

# PLANNING BOARD MINUTES

June 14, 2023

**APPROVED:** 6/28/23

**AGENDA:** 23SUP04 – HESS/LEWIS - #103-014 – 401 WULAMAT ROAD  
23LLA03 – MONIZ/GILPATRIC - #218-007 & 005-001 – PEAKED HILL  
23SUB02 - MONIZ - #218-007 – 305 PEAKED HILL  
23SUB01 - MONIZ - #218-011 - PEAKED HILL

**ATTENDING:** John Miller (Chair) David Shirley (Vice Chair), Scott Sanschagrín, and Don Milbrand

**ABSENT:** Elizabeth Seeler

**OTHER:** **Staff:** Christina Goodwin (Town Administrator), Joanne Bailey (Land Use Manager), and Donna Sullivan (Land Use Administrative Assistant); **Applicants and Public:** William Hess, Hess Engineering; Brian Dunn and Tracy Duarte, MBL Land Development; Cynthia Boisvert, Arago Land Consultants; Christopher Moniz, MRH Development; Jim and Michelle Thayer, and Garrett and Loretta Gilpatric.

With a quorum present, Chair Miller called the meeting to order at 7:00 pm.

## **NEW BUSINESS:**

### 23SUP04 – Hess/Lewis - #103-014 - 401 Wulamat Rd

Ms. Goodwin read the application for 23SUP04 into the record to extend an existing deck to tie into an existing set of stairs as a second means of egress from second floor bedrooms, also to remove the existing impermeable patio below deck area and replace this with a permeable patio to promote infiltration, as well as to install stepped retaining walls to level the yard on the lake side and install permeable pavers on front side of existing garage to promote filtration and slow run off from road. She noted notifications to abutters, advertising and postings were done as required. She read the names of six (6) abutters that were notified. There were no phone calls or written inquiries received. The Town Departments were notified. No Comments were received from Department Heads. The Conservation Commission was notified and reviewed the application at their meeting on June 7, 2023. The Conservation Commission submitted a recommendation to the Planning Board to consider including a condition(s) for compliance with maintenance requirements conditioned in the applicant's Shoreland Protection Permit should they approve the permit. Ms. Goodwin stated that the deck was not included in the review before the Conservation Commission so that will have to go back in front of them at their next meeting on July 5th.

There was a discussion about State Statutes and the conditions of the applicant's Shoreland Permit and the Conservation Commission's recommendation that reference be made to these conditions. Ms. Goodwin talked briefly about other maintenance requirements in place for some other properties in Town that have permeable pavers.

The Board reviewed the application checklist to determine if the application was complete. Mr. Shirley motioned to accept the application as complete. Mr. Sanschagrín seconded. The motion carried 4-0-0.

Mr. Hess, of Hess Engineering, presented the project and plans as agent for Mr. Lewis. He addressed the plans and outlined the activities that would remove an existing impermeable patio and replace it with a permeable one to help with runoff and infiltration issues. He added that there would also be permeable

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### 23SUP04 – Hess/Lewis - #103-014 - 401 Wulamat Rd - continued

pavers installed in front of the garage to help manage filtration and run off from the road. He explained that the lake side yard slopes at about 10% to the Lake. He continued to describe the details and activities to create a more level, stepped lake side yard going down to the water with infiltration beds to help filter and slow runoff. He then talked about the extension of an existing deck on the home to allow for second level egress to an existing stairway. He stated that the footings for the deck would sit on top of the retaining wall so there would be no additional infiltration or excavation.

Mr. Shirley asked if these plans were approved by the New Hampshire Department of Environmental Services (NHDES). Mr. Hess stated that the NHDES Shoreland Permit was approved, and they complied with changes they requested to original plans by adjusting the location of the deck. Mr. Shirley asked why the NHDES wanted them to change the deck. Mr. Hess explained that the State rules required a 12-foot buffer area, so they needed to adjust the size of the deck to comply. He noted the conditions of the Shoreland Permit for ongoing maintenance. Mr. Shirley asked about measures to protect the Lake during construction. Mr. Hess explained that silt fencing and other measures would be in place as required and would remain until any re-seeding or vegetation stabilizes the soils.

Hearing no other questions or comments from the Board, Mr. Miller asked if there were any questions or comments from the public. Hearing none, he asked the Board if they had sufficient information to act on this application. There was some discussion about action before this application was reviewed again by the Conservation Commission for the deck extension and it was determined they could move forward to a decision on the application.

Mr. Shirley motioned to approve permit #23SUP04 with the following conditions:

1. That all silt fencing and other measures to stop soils from getting into the lake remain in place until surfaces are 100% stabilized.
2. That the property owners maintain the pervious surfaces installed at the driveway, patio, and between retaining walls pursuant to condition number three of the NH DES Shoreland Impact Permit #2023-00432.
3. The Conservation Commission review and approve without further recommendations or conditions relative to the extension of the deck.

For the following reasons:

1. Because NHDES has reviewed this project and approved it
2. If the project is done as presented, it will lessen impacts to the Lake and watershed from development on the property.
3. The extension of the deck is expected to improve safety with second floor egress.

Mr. Milbrand seconded. The motion carried 4-0-0.

### 23LLA03 - Moniz-Gilpatric - #218-007 & 005-001 - Peaked Hill

Ms. Goodwin read the application to adjust lot lines on parcels owned by Moniz and Gilpatric on Peaked Hill Road into the record. The application does not require notice to abutters or advertising. She stated that no comments were received from Department Heads.

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### 23LLA03 - Moniz-Gilpatric - #218-007 & 005-001 - Peaked Hill - continued

Chair Miller asked the applicants to present their plans. Mr. Brian Dunn and Ms. Tracy Duarte of MBL Land Development introduced themselves and Ms. Duarte explained the application was to adjust a portion of lots 007 and 005-001 as shown on the plan taking lot 007 from 56.29 acres to 41.16 acres and lot 005-001 from 15.96 acres to 31.09 acres. The adjustment is an agreement between Christopher Moniz, MRH Development LLC and Loretta and Garrett Gilpatric.

There was discussion between the Board and applicants about present use of properties, the lot line adjustment adding to land that the Gilpatric's use for pasture, and the size of properties still being left in conformance with Rural Zoning requirements.

Mr. Milbrand motioned to approve the lot line adjustment #23LLA03 as presented for the following reasons:

1. The plans and intentions were presented well.
2. The adjustment does not cause any non-conformance issues and leaves adequate frontage.

Mr. Sanschagrin seconded. The motion carried 4-0-0.

### 23SUB02 - Moniz - #218-007 – 305 Peaked Hill Road

Ms. Sullivan read the application for Special Use Permit application 23SUB02 into the record for a subdivision of lot #218-007 to carve out a lot for the existing single-family dwelling at 305 Peaked Hill Road from the current 56.29 -acre lot. She noted notifications to eight (8) abutters, advertising and postings done as required. She read the names of abutters that were notified. There were no telephone calls, written or in-office inquiries received. The Town Departments were notified, and no comments were received from Department Heads.

Chair Miller reviewed the application and plans with Mr. Dunn to determine if the application was complete. A mylar was not provided. It was determined that this could be signed at a future meeting if subdivision is approved.

Following review, Mr. Milbrand motioned to accept the application as complete with mylar to be provided upon approval of the application for signature and recording. Mr. Sanschagrin seconded. The motion carried 4-0-0.

Ms. Duarte presented the subdivision plans and answered questions from the Board and Staff. She stated that the subdivision was for two lots to create a two-acre lot with adequate frontage for the existing dwelling at 305 Peaked Hill Road from the 56.29-acre lot. Ms. Bailey asked if the applicants submitted the plans to the State for Subdivision approval. They indicated they were unaware of this requirement.

Mr. Shirley asked for clarification of subdivision plan indicating three (3) lots. Ms. Duarte stated that the lot line adjustment previously discussed and approved is indicated but the subdivision is from the original 56.29-acre lot owned by MRH Development. There was additional discussion about the size of the lot created for the existing dwelling. There were additional questions from Mr. Shirley regarding the location of the septic system and well and whether there were wetlands on the property. He asked if there was a calculation for wetlands percentage for the lot. Ms. Duarte confirmed the area measurements for uplands and wetlands with the Board. Because the house was existing the applicants did not realize plans needed to show where well and septic were located. Mr. Dunn indicated the vicinity of these on the plans.

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### 23SUB02 - Moniz - #218-007 – 305 Peaked Hill Road - continued

Chair Miller asked if there were any access issues for the remaining acreage of the property. Ms. Duarte stated there were access points and gated access to snowmobile trails.

With no other questions from the Board, Mr. Miller opened the floor to comments or questions from the abutters and public in attendance.

Mr. James Thayer spoke about his history and love of the Peaked Hill area, and stated he would hate to see habitat and land destroyed if the land is split up for housing development.

Mr. Joe Wade, also an abutter, stated that he wanted the Board to be aware that the snowmobile access area is a continuously wet area.

Mrs. Michelle Thayer asked if the developer intended to build one house or a housing development on the remaining acreage. Chair Miller stated that the subdivision plans for this hearing only include a subdivision into the two lots indicated and that at a future time the applicants could come in with further subdivision plans but at present the Board is only considering a decision on the two-lot subdivision. Mr. Christopher Moniz of MLB Development addressed the opposition questions with comments that they have been working on this and have been conscious to take into consideration the local area to subdivide in a conscientious manner with the aesthetics, lots sizes and area concerns in mind with plans for this subdivision and the other property across the street.

With no other questions from the public or Board, Mr. Miller closed the public hearing portion of the meeting and moved to Board consideration of the application.

Mr. Shirley had several concerns he wished to address before the Board considered a decision on this application. He stated that the Board usually does not decide on subdivisions prior to a State approval. He also stated action should wait until seeing plans that indicate the location of well and septic system, confirm setbacks and determine any relationship to wetlands on the property. Chair Miller countered this with knowledge of the house existing and that he did not have too much concern about the septic and well but that verifying the State subdivision could be a consideration for conditional approval. Ms. Goodwin added that the Board has conditioned approvals on verification of subdivision approval and septic and well information in the past. Mr. Shirley stated that he was concerned that not enough information was available to determine if septic and well are within appropriate setbacks and that there is no State approval of the subdivision to review.

Discussion followed about options for the Board and applicants, with Mr. Milbrand stating three options for the Board to consider:

- deny without prejudice allowing the applicant to re-apply with additional information and new time frame for application,
- continuance of application or
- approval with conditions.

Mr. Shirley stated he preferred to deny without prejudice to allow applicant to come back with appropriate information and State approvals necessary for consideration. He was against continuance unless the applicant waived the prescribed deadlines for decision because without a waiver it could allow for automatic approval if deadlines are not met.

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### 23SUB02 - Moniz - #218-007 – 305 Peaked Hill Road - continued

To allow the applicant and the public a chance to respond to the continuance discussion, Chair Miller reopened the Public Hearing. The Board and Staff discussed the pros and cons of a continuance with waiver vs. a denial without prejudice and timeline adjustments necessary to properly post meetings etc. Future meeting dates were discussed. The applicant indicated interest in continuance with a waiver of deadlines.

Chair Miller asked the public if they had any questions or concerns about a continuance for this application. Hearing no comments, Mr. Shirley motioned that with consideration of applicant's waiver of statutory deadlines, the Board continue this subdivision application #23SUB02 public hearing to July 26, 2023. Mr. Milbrand seconded. The motion carried 4-0-0.

### 23SUB01- Moniz- #218-011 - Peaked Hill Road

Ms. Sullivan read the subdivision application #23SUB01 to subdivide Map/Lot 218-011 consisting of 7.2 acres into five (5) separate buildable lots into the record. She noted notifications to eight (8) abutters, advertising and postings done as required. She read the names of abutters that were notified. There were no telephone calls, written or in-office inquiries received. The Town Departments were notified, and no comments were received from Department Heads.

Chair Miller reviewed the application checklist line by line with the Board to determine if the application and plans were complete. When he reached checklist item #12, he questioned the applicant about indicating test pits as not applicable. Ms. Boisvert, Arago Land Consultants, stated that they do not include this information on plans that are to go to Registration of Deeds to record a subdivision. She stated that perc tests and such are usually included in individual lot plans. Mr. Milbrand stated that the Board would be looking to ascertain if these would be buildable lots so this information would be necessary. Chair Miller stated that this would be applicable, and the application would not be complete without it.

Mr. Shirley added that for the Planning Board to determine that this is a viable subdivision to create five (5) *buildable* lots the information listed on the checklist is needed. Mr. Dunn of MBL Land Development stated it was his understanding that the test pits and septic design are a matter for the New Hampshire Department of Environmental Services (NHDES). He stated they were before this Board to determine if the lots meet the lot size, sideline setbacks, frontage requirements of zoning. Chair Miller stated that in Bristol this checklist information is needed so that when a subdivision is approved, the lines and other information do not have to be adjusted at some later date and possibly require applicable parties to have another subdivision hearing due to the test pits indicating a non-buildable lot or septic design cannot meet setbacks. Mr. Shirley added that he had a concern about the size of lots in this subdivision plan and that if these meet the zoning ordinance requirements and any setbacks from wetlands.

Following this discussion, Mr. Shirley made the motion that the checklist was not complete. Mr. Sanschagrin seconded. The motion carried 4-0-0.

Mr. Dunn asked if they could re-submit an application. Ms. Goodwin stated that the application was not denied, it was determined to be incomplete so the hearing could be continued. The Board asked the applicant how much time would be needed to meet the checklist requirements.

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### 23SUB01- Moniz- #218-011 - Peaked Hill Road - continued

With a request for continuance and waiver of statutory deadlines from the applicant, Mr. Shirley made a motion to continue the hearing for subdivision application #23SUB01 to July 26, 2023. Mr. Sanschagrin seconded. The motion carried 4-0-0.

### **OLD BUSINESS: None**

### **MINUTES:**

Mr. Sanschagrin motioned to approve the May 24, 2023, minutes as written. Mr. Shirley seconded. The motion carried by roll call voted 4-0-0.

### **COMMUNICATIONS:**

Ms. Sullivan stated that the Land Use Office was in receipt of a Wetlands Standard Dredge and Fill Permit Application for a property at 43 North Pikes Point Road, Map 26, Lot 15. She indicated that the Conservation Commission and Land Office wished to communicate this as an FYI. She stated that the Conservation Commission notified the NHDES of its intent to intervene which would extend the deadline to respond. Ms. Bailey explained the Wetlands Standard application process calls for response within 14 days of receipt and the intent to intervene notice allows the Conservation Commission an extension to 40 days which allows enough time to meet to review the application and respond with any comments or concerns.

### **REPORTS:**

*HISTORIC DISTRICT COMMISSION (HDC)* - Ms. Sullivan reported that the HDC met on June 13, 2023. She stated that the HDC was looking to recruit new members. She added that there was clarification made regarding signs requiring a HDC Certificate of Approval. It was determined that the word "signs" could be removed from the application and that any requirement to get Certificate of Approval would be at the discretion of the Land Use Office based on Land Use Guidelines.

*CONSERVATION COMMISSION* – Ms. Bailey stated that the Conservation Commission did some site visits on Saturday, June 10, 2023. Ms. Goodwin reported that the Lake Water Quality Study Group, which is a subcommittee of the Conservation Commission, met this month and will take the summer off and meet again in September.

*SELECT BOARD* - Ms. Goodwin stated that the Police Department was in to announce new officers and promotions. The Land Use Department Team was also at the meeting for introductions and project discussions. She added the Board had been having conversations about the Beach Ordinance and how many beach stickers should be issued per household and whether waterfront households or campgrounds should be allowed beach stickers. The Board decided to postpone any decision on these issues right now. She also reported that there would be an All-Committee meeting coming up for Boards and Committees with a goal to continue to build better communication. She stated there was no date set yet, but she expected that information to be ready soon.

*CIP COMMITTEE* – no report

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### **REPORTS: - *continued***

*LAND USE* – Mr. Shirley shared his memo about the Steep Slopes and Ridgelines work he completed with the Board and Staff. He asked the Staff to share this with Resilience Planning and Design which was planning a proposal presentation for assistance with this at the next Workshop session. He stated that he felt there was no way to protect Steep Slopes and Ridgelines without some kind of map. Mr. Miller talked more about mapping and including an overlay to the Town property maps. Mr. Shirley talked more specifically about the protection of ridgelines and whether the Town would want anything built on these. There was more discussion about visually showing what areas of Town had ridgelines and steep slopes and what the restrictions would be in these locations. The Board will review Mr. Shirley's memo and further discussion will be scheduled at a future meeting.

### **BOARD MEMBER COMMENTS:**

Mr. Shirley stated he would like to have discussions about subdivision regulations and suggested that Rural Residential District Zoning have minimum lot size of a 2-acre lot for buildable lots and increase square footage requirements for septic and water in uplands. Ms. Goodwin reviewed deadlines, process, and public hearings for changes to be on the ballot. Mr. Miller suggested this discussion be put on the next workshop agenda after the Resilience Planning and Design presentation so Board can consider adding this to the priority list.

### **STAFF COMMENTS:**

Ms. Goodwin spoke to the Board about some of the issues for completeness of subdivision applications, and the importance of the Board having all the items required on the checklist for plans to be reviewed. She and the Board debriefed about the case discussions and requirements for minimum lot size, buildable lots, uplands and wetlands, setbacks, and other zoning restrictions to be sure all were on track for what is allowed and what may be an issue when considering subdivisions.

**NEXT MEETING:** June 28, 2023 – 7 pm

**ADJOURNMENT:** With no other business before the Board, Mr. Sanschagrin motioned to adjourn. Mr. Milbrand seconded. The motion carried 4-0-0. The meeting adjourned at 9:00 pm.

Respectfully submitted,

Janet Cote  
Land Use Associate