impractical as adoption would effectively prohibit construction of headwalls, flared end-sections, stormwater treatment swales and other infrastructure fundamentally necessary for effective stormwater management functions within 25 to 100-feet of a wetland. I recommend deletion of this sub-section as it simply does not work.
4. Uses Requiring a Conditional Use Permit - Sub-Section E: "The repair or maintenance of streets, roads ..." Adoption of this provision would effectively require the Sandown Highway and NHDOT to obtain a CUP to lawfully perform many routine highway maintenance and repair functions ... this is simply unacceptable.

- 238
239 5. The final four Sub-Sections "Non-Conforming Uses", "Enforcement",
240 Savings Clause", and "Effective Date" need not be included in Article
241 I - Part B since they already exist elsewhere in the Sandown Zoning
242 Ordinance.

243
244 All-in-all, I believe the current draft is both workable and represents a long-
245 overdue improvement. Please note, the remarks offered above are not
246 intended to be critical but rather constructive comments resulting from my
247 initial reaction of the present draft and 39-years of professional practice.

248 - Steve Keach

249
250 Ms. Rowden pointed out that under State Law, The Town nor the State need
251 to follow land use regulations for all road repair work.

252
253 Mr. White then went around the table for Planning Board Members
254 comments.

255
256 Ms. Major: Thanked all involved and expressed necessity in getting this
257 done primarily to protect drinking water.

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259 Mr. Tombarello: Felt something that hasn't been changed in 40 years
260 shouldn't increase by a factor of 100% all at once. He also asked and was
261 concerned about policing or enforcement of the change. Is in favor of
262 people being able to vote on it.

263
264 Mr. White clarified that tonight's meeting is NOT a decision to put this
265 ordinance into law. This is ONLY to decide to give to the voters to decide.

266
267 Mr. Mencis: Feels that 50' setbacks are more reasonable than 100' as
268 proposed. But wants to hear what the public thinks.

269
270 Mr. Brown: Feels 100' is too restrictive and this won't benefit the ponds or
271 roadway runoff. But we want to impact homeowners when they are not the
272 cause of the problems. Roadway runoff is a much bigger concern that is not
273 being worked on. The last action should infringe on people's personal
274 property.

Mr. Grivas: Wished to clarify that when runoff gets into wetlands, they help filter the pollutants. Science supports the 100' and the CUP grants relief if needed.

Ms. Edris: Hopefully Town is aware how much time and effort has gone into this proposal to protect our drinking water. This is about the future of the Children and their families. Totally in favor of 100' setbacks. It is an investment in the future. As for policing, mechanisms are already in place.

At this time Mr. White asked Wetland Scientist Mark West to speak as Mr. West has been contracted by the town to produce an updated Critical Wetland Map and report.

Mark West: This is an update of the 2007-2008 mapping the Town did. Mr. West pointed out the new technology used to improve the process. He additionally pointed out that the proposed 100' setback is only for the large critical wetlands and not all wetlands.

Mr. Butler Conservation Chairman then addressed the Board on the issue of policing issues involving wetland concerns. In many cases, the issues get referred to the Department of Environmental Services. As for the distance, the 100' is backed up by science and we decided to stick with the science. Ponds are protected by Shore Land Protection. Regarding salt on the roadways in the wintertime, it is necessary for safety purposes. The main goal has and is to protect the drinking water.

Mr. Collins of 17 Fremont Road has built over 100 houses in the State and does feel that putting in a well within 100' of a wetland is very minimal. This is a scare tactic. The word pollutant is scary. Sand from winter road treating is supposed to be removed each spring. We need to be taking care of beaver dams which are flooding property and need attention.

Piccirilli of 11 Balsam Ln concerned of level of pond increasing yearly. This is caused by runoff. After several minutes of discussion regarding same, Mr. White advised Mr. Piccirilli that his concerns were valid but off topic and that many more people wished to speak.

Mr. Daley 16 Rangeway Avenue expressed that some issues have been clarified but inquired why a 75' setback would be inside of the 100' setback?

316 Ms. Rowland responded that the reasoning was to balance or compromise.

317
318 Mr. Daley was concerned that the Wetland Map of 2023 is not available.
319 But if he refers to the 2008 map, he boarder's wetland #28 which is a Tier II
320 wetland. Mr. Daley asked the Board to explain the differences between the
321 now called Critical Wetlands vs. Tiers I-IV. Regarding Septic Systems,
322 according to these proposed rules, 48% of my property is off limits to
323 relocate to. This will all cause additional cost and burden onto the
324 taxpayers.

325
326 Mr. Daley also pointed out that in his neighborhood a well-constructed
327 culvert dumps water from multiple places into the wetlands. Until issues
328 such as this are addressed, the overall stated goal of cleaner drinking water
329 will remain unobtainable.

330
331 Mr. Fulford 16 Wood Duck Circle also concerned when his septic system
332 needs to be replaced if it needed to be relocated. All the additional cost is
333 troublesome. Also, what about fences. Ms. Rowden advised fences are fine.

334
335 Mr. Tammany 14 Cranberry Meadow Rd asked where the charts or
336 information about the deterioration of the water are, because the water is
337 1,000 times better today.

338
339 Ms. Rowland explained she will post the links.

340
341 Mr. Tammany stated that the Conditional Use Permits language is wide
342 open. Adding scientists adds thousands of dollars to the application fees.
343 Water has only got better with 50' setbacks.

344
345 Mr. Manning 26 Hersey Rd. asked about why the words as amended is
346 included in the ordinance. Ms. Rowland explained that it allows for the map
347 or study to be updated with out having to change the whole Ordinance.

348
349 Mr. Manning also asked about wetlands not indicated on the map. Mark
350 West responded that it was not realistic to map out ALL wetlands due to
351 cost. Ms. Rowland explained that smaller wetlands are identified on a case-
352 by-case basis on smaller projects.

353
354 Ms. McClary 53 Meghan Dr, Conservation Commission, spoke to the issue
355 that current regulations are out of date, population has increased

significantly since that time and future proof our groundwater. Neighboring communities already can't drink their water. Imagine the cost of piping in water. I support the language as proposed.

Mr. Grivas added that artesian wells can be affected by surface water.

Mr. Major, 49 Snow Lane. I monitor the Sandown water quality as a hobby and have done so for many years. 1/3 of the Towns shown tonight have 100' buffers. The previously mentioned towns got grants to pipe in water. We may not. It is a huge amount of water. Punch Pond in Town already is showing traces of Mercury. The setbacks are the filters. Gave many examples of pollutants people put into the water everyday just by living on our properties. Sandown is one of four towns that do absolutely nothing.

Mr. Mencis asked if spraying for ticks is a pollutant.

Ms. Watten 15 Balsam Ln asked about management of the waterways and how is flooding being taken into account.

Mark West explained that Beavers can definitely change wetlands, but rain will likely not.

How often will remapping occur since beavers are not being dealt with.

Mark West - This latest mapping should stand up for time. Mr. Butler added that Conservation is working toward a beaver management plan.

Mr. White then distributed packets a resident made for each member of the Board.

Mr. White then inquired about one of the claims to Mr. Daley about notification. Mr. Daley came forward and explained that it was not applicable due to not being ratified by the Board of Selectmen.

To Chairman White, Planning Board members and Selectman Liaison Tomberello

"I have attached six copies of a petitioned warrant article that was passed overwhelmingly in 2010 by Sandown voters. I would like all PB members to have a copy and for Chairman White to have it read aloud. I would like the members to explain to the Sandown voters/property owners why they were

396 not notified via US mail of tonight's meeting.
397 Also, please read this letter during the public comments section tonight as I
398 am not able to attend but would like to give my input.
399 The reason this petitioned warrant article was initiated was that many felt
400 that property owners were simply unaware of these meetings. But zoning
401 changes that affect our property rights are very important to us. We have a
402 right to be notified and heard.
403 The enacted article clearly states that the planning board is "required to
404 notify". It does not say this is advisory! The author of the article, former
405 planning board member Fred Daily, is on record saying it wasn't advisory.
406 As one of the 25-plus original signers of the petition I knew it wasn't
407 advisory, and I am sure the voters understood it wasn't advisory. Nowhere
408 in the article does it say advisory! It says "shall require"! Is this planning
409 board and Selectman Tomerello about disenfranchising the Sandown
410 voters/property owners? I really don't think so and hope not! This required
411 notification can easily be done !
412 So I am asking that this meeting be cancelled and rescheduled with the
413 proper notice to voters as required.
414 On the proposed amendment itself, a few in town should not be constantly
415 insistent in trying to control what we do on our high and dry properties. I
416 am not sure if all current PB members are aware but very very similar
417 zoning ordinances were defeated in 2010 and 2013. In 2010, 53% voted
418 against and voters must have been really annoyed because in 2013, 63
419 percent voted against. We really care about our property and property rights
420 and are good stewards of our own property! Please at least give us credit for
421 that!! The NH shore land protection CSPA protects our ponds and streams. I
422 have attached a graphic showing that excellent protection . Our wetlands are
423 in great shape! Jen Rogan stated that 3 times at recent conservation
424 meetings. Not ONE well in Sandown is compromised. Not ONE wetland in
425 Sandown is compromised. We have no commercial in Sandown and
426 comparing us to Plaistow or some far away town that had a gas station leak
427 is fear mongering and ludicrous! Why then is the PB trying once again to
428 take away our property rights and in turn devalue our property needlessly
429 . In 2010, Steve Keach said that Sandown was more built out than you think
430 it is. And that was 2010! I hope this isn't an attempt to control growth as
431 some are saying!
432 Please do the right thing! Reschedule this meeting with proper notice. Or,
433 better yet, don't send this to the voters! Ernie Brown is correct. This is
434 needless confiscation without compensation .The Sandown voters
435 overwhelmingly agreed on 3 separate occasions ! We all bought our

properties unencumbered and now again this planning board is trying to place needless restrictions against our properties . Please rethink your positions !! Thanks Richard Kearney Hawkewood rd”

At this time Mr. Butler re-approached the Board and recommended a second meeting to discuss all new information.

Ms. Rowland encouraged the Board to try and decide or make a recommendation on the set back distance.

Mr. White then asked outright what would make the proposal agreeable?

Many audience members spoke to the distance being the biggest concern.

50’ was referred to many times as more acceptable.

Mr. Daley requested clearer specific language regarding Septic Systems.

Ms. Major pointed out that all other towns have been fine that committed to 100’ science-based commitment.

Mr. Morey, snow lane pointed out that regulations regarding septic systems did not change. So over focusing on that issue may be counterproductive.

At this time Mr. White contemplated one more or two more meetings. Several people made suggestions, in the end a collective decision was made to table the matter and come back on Jan 2, 2024 for a second public hearing.

This meeting was suspended for a 10-minute break.

10:55 p.m.

Continued Public Hearing for a Site Plan Review for a 12 Unit Elderly Housing Development submitted by Granite Engineering on behalf of their client Hersey Road Development Group. The subject property is located at the end of Snow Lane and is identified as Tax Map 8, Lot 14

Mr. Merrit presenting from Granite Engineering
Overview:

12-unit elderly housing condominium complex on 118 acres. Will consist of 6 duplex units with each unit have a garage. Back in October and November of 2022 were meetings last attended. At that time the Fire Chief issued a letter with several concerns and requirements. We have been deferring appearances since while we worked with a Fire Engineering Firm. With this firm we have subsequently met with the Fire Chief and believe we are now ready to proceed with his approval. We are still working on the roadways end to accommodate fire apparatus being able to turn completely around without stopping. Our alteration of terrain permit and fish and game permits have been acquired. Legal documents have been reviewed by Town Counsel and we have them back to complete edits.

Fire Chief Devine:

Last matter of concern is the turning radius at roads end. Otherwise satisfied.

Mr. White asked if anyone from the public wished to be heard. Mr. Todd Morey of Snow Lane/Chestnut Hill Drive Neighbors came forward and read a letter to the Board which has been added to the file as a document of record.

Then Mr. Kevin Major, Snow Lane wished to address the Board. Mr. Major related that he had pictures and charts to show flooding mentioned in Mr. Morey's letter.

At this time, the property owner, Mr. Drown interrupted and publicly insisted that Mr. Major and Mr. Morey remain off his property permanently.

Mr. Lord, Snow Lane, addressed the Board and asked who will be responsible for any damage to existing homes due to the blasting.

Mr. Merrit advised that the Blasting Company do pre-assessments and that their insurance covers such events.

Mr. White stated that without the benefit of the Town Engineer advising on the many issues, the Board would not be able to act on anything further this evening and continued the matter until January 16, 2024, time to be determined.

515 11:58pm Motion to adjourn by Mr. Mencis, seconded by Mr. Grivas.
516 All in favor 6-0-0

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524 Respectfully Submitted,
525 Thomas C. Perkins