



**PLANNING BOARD  
TOWN OF EAST KINGSTON  
New Hampshire**

2020-2021  
Joshua Bath, *Chairman*  
Tim Allen, *Vice Chairman*

**MINUTES**  
Zoom Meeting – November 19, 2020  
7:00 pm

The Town of East Kingston Planning Board met remotely through a video conference (Zoom) meeting, Thursday, November 19, 2020 at 7:00 PM. Due to COVID-19, and pursuant with NH Emergency Orders, no public meeting location was utilized.

**AGENDA:**

**Continued Public Hearing for Home Occupation** for Stephanie McGaughey-Sullivan, 48 Sanborn Road, MBL 08-03-04 for a home office.

**Continued Public Hearing** for Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 14-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision (Tilton Village Estates, LLC) - Barry Gier / Jones and Beach

**Annual Growth Management Review**

**Review of Light Industrial Park Issues**

**Members Present:** Chairman Joshua Bath, Vice Chairman Tim Allen, Dr. Robert Marston, Bill Caswell, Ex-Officio Bob Nigrello and Alternate Emily Andersen.

**Advisors Present:** RPC Senior Planner Julie LaBranche

**Also present:** Mr. Barry Gier PE / Jones and Beach representing the Wayne R. Ewald Revocable Trust; applicant Sal Ragonese; Atty Josh Lanzetta; Dr. Stephen Pernaw, Professional Engineer; Dr. Kim Hazarvartian, Professional Engineer; East Kingston Police Chief Mike LePage; Town Engineer Dennis Quintal and various residents of the Town of East Kingston.

Chairman Bath made a statement regarding video bombing:

*If tonight's meeting is interrupted by outside sources, this meeting will be immediately terminated and public hearings will be continued and rescheduled to another date and time to be announced and published. We ask for understanding and patience for any technical difficulties that may occur during the meeting.*

Vice Chairman Allen noted if there are problems during the meeting connecting, to email him at [timallenekplanningboard@gmail.com](mailto:timallenekplanningboard@gmail.com) or call him at the cell number he is providing so he would be informed that someone could not connect and either provide guidance to connecting or terminate the meeting as it a requirement the meeting be available to the public.

**CALL TO ORDER:** This meeting of the East Kingston Planning Board was called to order at 7:00 pm by Chairman Bath.

**Minutes:**

Mr. Bath asked for a **MOTION** to approve the October 15 minutes.

Mr. Allen had two amendments to the September minutes.

- Page 4 – grammatical changes; and
- Page 8 – Paragraph 3 – add Mr. Quintal in place of he; paragraph 4 – fix typo; paragraph 5 – last line- add after current regulations “is in my opinion inappropriate while maintaining maximum density.”

Mr. Allen **MOVED** to approve the October 15<sup>th</sup> minutes with the noted amendments; second by Mr. Caswell. **Role call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous.

**Continued Public Hearing for Home Occupation for Stephanie McGaughey-Sullivan (MBL 08-03-04), 48 Sanborn Road, for a home office.**

Mr. Bath opened the public hearing and invited Mrs. Sullivan to present her application to the board. Mrs. Sullivan explained she has had a family-owned real estate business in New Hampshire for 18 years. There was a physical location in Seabrook but due to Covid-19 she has closed that location and sold the building. As a resident and broker-owner for the business, she would like to work from a home office as all work is now being done virtually. She has changed the business address to her home address in compliance with the state. There will be no meetings at Sanborn Road; it is just the business address.

Mr. Bath reviewed: the use is not non-conforming, there will be two residents and one non-resident employee, the gross floor area is less than 25% of the total square footage which meets the ordinance, the home occupation will be located in the main house, there will be no sign and no visibility to the neighbors, no vehicles will be coming to the house, one company car is allowed, and no business materials will be transported to/from or stored on the property.

Mr. Bath noted she conforms with the home occupation standards for an invisible home occupation. He asked if there was any board discussion. Mr. Allen asked if the home occupation was operated by both James and Stephannie – Mrs. Sullivan answered yes. He opened the floor to abutters – there was no abutter comment; the floor was closed to abutters.

Mr. Bath **MOVED** to recommend the Selectmen approve Mrs. Sullivan’s home occupation as an invisible home occupation; Mr. Nigrello seconded.

**Roll call vote** - Mr. Bath – aye, Mr. Allen – aye, Mr. Caswell, Dr. Marston - aye, Mr. Nigrello – aye. Vote is unanimous. Mrs. White will send a letter of recommendation to the Selectmen.

Mr. Bath closed this public hearing. Ms. Sullivan thanked the board.

**Continued Public Hearing for Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 14-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision (Tilton Village Estates, LLC) - Barry Gier / Jones and Beach**

Mr. Bath opened this public hearing.

Mr. Gier noted he, as representative for the applicant, applicant Sal Ragonese and Atty. Joshua Lanzetta were present for the meeting. Stephen Pernaw, who conducted the additional traffic study for the applicant, was also attending tonight’s meeting to answer questions.

Mr. Gier stated since the last meeting they have responded to all the comments from Mr. Quintal, plan changes were made to the plan profile sheet and the highway access plan which were resubmitted and reviewed. They received additional comments yesterday, and have no issue revising the plan and addressing them with Mr. Quintal.

Mr. Gier understands the board has concerns with the intersection with Route 107. To try and alleviate these concerns, they have deferred to the experts regarding the intersection. They met and discussed the intersection several times with DOT; the town being involved in at least one of those discussions. They have deferred to the DOT's suggested location for the entrance. They also hired Mr. Pernaw for input on the safety and have included his suggestions in their plans. As most of the comments and questions they have received are related to the traffic and the proposed intersection, he turned the presentation over to Mr. Pernaw.

Mr. Pernaw introduced himself to the board and referred to his memo dated July 13, 2020 for the traffic evaluation study he conducted. He wanted to proceed by highlighting items from the traffic study and then open up the discussion for board questions.

Mr. Pernaw reviewed this was a proposed 17-lot subdivision of single family detached homes with two points of access. Tilton Lane currently exists and would be extended through the subdivision to intersect with Route 107. His report concentrated on the Route 107 proposed subdivision intersection as it is understood that is where the town has questions and concerns.

In terms of existing conditions, Route 107 is a 2-lane highway under DOT jurisdiction; they are the ones calling the shots on this. It follows a rolling terrain with grades of over 9% uphill in the eastbound direction and a little over 4% downgrade in the westbound direction; the highway is curvilinear. According to the DOT at their most recent count, they estimate the annual average in traffic volume is about 3,500 cars a day. His report contains long-range projections for this "T" intersection, to 2031 to be specific. He also calculated a trip generation for the subdivision and expects that approximately 70% of the subdivision traffic will use the Route 107 access point; the remaining 30% would use the Tilton Lane access point.

In terms of trip generation, in the worst-case PM work hour period, the subdivision would generate approximately 19 vehicle trips inbound and outbound. In terms of the subdivision road on Route 107, that would accommodate about 13 of the 19 trips. In taking those long-range projections they also conducted an Auxiliary Turn Lane Warrants Analysis. They take the future projections and use standard DOT guidelines to determine if additional lanes need to be added; left or right turn lanes. After the calculations, it was determined auxiliary turn lanes are not required; a single approach lane in each direction is adequate.

They looked at intersection capacity and level of service. Using the methodologies of the Highways Capacity Manual 2010, the results showed all applicable traffic movements will operate well below capacity and with minimal delays through 2031 with good levels of service; delays will be minimal as will vehicle queuing. They also conducted a speed survey. The posted speed is 30mph; average speeds are 34-35 with the 85<sup>th</sup> percentile speed at 38-39mph.

They looked at sight distance and determined there was ample sight distance in both directions; ample for the average speed and the 85<sup>th</sup> percentile speed; over 400' of sight distance is available. NH DOT has jurisdiction for this future intersection and it is Mr. Pernaw's understanding they chose where the access point was to be located. Input was not provided to the DOT regarding location.

Mr. Pernaw explained his report includes a section titled "Safety Performance"; this allows Traffic Engineers to estimate a crash rate. He included this in the report so it is known when he says sight distance is good, you don't need turn lanes, etc., he is not saying that there will never be a crash at this intersection. One way to illustrate that is by referring to the Highway Safety Manual, which has methodologies for prediction. The sight distance methodology for "T" intersections is quite simple, but he wanted to give the board an estimate and came up with 2 crashes over a 10-year period. He does not want anyone calling his office in 11 years and saying they had 3 crashes instead of 2.

Crashes are random events and can happen for a host of reasons. They are not creating a high-crash intersection.

This analysis concludes with six recommendations; to Jones & Beach, the DOT and to this Board.

1. Maintain clear sight distance triangles, which Mr. Pernaw considers very important. Trim roadside vegetation, snow banks, and signs that restrict line-of-sight.
2. Increase the throat of the subdivision road by flaring the pavement and increasing corner radii.
3. A short section of double yellow center line be installed on the subdivision road to separate inbound and outbound vehicles and provide driver guidance. This would give drivers a visual cue to stay on the appropriate side of the road.
4. Install a stop sign on the minor approach; a traffic light is not required.
5. Reposition the proposed stop bar on the minor road to a minimum of 4' from the nearest edge of Rt. 107.
6. Installation of advanced warning signs on both the westbound and eastbound approaches on Route 107, approximately 100' in advance of the intersection.

Mr. Pernaw offered to answer questions. Mr. Bath thanked Mr. Pernaw for the review of his report and asked if the board had any questions.

Mr. Bath asked who would be responsible for maintaining the roadside vegetation and snowbanks? *Mr. Pernaw noted it would be the responsibility of the Highway Department, District 6. What happens if they do not maintain it, causing cars to inch farther out into the road to see a clear line of sight? Mr. Pernaw stated if that happens the town should call District 6.*

Mr. Bath asked if Mr. Pernaw had received the questions from the board members, as there were a number of them. Mr. Pernaw acknowledged he had received several pages of questions.

Mr. Bath asked, to help understand the estimate of .2 crashes per year, and to better grasp the relationship of the number to other intersections, what would the predictive crash rate be for a road of a similar traffic flow that is straight and flat and the intersection was at a perfect 90-degree angle? Is there a difference between this intersection and one that is totally flat and does not have the limitations this one has? *Mr. Pernaw noted the Highway Safety Manual does not make adjustments for roadway grades or curvature of the road. Mr. Bath asked if Mr. Pernaw thought there should be. Mr. Pernaw stated this publication has been out for decades, with new information added every year, and doubted that type of information would be included. It would be great if it were to be included, but he does not think there are enough data points to run that type of analysis.*

Atty. Lanzetta asked if Mr. Pernaw was using the current Highway Safety manual? *Mr. Pernaw answered yes. He noted the Safety Performance section was an extra item he included in his review. He wanted the board to understand that no Traffic Engineer can say this intersection will be crash free.*

Mr. Bath noted East Kingston Police Chief LePage had gone back into the log records and has found that in the past 10 years, there have been 27 road incidents, which is 130 time more than the .3 predictive model. The testimony from the Police Chief contradicts Mr. Pernaw's predictive model. We understand this is a predictive model and accidents happen, but knowing there is a history on this stretch of road with the turns, super elevation, grades and curvilinear nature of the road, shouldn't weight be given to the testimony of the Police Chief who has documentation of this?

*Mr. Pernaw asked if the 27 calls were over a certain length of the road?* Chief LePage noted the dispatched calls were from the intersection of Route 107 and Route 108 to the top of the hill east of the proposed entrance. Chief LePage also noted that motor vehicle crashes, vehicles off the road, and people skidding off the road account for only calls the police, fire, medical has responded to and does not take into account people who have been pulled out by a passer-by. He himself has personally gotten stuck on the "S" curves in a cruiser responding to an accident and could not get going again in the snow.

Mr. Bath noted they understand the DOT and Mr. Pernaw's report are doing volume analysis and have made determinations. *Mr. Pernaw stated the predictive model does not take into account the variables the board is talking about. Mr. Bath opines the variables the board is talking about are what is important in this instance during wet or winter conditions; this is a road that has a history of mishap and accidents.*

Mr. Pernaw responded he now understood what the Chief was talking about; the Chief's number (2.7 per year) is a crash rate over a certain length of road from the 4-way intersection to the top of the hill. That is a crash rate over a mile distance; a segment length. Mr. Pernaw's analysis shows only for the intersection onto Route 107; a standard "T" intersection with a rate of .2. There is no existing data for the "T" intersection as it does not exist yet. Mr. Pernaw suggested adding Chief LePage's 2.7 and his rate of .2 for a total of 2.9.

Ms. Andersen noted her mother lives at the top of the hill. She understands there is no current information as the intersection does not exist. She travels that section of road all the time and in winter it is very difficult to travel. She noted in regard to the increased traffic coming out at the "T" intersection, Mr. Pernaw quoted 70% of the traffic would use the intersection onto Rt. 107 and would be coming out to turn up the hill on a curve of the road. She opines it is disingenuous to just add the two numbers together to get a total with all the variables.

*Mr. Pernaw noted you have a highway with curves with a 9% grade; you would of course have crashes when it is icy and snowy. This project does not change that; it will still happen and there will be some additional crashes because of the "T" intersection. He only suggested adding the two numbers to help the board understand. He is not saying this is a perfect road or a perfect intersection. That would only be in Kansas.*

Mr. Allen thanked Mr. Pernaw for his report and his attendance at the meeting. As previously described by Mr. Pernaw, he understands the predictive methodology method of .2 does not take into account road curvature, slope, conditions, extenuating circumstances, etc. Mr. Allen asked in regard to the NCHRP 457 guidance utilized for the turn lane warrant recommendations; within that document and the mythologies it discusses, does it take into account road geometry, slopes, grades, and/or curvy roads anywhere in that document?

*Mr. Pernaw explained NCHRP 457 are the guidelines that NH DOT wants to be used when calculating intersections. His analysis is based on the speed limit, approaching volumes of traffic eastbound, opposing volumes of traffic westbound, and the percent left turns. He did not refer to the grade of the road, etc.*

Mr. Allen reiterated for the record as described by Mr. Pernaw that neither the NCHRP nor the predictive crash analysis took into consideration the special conditions of this intersection.

Mr. Allen asked if while conducting his analysis, did Mr. Pernaw view the intersection in person? *Mr. Pernaw answered he did.* Mr. Allen further asked in Mr. Pernaw's opinion, having observed from the side of the road noting the curvature, the slopes, and the slope away from the intersection, is it his opinion that this intersection would in no way exacerbate the already existing safety concerns on that road. *Mr. Pernaw answered he recognizes the existing crash rate based on existing geometrics and this intersection would not change the history very much; it will go up a small amount.*

Mr. Allen noted Mr. Pernaw's report used the term "reasonably safe" and asked Mr. Pernaw to define what reasonably safe means. *Mr. Pernaw answered as a transportation engineer, in looking at safety there are four categories to categorize crashes: engineering (the design of the intersection), education (people not following the rules of the road), environment (he has heard tonight it's terrible when it's icy and snowy with a 9% grade), and enforcement (speeding drivers who have crashes and you cannot blame the intersection). Reasonably safe is from a traffic engineering standpoint the way the intersection is located, the design of the intersection, and the sight distance; all these things he sees as being fine.*

Mr. Caswell noted we keep saying we have ample/adequate sight distance; what is considered satisfactory sight distance? Mr. Caswell asked Mr. Pernaw to quantify the sight distance; he would like to understand the safety margin. Is it 405', 425', 500'?

*Mr. Gier answered there was 400' all season safe sight distance in both directions. When asked if there was more than the 400', he stated they did not look past the required 400'. Mr. Caswell is looking to see if there was a safety margin; what is the safety margin required above the 400'? Mr. Gier noted the 400' is the safety margin.*

Mr. Lanzetta noted 400' is the required sight distance. There is likely more line of sight at the location, but it has not been measured beyond the required 400'. They are only required to make sure there is 400' of sight distance and not required for anything above that. Mr. Caswell opined it was an important aspect to consider along with road conditions; anything above the 400' would provide a safety margin.

Mr. Pernaw referred to page 7 of his review, which shows the vantage points looking left and right. When he did his observation, he followed DOT guidelines for the 400', but the photographs show there is more than that looking right. In terms of margin of safety, he referred to attachment #25 which shows the required amount of stopping distance compared to the 400'. The stopping sight distance looking left for the 85<sup>th</sup> percentile speed is 38 mph required distance to stop at 299' and the chart shows over 400' (430'). He feels this is a good margin of safety. Looking right, the required distance is shorter as an uphill requires 259' and there is well over 400'.

Mr. Caswell noted that was approximately a 1 second reaction time. Mr. Pernaw noted the calculations were based on AASHTO formulas which uses a percentage reaction time of .5 seconds.

Mr. Caswell asked if that was the throat or the intersection? When talking to the Chief the entire length of road being represented by the 27 crashes, what is the interval you are working with? Mr. Pernaw noted it was not an interval but considered a point source at the intersection. One is a crash rate per mile and the other is a crash rate per intersection.

Mr. Caswell noted there would be effects beyond the intersection due to what is happening at the intersection. He corroborated Mr. Pernaw's information was for right at the "T". *Mr. Pernaw stated the Highway Safety Manual says if there is a "T" intersection operating under stop sign control with no nighttime lighting and a major street volume of "X" and the amount of traffic coming out of the subdivision, input the variables together and you get 0.2.*

Mr. Caswell noted well proven methodology has been used for years and years developed by the state and used by Mr. Pernaw and other traffic engineers and a predictive estimate is come up with; he asked what is the confidence level around that estimate? Mr. Pernaw noted calibration factors could be applied to the mythology but NH does not have any. They are just reporting what the software says. Yes, there will be crashes but it also will not create a high crash location. He's not trying to minimize things, but they are talking about upturn arrivals of 3 in hour, which is an average of 20 minutes between vehicles. There are 5 lefts and 4 rights in the morning. This will be a pretty low volume intersection.

Mr. Bath asked if this intersection would make the road any safer than it currently is or would it increase the likelihood of accidents? Mr. Pernaw answered all intersections have crashes.

Mr. Bath asked if Mr. Pernaw had any final comments to the board. Mr. Pernaw offered a prediction based on his 30 years of experience. If this board approves this subdivision and the 17 lots get built and occupied as proposed, in a couple for years' time this will be a non-issue. There will not be the problems people are fearful of. There will still be problems getting up the hill in the winter and there will still be road crashes, but in 5 years you will say "what issue?" It is a low crash intersection, located and designed correctly.

Ms. LaBranche referred to the photograph on page 7 of Mr. Pernaw's report which shows the approach from the west. It looks like a flat road, not curvy, cantilevered or sloped. She opines it is not an accurate representation of what the road actually is at that point. She has driven that section of road several times when the flags were out showing where the road would be. The curve heading east is a significant curve. You are looking at the roadway and not looking to the left. You can draw 400' on a plan but is that what is actually happening from a motor vehicle standpoint actually driving the road?

From the other direction, it is straighter but still on a curve; it is like a blind corner. If a car was in front of you slowing down to make a turn onto the road, you would need to slow down right in the middle of the lane. She opines it dramatically decreases your sight distance and your reaction time; how does it actually work on that stretch of road?

Mr. Pernaw noted the photographs are from his I-phone and he agreed the photo on the right does look flat. When he ran the calculations based on a 9.3% upgrade, the calculations are true in that it reflects the grades that are actually out there. Ms. LaBranche is correct in her statement that heading westbound, a right turning vehicle entering the subdivision road will be decelerating to make the turn. His recommendation was to widen the throat of the driveway, which is intended to lessen the amount of deceleration needed. Having a slowing vehicle on Route 107 westbound is not a bad thing and might help make traffic slow down a bit. You entertain a concern about visibility and are focusing on the proposed intersection; that is why they recommended the advance warning side road signs. This would alert drivers a "T" intersection is coming up and to be aware and vigilant.

Ms. LaBranche opined she did not have a lot of faith in the signs, and growing up in New Hampshire people hardly ever use their blinkers. She appreciates Mr. Pernaw's perspective, but the perspective of herself and others who have driven the road numerous times is obvious when you are coming around that curve going up the hill. When you are accelerating and navigating in bad weather you are paying attention to the lane you are traveling on. The 400' does not translate to the motorist experience on that section of road.

Ms. LaBranche noted that no one disagrees with the traffic volumes. The concerns stressed by the planning board and others who have experienced this section of road is about the geometry and how that plays out. Unless that actual conditions on that section of road are taken into consideration, she has a lack of confidence in what those numbers actually represent.

Atty. Lanzetta explained he wanted to bring the board back to a few concrete items such as the East Kingston regulations, the DOT regulations and the fact there is an application on the table. The reason they are talking about numbers and predictive modeling and the reason Mr. Pernaw is using the models he is using is because those are the models that are available to us; the regulations are what are available to us. The burden the applicant has is to comply with is the regulations.

Atty. Lanzetta understands there is an anecdotal terror related to these turns, but we are supposed to be looking at raw data and squaring the raw data against the regulations that are in front of the board in 2020, not something that will be in front of us in the future. What do the regulations say and how do we comply? This applicant has no waivers, is not seeking any variances and has provided a pretty robust application with advanced engineering that has taken into account the town engineer's recommendations, the DOT's recommendations, and our own traffic engineer's recommendations. He understands there is fear here; there is a lot of anecdotal stuff to dig into but that's not what the application is hinging on. He wants to bring it back to the math in regard to the traffic. He thinks that where they need to be moving forward.

Mr. Allen asked, to be clear, *"To say that this planning board has to make a decision on this subdivision and the safety of this intersection, which is well within the purview of the planning board, solely based on numbers, statistical analysis, and engineering data analysis without asking questions as to whether these analysis take into account the extenuating circumstances of this particular road I think would be inaccurate."*

Mr. Allen also stated *"To say this road is curvy and sloped but we're not going to ask any of those questions, we're simply going to go by data and engineering analyses that we know does take those into account would be irresponsible and inappropriate. The rationale behind our line of questioning is to understand do those analyses, take into account the extenuating circumstances of this road that are known to exist and are the prime concern of this board; does the analyses not take into that information into account. I think we've gotten the clarity that we need from Mr. Pernaw very accurately. And to say that simply meeting the minimums means the planning board has no grounds to question the intersection is also inappropriate. We have every bit of grounds to question the safety of the intersection."*

Atty. Lanzetta did not think that was what he said. He stated the main thing is we are complying with the regulations that are before us this evening. He is just saying he thinks we should bring it back to using the actual raw data to analyze we are putting forth an intersection that's safe. He is not saying to not ask the questions you are asking, but he gets concerned when he hears anecdotal comments that keep coming in.

He is suggesting to focus on the engineering and juxtapose the engineering over the regulations they are clearly complying with. Those are the only things they can evaluate when we put forth an application to a board.

Atty. Lanzetta continued, in regard to the safety mandate, if you look at any preamble in any zoning ordinance, it talks about the health, safety and general welfare. Everyone has that but what everyone misses is that the preamble allows the board and the town to create a planning code of regulations and a zoning ordinance. That ordinance is what keeps the town safe. If there was something in the ordinance that needed to change, for example to account for this sort of road, that's by amendment to the zoning ordinance. We are serving a safety function here but the preamble does not give carte blanche to change when an applicant is complying with the regulations as drafted in the ordinance.

Chief LePage noted in regard to the engineering and the numbers, in this discussion he's hearing we are talking about optimal conditions; perfect sunny weather. This particular section of road he qualifies as a Dr. Jekyll and Mr. Hyde road; the road completely changes depending on the circumstances. There is a problem with 3" of snow on it, or fog or if it rains a lot. If a car stops eastbound on that corner with 3" of snow on the ground, they are not getting started again. Drive tires are on the front of the car; they will accelerate to get started again and end up in the ditch. He knows this because he has to shut that section of road down every winter since he has been the Chief in East Kingston due to car accidents. You are talking about optimal conditions for these scientific calculations. This roadway changes its dynamic 100% the other direction adding those elements into the mix. I believe that's what the planning board is getting at. When you add the snow, the sleet, the rain and the fog, this intersection completely changes and that's what we are trying to avoid happening.

Mr. Allen stated that he does not think there is a single member of the planning board that is trying to disregard the engineering behind either one of these reports, but what the planning board is trying to understand is what variables go into the engineering analysis before us; hence our questions. Engineering is only as good as the variables that are taken into account and in this particular case, what we wanted to understand is are all the variables of this particular location being accounted for? That was the series of questions we asked and he thinks Mr. Pernaw answered them very well.

Ms. Andersen wanted to make a note. She is a scientist. She looked at the report and noted it's probably standard that the study was for 2 days or so. She would like more comprehensive data than just a couple of days in the nice weather; she would like for it to take into account the different variables. If that is not going to be included, she would like to see in the report that none of the variables are being taken into account.

Atty. Lanzetta noted they have provided a plan set and application that complies with the ordinances and regulations. Ms. Andersen noted yes, but they are minimum. Atty Lanzetta noted it was not the bare minimum, but bar entry. Once you comply with the zoning regulations and the NH state regulations, that is how you permit a site in the state of NH and every state in the country.

Mr. Bath asked Dr. Hazarvartian to introduce himself and recap his report. Dr. Hazarvartian noted he was principal engineer with TEPP LLC and has 40 years of experience as a traffic engineer.

He provided a memo in May to the board. He notes the proposed intersection safety concerns that exist without construction of the intersection and relate to road geometry, snow and ice, and things that are exacerbated with the proposed intersection. If there are snow and ice conditions now and if there is a 9% up grade and super-elevation on the road now (cross-slope banking), and you introduce an intersection that will serve to exacerbate the existing conditions. For an example, if there is an icy condition on the road and vehicles need to slow or stop to turn left into Tilton Lane extension, they may have trouble getting going again. Also stopping maneuvers need to happen more often at an intersection.

The area between the top of the hill and the North Road intersection has 4 curves. It is a series of curves that involves a reversal of direction. Under that existing condition, and especially with an intersection in place, drivers would need to be more vigilant than usual given that they have to navigate on the road as it is now. They deal with multiple reverses of direction, the grades, the weather conditions, and if an intersection is in



place, when a vehicle is turning out of the intersection or making a left turn into the intersection, they not only have to judge cars coming at them straight on, but need to take into account the dynamics and visualization of vehicles moving in 3 dimensions 0- curves, grades and super elevation.

Dr. Hazarvartian made a point that the area already has an access point, the existing Tilton Lane that intersects with North Road. He reviewed Mr. Pernaw's study and agrees the trip generation of this project is relatively low. He can see no traffic capacity reason that they could not use the existing Tilton Lane with North Road. From the standpoint of capacity, he does not believe it is necessary to have two access points. That being said, perhaps the proposed intersection location along East Road (Route 107) could be developed as an emergency access to provide a second way into the site for emergency vehicles.

Another topic, not in my memorandum, is access management. One of the principles of access management is to try not have too many access points to a site. The general rule of thumb is if you do not need extra access points you try not to put them in. You do not need two access points to serve this site.

DOT is the boss of East Road (Route 107), but to his knowledge DOT is not requiring anyone to seek an access point at that location. Generally, DOT will at least listen to the town's concerns and will try to work with the town; turn lanes for example. Turn lane analysis is a guideline; sometime the turn lanes are warranted and sometimes they are not. There are guidelines for turn lanes, but meeting a guideline does not mean one will be required. A guideline is a factor to consider along with others at the particular location, such as notable or special conditions.

If an intersection were to be provided, not just for emergency vehicles, limiting the number of movements would help mitigate the concerns about existing conditions along East Road. Dr. Hazarvartian listed some of the possibilities; 1. prohibiting certain movements at the proposed intersection; 2. prohibiting left turns from East Road eastbound to prevent vehicles from stopping, slowing, losing traction or side-slipping on a super-elevated horizontal curve, on an upgrade and with snow and ice; 3. prohibiting movements out of Tilton Lane extension; 4. permitting right turns from East Road westbound, reinforced by signage and intersection geometry, with a potential right-turn taper and exceptions for emergency vehicles.

Yes, there are numbers we look at, but the numbers are only part of the equation. The sight distance number, the DOT numbers in their driveway rules, is a 400' number. That 400' number applies regardless of the speed on the road. The other set of numbers used are by the American Assoc. of Highway Transportation Officials which looks for less than the 400'. Mr. Pernaw's report includes both. They come from a book called "*A Policy on Geometry Design of Highways and Streets*" and essentially that policy is not designed to cover everything. It gives numbers for stopping sight distance, pavement width, radii, etc. for a number of various scenarios. It is not cut and dried; there is judgement that goes in and you need to factor in the exact conditions in the area and whether there are alternatives available to avoid creating an intersection.

Mr. Bath asked if Mr. Gier, Mr. Pernaw or Atty. Lanzetta had any comments on Dr. Hazarvartian's report?

Mr. Pernaw was thinking about the 3" of snow the Chief LePage spoke about. It is important to remember if you are an eastbound vehicle on Route 107 with snow on the ground and it is snowing, you are not compelled to travel through the 4-way intersection and take a left into the subdivision. You could opt to take a left onto North Road and enter through Tilton Lane.

Mr. Bath asked if board members had questions for Dr. Hazarvartian.

Mr. Allen thanked Dr. Hazarvartian for taking the time to join this meeting tonight. At face value, reading the report, it seems to center more around the geometry, slopes and curves and the extenuating circumstances of the proposed intersection more than engineering models.

For the record he wanted to know if Dr. Hazarvartian ran any of the same engineering models in his analysis as we heard in Mr. Pernaw's presentation, and if not why. Were they not applicable or is your approach just distinctly different?

Dr. Hazarvartian replied the models do not necessarily apply as they do not take into consideration the variables at this location, the fact there might be an alternate location for this intersection, the unique geometry with multiple reverses of direction. He did look quickly at turn lane warrants and noted in his report they probably do not meet the thresholds. But that does not mean you do not put in a treatment if it serves a purpose.

Regarding the number of vehicle trips, they looked at the numbers on East Road available through the state DOT. He knows the numbers on the Tilton Lane extension site would be relatively low numbers without calculation due to the number of units being proposed.

Mr. Allen asked if there were no left turns in and no left turns out, what level of safety increase would it be? Marginally or significantly better? And the same question if a decel lane was added and a bypass lane was added to either side.

Dr. Hazarvartian answered when we do these we usually come up with a quantitative answer. A lot of it is based on judgement. Can these measures be put in place without doing harm? In the area are there extenuating circumstances? As a general rule providing some form of a turn treatment increased safety. He noted there are not wide paved shoulders on this road. Sometimes shoulders will be installed along a road as a safety enhancement to ease the turns.

In getting back to the application, Mr. Bath noted this process started in January. At the first meeting the board voiced their concerns about the safety issued of an intersection in this location based on the comments from the Town Engineer, the Police Chief, town residents and abutters. For every single meeting since, the board has voiced the same concerns about the Route 107 intersection. When the board conditionally approved the yield plan, they set the yield plan at a maximum of 17 allowable lots. Those 17 lots are not guaranteed unless you can address the safety concerns the board has continually asked about; from the first meeting to today.

He continued, we have gone through a few continuances and the 91A request, and when we finally reconvened in September you came back and aside from expanding the throat, moving back the stop bar line, and adding two signs (which are 100' east or west of the intersection), it is the same exact plan that we have continually expressed we have an issue with. When we took jurisdiction of the yield plan it was with a caveat that *"the traffic safety concerns at the intersection of the Tilton Land extension where it meets Route 107 are unresolved and must be mitigated to the planning boards' satisfaction as the project moves forward."* We have discussed this every meeting.

Mr. Bath asked the planning board members, having listened to Mr. Pernaw and Dr. Hazarvartian, if their safety concerns for the proposed subdivision been satisfactorily addressed?

*Mr. Caswell – they have not entirely been met. This is more than a safety accident rate; it is more of a risk assessment. There were two very good traffic studies but once the neighborhood is laid out in this manner people are naturally going to walk around their neighborhood and will be walking out of that intersection. There will be vehicles moving up and down the road and turning, kids on bikes, etc.*

*Dr. Marston – still thinks this is a unique stretch of road and is not in favor of putting an intersection at that location. He thinks more consideration should be given to an entrance and exit onto Tilton Lane.*

*Mr. Allen – still has the same concerns he has had all along.*

*Ms. Andersen – still has reservations about the safety of the intersection. She understands that a relatively low volume of people will be in and out of 17 houses, but wonders if we have taken into consideration traffic volumes to the new BJ's in Seabrook and the casino which will increase the volume. The road is already getting busier. They have not answered all her questions regarding safety.*

*Mr. Nigrello – still has reservations. There are two excellent studies. What he has heard it is an art and a science; we have a lot of science. Dr. Hazarvartian just gave information about the art of it. It's just not about the numbers; you have to look at all the other pieces. Dr. Hazarvartian's concerns were well-laid out*

*and he has also given us some options for that. Those options may mitigate some of my concerns but at this point until they are formulated, my concerns about safety have not been satisfied.*

Mr. Bath asked Mr. Gier, knowing how the board is looking at the proposed plan before us, how would you like to proceed?

Mr. Gier stated they believe they have complied with the town's regulations. They have changed the intersection by implementing the recommendations provided by Mr. Pernaw and anticipate DOT approval in the next few days.

Mr. Lanzetta added he understands the boards' concerns. He feels those concerns were mitigated to an extent by providing an application that complies with the regulations; both with those of the Town and the DOT. He does not think at this point that continuing this for another meeting is going to be beneficial for the applicant or the town. The applicant has been at this for a year and although Atty. Lanzetta has not been involved from the beginning, this has been a long stretch. Being on the right side of the regulations leads us down a quicker path to resolution with some judicial intervention than to continue. He noted they could be flexible in integrating some of Dr. Hazarvartian recommendations, but from what he is hearing he does not think a no left turn contingency would allay the concerns he is hearing from the board. After hearing all the board's concerns, he opined they would prefer the board take a vote on this for approval or disapproval; there might be alternative means to solve this problem.

He noted the possibility of entering the subdivision just from the cul-de-sac was discussed, but that requires the applicant go before the ZBA for a waiver, which isn't guaranteed, and is another relatively arduous process to which there is no guarantee of success. He opines that is not necessarily a solution that is viable at this point after a year of working on this. The location of this intersection was measured and flagged by representatives from the DOT; that is why it is located there. He is asking for a vote of the board this evening.

Mr. Bath proposed the applicant could submit an alternate road layout that eliminates the Route 107 intersection, along with justifications for any waivers and other permits that might be necessary. This is a developable parcel of land; it just might not be developable with a Rt 107 entrance. Dr. Hazarvartian stated it could just all be on Tilton Lane, which is an option that the applicant may want to explore. We are happy to take a vote if you would like.

Mr. Gier stated they did explore that option. They provided the board with the concept that showed exactly what Dr. Hazarvartian suggested. A straw poll of the board indicated they would not support that option. You are asking the applicant to spend 10s of thousands of \$ to redesign something that the board has not voted on, because there was not a formal option, but they indicated they were not for that option.

Ms. LaBranche noted the DOT has their own set of criteria and regulations and they are obligated to provide an access to a property. However, the planning board is not obligated under those same rules. If they feel they have just cause to not grant a subdivision access, they may do that. The criteria between Mr. Pernaw's study and Dr. Hazarvartian study are very different. Mr. Pernaw's report is all about volumes and statistics, and Dr. Hazarvartian looked at the roadway very holistically in what the challenges would be adding another intersection.

She believes there are other alternatives. Three graphic sketches of alternatives were presented in June, but there was no analysis presented with those alternatives. If there had been more details with those alternatives and some justification behind them, the discussion might have gone further.

There are other alternatives than the one presented. She opines there is wiggle room for creativity and thoughtful design to get where you want to go.

She noted we have not yet heard from the Town Engineer. There are lots of site details and engineering that still have not talked about tonight before a vote or conditional approval could happen tonight. She opined

forcing a vote this evening would not be in the best interest of either party; there is a lot more discussion necessary. She is a neutral party and can see the position of both sides. She feels there is a way to find a comfort zone between the two. The planning board just wants to have this project completed in the best interests of the town.

Atty. Lanzetta noted one of the issues with the Zoom platform was the inability to speak with the applicant as to what his decision might be in regard to what the planning board has suggested. Ms. LaBranche noted there was an option for that to happen. Atty. Lanzetta asked for a 10 minutes recess. Mr. Bath noted the board would also take a 10 minutes break. They will reconvene at 9:03.

The board reconvened at 9:03. Atty. Lanzetta thanked the board for allowing the recess.

He asked if the alternative entrance plan set Mr. Gier had prepared could be put up on the screen to refresh the board. They would like to talk about it while Dr. Hazarvartian was on the call and about the idea of getting a waiver for the length of the cul-de-sac and using that in some configuration for the property. After the board reviews the plan, he requested the chairman to poll the board regarding if they would consider the revision to the plan and the waiver. They needed to know if it was worth the time and the money to submit another plan. If it is not, the preference would be for a vote to be taken tonight.

Mr. LaBranche noted there were two other alternatives presented at that time and asked if they were choosing only one of the options. Mr. Gier will show the others, but noted the applicant needed some solid recommendations for which direction to go. Ms. LaBranche noted there was one which showed a loop road with an entrance onto Route 108.

Mr. Allen asked, as they go through the alternatives, for the board members to think what they would be looking for in order to grant a waiver to give Mr. Gier some input when the presentation is complete.

Mr. Gier showed Option 10. They had met and discussed this with the DOT and they were in favor of the option with a cul-de-sac with an access gate off Rt 107 for emergency vehicles only with a crash gate. This would alleviate a lot of the issues with a long cul-de-sac having only one access from a safety standpoint and alleviates the issue of a full access on Route 107. It would require a waiver from the planning board for the cul-de-sac length greater than the presently allowable maximum of 1,000 feet. Its important to note currently Tilton Lane is 870 feet and expanding to the allowable 1,000' would only add 130' which severely limits the development potential of the property.

Concept 9 shows a loop coming back onto Route 108 and a short cul-de-sac. The issue is the large wetland impact that would occur; it would be difficult to obtain this from DES.

The other concept showed an alternative exit, but DOT has already prescribed where they want the exit and would not necessarily allow this exit at this location.

We are looking for input Option 10. The applicant needs some strong direction before deciding to proceed with the engineering on this project whether this would be a potential option.

Mr. Bath asked Mr. Quintal for his input on Concept #10.

Mr. Quintal noted on Option 10 there is still an access point onto Route 107 which would need to be maintained as a through-way for all seasons. This means the highway department would still have to stop at the road, open the gate and plow the road in and out. He does not feel Option 10 is acceptable based on knowing the requirements to plow it and the concerns regarding any type of intersection on Route 107.

In looking at Option 9, the horseshoe road with wetlands crossing, the town could approve this option without a waiver. It does require a wetland crossing, but in such situations an application to the wetlands bureau to replicate the wetland area in a different location is an option. It would minimize the impact to Tilton Lane and the existing conditions of Tilton Lane is a factor. This option is his preference.

Ms. LaBranche noted Option 9 does not achieve the 100' perimeter buffer to the property to the North. Any proposal for this option would also require a mitigation proposal in exchange for the 100' buffer. Mr. Gier noted the applicant was not in favor of this option; they want to talk about Option 10.

Mr. Bath asked Chief LePage for his input. Chief LePage noted from a Police Dept standpoint, the emergency access is somewhat doable. He can see the problems the Road Agent would have plowing to keep that emergency access road open in the winter. He agrees with Mr. Quintal it is still an access point to Route 107. He recommends contacting the Fire Chief to ensure his trucks could make the corner on that access road. In an emergency, if Route 107 would need to be closed, they would need to make sure all traffic could maneuver the road. He prefers this alternative to the full access intersection.

Mr. Bath asked Mr. Pernaw if he had comments on Option 10. Mr. Pernaw noted having only seen Option 10 for the first time, he could not offer any axillary turn lane warrants for the intersection, but sight distance appears to be fine.

Mr. Bath asked Dr. Hazarvartian if he had comments on Option 10. Dr. Hazarvartian noted the reason for a second point of access is usually associated with life safety and if the Police Chief and the Fire Chief weigh in and are fine with the concept of having the emergency access, that goes a long way. He believes it would be seldomly used and most of the time when that happens flashing lights would be on the vehicles. It appears it would not overburden the location as a full-time access would. The cul-de-sac would be long, but would have the emergency access.

Mr. Bath asked for board comments.

Mr. Allen likes Option 9 the most, even though it requires the wetlands crossing and addressing the issue of the buffer. This option does not require a waiver for excessive road length as it meets the requirements for a through road. It would require a Special Exception from the ZBA and a PB waiver. He does understand the hurdles the applicant would need to meet to make it happen. For Option 10, the fact that there is no through traffic to Rt 107 is good, however he feels it exceeds the spirit of why we have a 1,000' requirement for our cul-de-sacs. We chose 1,000' for emergency purposes so there would not be an excessive number of people using a single entry and access point, for emergency services access, and to limit the number of cars and houses utilizing a single road driving by others properties. We are not the only town with a 1,000' requirement for length of a cul-de-sac. With regard to the "gate option" the time between when there was an emergency and the gate was opened is a concern for him. If the road length was shorter like the ordinance requires, he likes Option 10. The road length as proposed is not the spirit of the ordinance with the 1,000' limit.

He also has concerns regarding the maintenance and plowing of the emergency exit but feels those could be worked out. If the proposed road was shorter, he could probably stand behind a waiver. A waiver to maintain maximum density, density only allowed when the property has the ability to safely exit this property onto Route 107 is a profound problem. This property could support fewer houses with minimal waivers if it is going to be a simple access road. As an individual member of the board, Mr. Allen noted they (waivers) should be as minimal as is necessary to make this a successful subdivision.

Mr. Caswell – opines Option 9 or 10 could be viable. Traffic volume does not require two ways in and out, which could be preferable in some ways. Both concepts are worth more consideration. Considering the pros and cons vs the wetlands crossing, both options would require some sort of waiver. He does not know which would be the more reasonable waiver.

Ms. LaBranche had a question about the design and the 50' ROW that connects Tilton Lane to the adjacent property for future expansion of development. She noted it was touched upon briefly in previous discussions but no decisions had been made how the board felt about it.

Mr. Nigrello – agrees with most of the comments and likes Option 9. It has two ways in and has easy access for emergency services. He understands there are some concerns and waivers, but for him personally it looks like a way to achieve staying off Route 107 and maximizing the yield plan. His concern with Option 10 is

the emergency lane; how to access it and will it allow the length of a fire truck to enter and exit. He would need to understand better how it would actually be used as an emergency access. Mr. Bath interjected emergency vehicles most likely would enter through Tilton Lane and exit at Route 107. Mr. Gier explained it was a crash gate at the entrance. The emergency vehicle would “bump” it open and enter; it does not need to be unlocked.

Mr. Bath - likes Option 9 as well, but is wondering instead of going through the wetlands could it loop back to Tilton lane with a cul-de-sac off it. For Option 10, he likes the emergency access but if the applicant is going for the full 17 lots, that might not be a reasonable waiver request. If the cul-de-sac was shorter so it was a more reasonable waiver request, he might be swayed.

Chief LePage – in regard to Option 10 with the emergency lane to Route 107, in the event of an emergency the preferred entry would be off Route 108. The only time they would open that gate would be if they couldn’t get in via Tilton Lane due to a tree or pole down for example.

Dr. Marston – likes Option 9 with the wetlands crossing.

Mr. Bath asked if the applicant has more of an indication of what the board thought moving forward? Mr. Gier opined they have what they need from the board to move forward and would need to go back and discuss with the applicant and connect with Ms. LaBranche and Mr. Quintal to discuss it in more detail. They ask for a continuance to the next meeting.

Ms. LaBranche asked to go back to Mr. Quintal’s memo date November 18. There are some items from that review that have not been touched upon, such as Mr. Quintal’s concerns regarding the existing conditions of Tilton Lane. Mr. Gier noted they had previous discussion with the board and spoke about documenting with photographs or video-taping the road conditions and providing some type of bond for issues with construction damage to the road.

Mr. Allen agreed that documenting the existing conditions of the road and coming up with a bond amount for the rebuild of Tilton Lane if it was destroyed, and establish a timeline to evaluate it for a few years after the project would be necessary. Ms. LaBranche suggested Mr. Gier and his team meet with Mr. Quintal and talk about what it would entail if the existing Tilton Lane ended up being the primary access road. Mr. Quintal noted it was typical for photo-documentation of existing conditions.

He opined a bond should be in place to eliminate debates over any necessary repairs. As all traffic might be coming out Tilton Lane, the conditions of the road should be acceptable for all traffic. Drainage issues may also need to be addressed on that section of road. It is necessary to make sure all the homeowners have a good road and not differential to the new road being built. Ms. LaBranche noted it was important as there would be commercial delivery trucks servicing the subdivision. Mr. Quintal also noted they would need to look at where the existing Tilton Lane comes out onto Route 108. If there will be more traffic volume, something might need to be done with that intersection.

Mr. Bath opened the floor to abutters and residents, and acknowledged receipt of a letter from Mr. Barss.

***Mr. Arron Barss, 14 Tilton Road*** – Mr. Barss introduced himself as the new owner of 14 Tilton Road. They decided to purchase the home with the new addition to their family, moving from a different location in East Kingston, and noted they wanted to stay in the town. The home they purchased was on a dead-end cul-de-sac which he felt was perfect for his family. He was unaware of the proposed subdivision at that time. Since the purchase, the previous homeowner, the applicant and neighbors have been forthcoming about the proposed development. Many of his concerns have been alleviated in their discussions.

Mr. Barss referred to several articles. Mr. Allen addressed some of these items (in bold italic)

- ***Article XI.E.2. – Frontage is required on an existing town approved road or a state highway. For the purpose of this ordinance, a town road shall be defined as a road that has been accepted by the local legislative body at the annual Town Meeting.*** Mr. Barss believes this would need to be discussed at an annual town meeting.

- **Article V.H. – Building Setbacks.** *No building shall be constructed within 75 feet of the street or within 30 feet of any lot line.* His current residence is under 50 feet; in some places less than that. He understands it was grandfathered in, but as they start to expand the road his property will be affected by the 75' setback ordinance. It is a big concern as being close to the road with children and animals.  
***The 75' setback is for the light industrial district; the setback for the residential district, under which this cluster subdivision falls, is 30'.***

There has been discussion tonight of a 100' buffer. He has seen nothing about the front of his property.

- **Article VI.A. – addresses concerns with increased traffic and noise.** With the additional traffic there is potential property value decrease, and increased light, noise, and vibrations. He is concerned local traffic may use Tilton Lane as a cut-through to avoid police details.
- **Article 11.B.1. –Purpose.** *The purposes of cluster developments, and to which any such development must adhere, are the following: 1. To preserve the natural beauty of existing rural roads within the Town. 2. To provide adequate setback and buffering requirements to protect existing, proposed, and future residential property values. 3. To preserve the natural and scenic qualities of open space including setback areas, buffer zones, and environmentally sensitive lands.* Part of his reason for purchasing the house was because it was on a cul-de-sac.
- **Article 13 –Growth Management.** ***In regard to growth management, this project will fall under growth management and those restrictions. This does not preclude a number of lots a particular development can have, it is a function of how many building permits are issued to builders after the development is put in place to slow the number of houses built per year in reference to surrounding towns.***

He also found the fire risk has increased in East Kingston and surrounding towns and as such, his homeowner's insurance has increased. With the additional 17 new lots, it will increase town insurance and put a strain on the Fire Department.

He is concerned about the location of his well; as per NH protective well radius it needs to be 75' from all roadways. In looking at the provided drawings, the potential road appears to be very close to the 75' radius. He is also unsure what impact to the aquifer levels adding 17 more houses would have. There is concern he might need to drill his existing well deeper.

He is not trying to stop the subdivision but wanted to voice his concerns for his family and his property. He wants to make sure the subdivision adheres to all the regulations by the state of NH and the town.

Mr. Allen thanked Mr. Barss for his letter and ensured him the board takes all letters received from town residents seriously. He wanted to give him some closure on a few of the items he mentioned in his letter but were not mentioned tonight.

**Mr. Allen explained:**

***The 75'setback referenced in the letter is for the light industrial district; the setback for the residential district, under which this cluster subdivision falls, is 30'.***

***Article V.E.11 – storage of construction equipment within 40' of the road is also the light industrial district, and not directly applicable here.***

***Article VII General Provisions – for obnoxious, emission of odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions. Yes, this is a huge concern for this board. We will weigh for this here and every project.***

***Article VII C. General Provisions - in reference to the abandoned barn, there will be resolution of that before closure of this project.***

***Article VI – Wetlands Conservation District – in reference to this and preserving those wetlands, the board pays attention to how the project will affect the wetlands as to ensure it is minimized as much as possible and all regulations and ordinances are followed.***

**Article XI – single family cluster development – regarding the road acceptance, this denotes the road needs to be off of an already accepted road, which Tilton Lane is. What will happen is the new subdivision portion will be a private road until the town accepts it by a town vote sometime in the future.**

**With regard to utilities, this falls under the purview of the board to work with the applicant to ensure the utilities will not detract from yours and other residents' properties.**

**With regard to Growth Management, yes, growth management applies but in a different way, growth management does not preclude a number of lots a particular development can have, it is a function of how many building permits are issued to builders after the development is put in place to slow the number of houses built per year in reference to surrounding towns.**

**Regarding runoff, yes, that will be addressed before the plan is finalized.**

**Regarding your well radius, a well radius in NH for most residential properties is 75'. The over 750' deep requires a 100' radius comment referenced in your letter is actually a requirement for septage flow. A well can be no closer than 100' to a septic system that flows more than 750 gallons per day. As per the plan, it appears your well radius does overlap the road. Per the state, it is supposed to be within the confines of the property as much as humanly possible if the property can support keeping it within the property boundaries, or over land precluded (roads being acceptable). The board will need to discuss the fact that the lot was recently subdivided so as to put your protected well radius outside of the lot line. That will be discussed by the board.**

Mr. Barss stated Mr. Allen's answered all of his questions.

**Mr. Michael Jacques, 2 Tilton Lane – abutter** – he asked about waivers for additional length of the Tilton Lane cul-de-sac. In Option 10, the length would still be an issue. He feels it is a safety concern to have the road longer than the town ordinance length for a cul-de-sac. He feels the developer is trying to put in as many houses as he can. He could not put in 17 houses adhering to the 2-acre 200' of frontage requirement for a building lot. He felt the lawyer was pressuring the board to make a decision or there would be judicial intervention.

There are rules and regulations in East Kingston that say how we want to keep our town. An increase on Tilton Lane with one throughput devalues my property and will change the looks of the road. There will be increased resident traffic and deliveries with one entrance and exit. There is maximum length in the ordinance for a cul-de-sac. The builder has a vested interest, but will build and leave. The town has requirements to keep the town as the residents want it. We want to keep our town within the guidance of the ordinance and without waivers unless they show validity. The town needs to stand up and stick to the principles of how the residents want to keep the town. Safety is first; keeping our environment the way it's supposed to be is important. The residents want safety, and want the community left the way it is and should not feel pressured. They (the applicant) have a right to build but not a right to take more than is supposed to be.

Mr. Bath noted there was a mechanism for granting waivers, and there are criteria that have to be met before waivers can be granted. They would need to demonstrate cause for a waiver to be granted. The board has listened to the abutters concerns. There has been no determination made yet; is it premature to say we are caving in because there is a lawyer at this point.

Mr. Jacques explained he was not saying the board was caving in, but in listening to the meeting today it feels pressure points have been put on the board. The principles of keeping our town the way we want it and making it safe is his concern.

Mr. Quintal noted the yield plan was reviewed and approved with the through-road coming out onto Route 107. If the entrance onto Route 107 is not the direction to go, is the yield plan and the vote for it still valid or not?



Atty. Lanzetta explained they were talking about a plan revision and which way they are going has not been decided at this point. He does not believe the yield plan is affected at the moment, given that nothing has actually changed.

Mr. Allen noted the yield plan was initially predicated to indicate how many houses, on paper, could be fit on the property and meet all the requirements; that has not changed. As stated many times from the very beginning, that plan was probably not approvable because of the safety concerns regarding the exit that needed to be mitigated.

With regard to waivers, our subdivision regulations have very specific language as to exactly how a waiver is to be granted. Extraordinary hardship, technical difficulties, unnecessary unreasonable expense where strict compliance would put an undue burden on the applicant, and that the waiver would still be maintaining the spirit of why the regulation was put in place. It is not a willy-nilly thing that the PB can do. There is a very defined way of granting a waiver.

Atty. Lanzetta agrees with Mr. Allen; it is critical to note for the public that the current application before the board does not include any waivers or variance requests.

**Gordon Powers, 26 North Road** – Tilton Lane runs along the side of his property. He wanted to go on record as agreeing with Mr. Barss and Mr. Jacques about the safety concerns. He does not think it's fair to route all the traffic through Tilton Lane. If all the traffic will be routed out of Tilton Lane, they believe they are entitled to their own safety study of where the road connects with Route 108. He also has the same concerns for his property values. In looking at the Options presented tonight, he favors Option #9 as it gives two points of access. Both Mr. Barss and Mr. Jacques expressed favor for this option as well.

**Vickie Brown, 5 Stumpfield Road** – and is a member of the conservation commission in east Kingston. She reminded the board of her letter in June, and wanted to address some of those items as they have not been addressed tonight. Article 9.B.3. states *“the purpose and intent of cluster developments are to “preserve the natural and scenic qualities of open space including ... environmentally sensitive lands”*. Also, Article XI, section S, #9 states *“The review of any cluster development ... shall ascertain that adequate provisions have been made ... for Environmental factors such as ... the protection of natural features”*.

To her, both of these articles state that we shouldn't make an exception of going over the wetlands (as indicated in Option 9). In cluster development we are definitely saying we want to preserve the natural features of our land. Furthermore, we do have a significant natural feature in the area which was outlined in my letter; the wildlife corridor that is significant not only to the town but to our state. It includes everything from amphibians to mammals. It is being used to go from Kensington, through the Bodwell and Monahan properties and down through the southern part of East Kingston. It seems this land for reasons of safety, traffic and environmental features does not meet the intention of what a cluster development in our town is meant to be. It doesn't seem it can support the number of houses being proposed.

Mr. Bath told Ms. Brown that the board read her letter when it was received at a previous meeting. The board takes the town ordinances seriously, and there have been discussions about it. In the new conservation cluster subdivision ordinance, which is now in effect, there is more protection. The current proposal is meeting all the required town ordinances under the ordinance when it was submitted.

In the past they have spoken about the buffer zone that goes around the property which could be utilized for part of the mitigation of the wildlife corridor. He believes the cluster subdivision has more open space than if it were traditionally built with 2-acre lots. You would lose more than you would gain through the existing proposed cluster development. Also, if there was a wetland crossing, there would be other mitigations. We would lose an existing wetland feature but it would be able to be mitigated through plantings or removal of invasive species if the balance was appropriate.

**Ms. Gail Anderson, 45 East Road** – has been attending the meetings for about 6 months. The board told the applicant this is an aggressive development with maybe too many houses for that space, where they could build an acceptable road for the development. She has not seen the applicant change his design in any way. She is wondering if this is a give and take, or is the board trying to change its standards in order to bend to the application.

She has lived on East Road for 30 years and knows how dangerous it is. She has seen accidents not just at the intersection with North Road but up the hill towards the golf course, with injured people being dragged out of their cars, winter and summer. The road is very dangerous and she thinks the intersection should not come out onto Route 107.

Mr. Bath noted the board has voiced their concerns about the entrances onto Route 107, and their thoughts that maximizing the amounts of lots was an issue that should be addressed. It is also a developable piece of land and we need to hear reasonable development ideas. The parcel has value and the applicant has the right to develop it. The planning board is here to make sure the regulations are adhered to, and life safety and welfare are all addressed.

Mr. Allen noted he would like to indicate a bullet list of what is important to the board if the applicant elects to try an alternative approach.

- The elimination of the Route 107 intersection is of utmost priority as a through intersection
- Complete maximization of safety for the subdivision
- The minimization of waivers and variances; an alternative approach that utilizes the smallest number of variances and waivers necessary
- Something closer to the published 1,000' cul-de-sac length and something closer to the number of lots allowed on a 1,000' subdivision road.
- There are only two lots on the existing road. A 1000' road with 200' of frontage usually yields 10 houses. If you can get closer to what the town has said they want on a 1,000' road, the town would like that.
- The board seems to like the loop road with the wetlands crossing. They know it would need to be mitigated and wetlands created somewhere else. That addresses closer to maximum density while eliminating the safety concerns for the Route 107 intersection.

Ms. LaBranche reiterated from Mr. Quintal's November 19 review; to have the town engineer and the consultant engineer have a discussion on how to evaluate the condition of the existing Tilton Lane and future impacts moving forward with the proposed increased road usage. Mr. Quintal noted typically that type of discussion is done in a technical review meeting which may be appropriate at this time; consisting of perhaps a few members of the board, Ms. LaBranche, Mr. Quintal and Mr. Gier. Mr. Quintal could spearhead the meeting; Ms. LaBranche suggested it be before the December meeting.

Atty. Lanzetta noted they have requested a continuance and will discuss later this week on how to proceed. Option 9 probably should not have been put up tonight. Looking at wetlands impacts there is no way they can put a mitigation plan in place that will solve the wetlands Rubik's Cube on the property.

He views this as they already have a fully legal application before the board with an access point on Route 107 that meets all the town and state criteria. There is 130' left for the end of Tilton Lane (to meet the 1,000' cul-de-sac length). A waiver is due to undue hardship; it seems trying to get a waiver for the wetlands is very tricky. They will take a continuance and will work through Options 9 and 10 to see if they work. He's not sure further technical review is warranted now until they can get to a conceptual consensus.

Ms. LaBranche noted that regardless of what option they decide to proceed with, the existing portion of Tilton Lane is still under discussion. What to do regarding that section of road still needs to be decided as part of the approval. Atty. Lanzetta noted they had already said they would document existing road conditions and they will take responsibility, but do not think they need to spend time on that now.

Mr. Allen agreed the applicant should take a continuance, review the alternatives and see if they would like to pursue one of the options. The board will have the conversation when the applicant comes back and deal with the application before the board at that time.

Mr. Bath **MOVED** to continue the Subdivision application for the Wayne R. Ewald Revocable Trust, 14 Tilton Lane (MBL 14-03-12) and Pamela A. Ewald, 2 North Road (MBL 14-03-07) for a 17-lot cluster subdivision (Tilton Village Estates, LLC) to December 17<sup>th</sup>, second by Mr. Allen.

Role call vote: Mr. Bath – aye; Mr. Allen – aye; Dr. Marston, aye; Mr. Caswell – aye; Mr. Nigrello – aye, vote is unanimous.

Mr. Bath noted the next item on the agenda is the annual Growth Management review. This item was tabled until the December 17<sup>th</sup> meeting by consensus of the board.

**Adjournment**

Dr. Marston motioned to adjourn; Mr. Allen seconded. Motion was unanimous.

The meeting was adjourned at 10:32 pm.

The next Planning Board meeting will be on December 17<sup>th</sup>.

Respectfully submitted,

*Barbara White*

Planning Board Secretary

Joshua Bath

Chairman

Minutes approved 12/17/20