

**MINUTES OF THE
PLANNING BOARD**

**MEETING OF
September 12, 2023**

A meeting of the Planning Board was held on September 12, 2023 in the Knightly Meeting Room at Salem Town Hall.

PRESENT: Keith Belair, Chairman; Bianca Carlson, Secretary; Paul Pelletier, Town Council; Sean Lewis; Damon Norcross; Linda Harvey, Alternate; Beverly Donovan, Alternate; and Jacob LaFontaine, Planning Director

The meeting was called to order at 7:00 p.m. with the Pledge of Allegiance. Chairman Belair introduced the board members and went over the agenda. There were no withdrawals.

Chairman Belair said, we will put the two Brady Ave Realty plans sequentially. So we will move our first item of new business to be heard first.

REVIEW OF MINUTES

Ms. Carlson said we have two set of minutes. The first one is from August 21, 2023.

MOTION by Mr. Lewis to accept the minutes of August 21, 2023 as written.

SECOND by Mr. Pelletier.

VOTE ON MOTION: 3 – 0 – 4 (Chairman Belair, Mr. Norcross and Mr. Pelletier in favor. Mrs. Harvey, Ms. Carlson, Mr. Lewis and Ms. Donovan abstained.)

Ms. Carlson said the next set of minutes is from August 22, 2023.

MOTION by Mr. Lewis to accept the minutes of August 22, 2023 regular meeting as written.

SECOND by Mr. Norcross.

VOTE ON MOTION: 5 – 0 - 2 (Mrs. Harvey and Ms. Donovan abstained.)

NEW BUSINESS

1. 21 KEEWAYDIN DRIVE REALTY SITE PLAN – Public Hearing for digital sign with 100% changeable copy at 21 Keewaydin Drive, Map 106, Lot 12602.

Abutters: There were no abutters present.

1 George Fredette said that tonight's conditional use permit is to allow signs that have a maximum
2 display area of greater than 100 feet, and having a greater percentage than 20 % of it being
3 digital. He showed the sign comparison. This is a sign that was approved the last time we were
4 here, a static sign that says Brookstone and a digital sign under it. The new sign will have a total
5 display area of 114 square feet. But there is a border around it that's 4 inches on top and bottom
6 and 1 ½ inches on the side. So the actual active area in the middle is 99 square feet. Tonight, we
7 will say it's a 114 square foot sign. It is also advertised as 100% digital. But it is actually 90.15
8 because of the border. This was first approved in March 2014 when we came through with a site
9 plan for 21 Keewaydin. In September 2021 there was a conditional use permit because we found
10 the edge of the sign hung over the sign setback area. In April 2023 we said that we'd like to have
11 a digital sign and it was approved. We are back again. After looking at this sign, the landowner
12 noticed that this corner of the sign will be big for a truck coming by. It's within the parking
13 spaces but hangs out just a foot into the travel lane. He was concerned with it getting hit. That
14 gave him pause to reconsider. Our reconsideration is to move the sign and make it digital. The
15 reason for that, is there are 6 buildings in this campus and everyone wants visibility on Route 93.
16 This sign gives them the ability to do that. He then read through the criteria.

17
18 A. The modification complies with the purposes of the sign regulation noted on Subsection A as
19 the display is conducive to bringing professional and medical businesses to the Town of Salem
20 with an effective display for multiple properties with office space in Brookside Park on
21 Keewaydin Drive. The proposed sign is intended to provide signage for many businesses in the
22 park in a tasteful, modern manner.

23
24 B. The applicant's situation justifies the modification because of the site's unique location with
25 multiple lots owned by one entity and their proximity to I-93. Brookside Park includes 6
26 buildings of 250,000 square feet and many businesses situated on 4 lots. The park has over 900'
27 of frontage on I-93. The digital sign with changeable copy allows one sign to advertise for all
28 these businesses.

29
30 C. The applicant has the rather unique situation for Salem where all buildings in the park are part
31 of a campus. Tenants of this park are attracted to the visibility offered by I-93. The digital sign
32 with changeable copy allows each tenant their own signage on I-93, without need for many
33 individual signs.

34
35 D. Brookside Park has been developed like a campus, with all buildings sharing a common look.
36 The digital changeable copy sign is to replace a previously approved freestanding sign and
37 represents an attractive and effective option for this sign.

38
39 E. This modification has no adverse impacts on traffic or pedestrian safety. The digital
40 changeable copy sign will not include flashing or bright lights, nor any action videos or sounds
41 that could pose a distraction to drivers. The proposed sign allows a single sign to replace what
42 would otherwise require many signs, allowing the I-93 frontage to remain unobstructed.

1 F. Aesthetic character of the site will not be adversely impacted as there will be no flashing or
2 bright lights, nor action videos or sound. The sign copy will be tasteful to promote businesses in
3 the park or to advertise available space to lease.
4

5 G. This modification is consistent with master plan goals and the spirit and intent of the zoning
6 ordinance because the changeable copy sign allows for efficient and aesthetically pleasing
7 signage for Salem businesses in the park. Modern signage is a requirement to help bring and
8 retain successful businesses to Salem. This project is making provision for job creation and
9 retention within the community.
10

11 Mr. Fredette said, we have a single sign for 6 buildings for #'s 11, 15, 19, 21, 23, and 25
12 Keewaydin. The widening of Route 93 has already exposed the backyard of this area, so this
13 gives dignity to the backyard. This isn't the only digital sign in town. If the objective of signage
14 is to provide information and advertising, that is accomplished in several places, which he
15 explained. He said it was mentioned that this will be like a billboard. We are proposing a 20 foot
16 sign, so it doesn't rival other billboards on Route 93. It's a smaller sign. Digital signs are
17 prohibited but some are used effectively and we'd like to be one more.
18

19 Staff comments:

20 They are requesting a conditional use permit. He showed the sign that was previously approved
21 by the board. There was a lot of discussion at that meeting, and staff recommendation was to
22 reduce the digital sign to 25 feet so that it would meet the ordinance. The board was comfortable
23 with the proposal as shown.

24 He showed the existing sign. It is an attractive sign and he thinks they did a good job. The sign is
25 nice and meets our signage goals. He read from the design guidelines. By allowing one common
26 sign, he thinks it meets the intent of the regulation.

27 The sign as proposed, he doesn't think it does a great job of meeting the design guidelines. It
28 emulates a billboard. It's a smaller scale, but aesthetically it's about the same. There aren't a lot
29 of signs that have 100 percent digital changeable copy. Most are accompanied by another sign.
30 He then showed a sign in Nashua with 100 percent changeable copy.

31 At the previous meeting he talked about this being the only digital sign between Methuen and
32 Hooksett. He showed a picture of the Hooksett sign. He read from the design guidelines. He
33 doesn't believe that a sign that is 100 changeable copy adheres to the criteria.

34 In 2000 the town voted to have a display of 2 minutes. In 2005 the town voted to prohibit
35 electronic signs. This information is in the packet.

36 Recommend - review the criteria in the conditional use permit section of our sign ordinance.

37 They have approval for a sign currently which he showed. So if the board isn't comfortable with
38 the proposal tonight, they still have a sign. The ZBA did grant a variance for a sign.
39

40 Chairman Belair asked for public input. There was none.
41

42 Mr. Lewis asked, there is no 100 percent digital sign in your estimation, that would be
43 acceptable?

44 Mr. LaFontaine said, per our design guidelines, he thinks there is a lot of guidance in there and
45 they talk about hierarchy of signs and signs that are compatible with the building design and

1 material. He doesn't think they have the ability at 100 percent to meet the spirit of the design
2 guidelines by adhering to the form, material, color of the surroundings.

3 Mr. Lewis said he just wanted to clarify that. The general interpretation is, this doesn't really
4 work but we have the opportunity to go in a different direction.

5
6 Ms. Donovan said, regarding sign content, she knows this company also operates a sign in Derry,
7 also a digital sign. They sell advertisement to outside groups. Is this meant to do that as well? Do
8 we have the authority to say, only advertise those businesses that are in that park?

9 Mr. LaFontaine said he thinks the ZBA restricted it specifically to the businesses within
10 Brookside Park, so there would be no advertising of businesses not on that parcel. So it would be
11 numbers 11, 15, 19, 21, 23, and 25 Keewaydin Drive.

12 Ms. Donovan said, that is what people in Derry thought and free speech came into play and it
13 was decided that they couldn't restrict it. Can we get a written statement? Is it enforceable?

14 Mr. LaFontaine said that's a great question. We tried to update the sign ordinance. One decision
15 by the Supreme Court is that you can't regulate sign content. Here maybe we can get a statement
16 from the property owner that that is what their intentions are. We reviewed the conditions of
17 approval with the applicant and they were amendable to them. But that's a good idea, that they
18 voluntarily agreed to this restriction.

19 Chairman Belair asked, so we can't restrict their sign but they can?

20 Mr. LaFontaine said yes, he believes so.

21
22 Mrs. Harvey asked, is it the plan to keep the words Brookside Park at Keewaydin Drive, as part
23 of the digital sign?

24 Mr. Fredette said he doesn't know, but it would be an appropriate thing that fits into the criteria.
25 It is advertising the campus.

26 Mrs. Harvey said she is asking that because she suspects that part, it may be changeable, but it
27 wouldn't be changing. The percentage of words that would actually change would be less than
28 100 percent.

29 Mr. Fredette said, that whole face is proposed to be a digital sign. He thought you asked if those
30 words would appear as one of the phases being projected on that digital sign.

31 Mrs. Harvey said, if those words stay there, they wouldn't be changing.

32 Mr. LaFontaine asked, are you saying that a portion will be static? He thinks they want the full
33 sign to change copy.

34 Mrs. Harvey said, that would be like a static portion of the sign.

35 Chairman Belair said, that is not what the applicant is proposing.

36 Ms. Carlson said that what Mrs. Harvey is referring to, is that a portion of the digital sign would
37 stay 100 percent of the time as Brookside Park and the remainder of that sign can be changed.

38 Chairman Belair said, the answer is no according to Mr. Fredette.

39 Mr. Fredette said, it is a digital sign with changeable copy, and we are talking about it changing
40 every 15 seconds to advertise all of the different businesses in that campus so they would all
41 have a turn. He mentioned the Village Mall. One of the changes there says, advertise birthdays,
42 but that is not part of this program.

43 Chairman Belair asked, the variances that are in place, do they carry through to this?

1 Mr. LaFontaine said, the variance would carry through. They can choose to move forward but
 2 the previous conditional use permit request, if you deny this one, they still have that previous
 3 conditional use permit, and they can move forward with the sign as previously approved.
 4 Chairman Belair asked, this particular conditional use permit that we are discussing tonight, is
 5 not relying on a new ZBA visit?

6 Mr. LaFontaine said that’s correct. The ZBA made the decision and that stands.
 7

8 Mr. Lewis asked, can he do the motion all in one?

9 Mr. LaFontaine said, you can vote on both if you want to have a motion that is concurrent with
 10 both.

11 Mr. Lewis asked for conditions.

12
 13 Mr. LaFontaine read the following conditions:

- 14 1. Prior to sign permit being issued, add landscaping at base of sign to reduce scale.
- 15 2. Sign must be equipped with a sensor or other device that automatically determines the ambient
 16 illumination and be programmed to automatically dim according to ambient light conditions at
 17 all times of the day and night.
- 18 3. Animation shall be limited to the actual changing of the message. No flashing, blinking, or
 19 pulsating of lights shall be allowed. The sign must be equipped to freeze in one position or
 20 discontinue the display in the event that a malfunction occurs.
- 21 4. Minimum display time. All illumination elements on the face of the static electronic changing
 22 sign shall remain at a fixed level of illumination for a period of not less than 15 seconds.
- 23 5. Software for operating the sign must be able to show current and factory brightness levels
 24 upon request. The owner/installer of Electronic Message Displays shall certify as part of the
 25 application that sign will not exceed 0.3 footcandles at night as recommended by the
 26 International Sign Association.
- 27 6. Display is restricted to text and logos only.
- 28 7. Applicant agrees changeable copy shall only be used to advertise businesses within Brookside
 29 Park (11, 15, 19, 21, 23 & 25 Keewaydin Drive) as shown on the plan and referenced in variance
 30 request. We will ask that the applicant submit a letter verifying that.
- 31 8. Note conditional use permit on plan.
- 32 9. All representations made by applicant or agents and all notes on plans are incorporated as part
 33 of approval.

34
 35 Chairman Belair said he is not a big fan of the sign, but with the location, nobody will see it from
 36 their house. It will be on the side of the highway. It doesn’t affect day to day travel of Salem
 37 residents.
 38

39 Mr. Lewis agrees with Chairman Belair, but he would add for future applications, that he will be
 40 a hard no on a sign of this nature, even if significantly smaller, showing up on a local road.
 41

42 **MOTION by Mr. Lewis to grant a conditional use permit and grant relief to the applicant**
 43 **under Section 490-702D(2) permitting a sign that allows changing the permitted maximum**
 44 **display area of 100 square feet to 113.56 square feet per Mr. Fredette’s note and providing**
 45 **relief under Section 490-702D(2)(A) Section 3, stating that the maximum portion of the**

1 **freestanding sign dedicated to changeable copy shall be limited to 20% and we will grant**
2 **him the ability to have 100 percent changeable copy.**

3
4 **SECOND by Mr. Pelletier.**

5
6 Ms. Donovan asked, if the applicant declines to give that letter stating that it will be for
7 advertising for the businesses only, what would happen?

8 Mr. LaFontaine said, we do have that condition about all representations made by applicant or
9 agents and all notes are incorporated as part of the approval.

10
11 Mr. Fredette said he understands that if he doesn't send a letter, that is a condition that is not
12 satisfied and the conditional use permit goes down.

13
14 Mr. Norcross said he thinks it is a dangerous precedent to move to 100 percent. He understands
15 that it is only seen from the interstate. Coming from the south and seeing digital signs all over
16 the interstates, he doesn't think it looks good. He is concerned about what the other businesses
17 that abut the interstate would do. This is a little too far going from 20 percent requirement to 100
18 percent. It is a bit much.

19 Ms. Carlson said she would be more comfortable if there was a portion that was static and a
20 portion that was digital. She understands why you can't have the digital sign because it hangs too
21 low in the drive aisle, but she also thinks it is setting a dangerous precedent at 100 percent.

22 Mr. Norcross said he understands that there are advantages for not having multiple signs on one
23 post, but this doesn't get there for him in terms of a better way digitally to represent it. He is not
24 against the idea of minimizing the signage for multiple tenants, but this is a tough one.

25 Mr. Pelletier concurred with the applicant for the clearance of the sign. The other sign would get
26 hit by other vehicles. He believes, if that sign is a combination of static and digital, he believes it
27 will be too much to look at on the highway. He is happy with it being just a digital sign.

28
29 **VOTE ON MOTION: 3 – 4 (Mrs. Harvey, Ms. Donovan, and Mr. Pelletier in favor. Ms.**
30 **Carlson, Mr. Lewis, Chairman Belair and Mr. Norcross opposed.)**

31
32 Mr. LaFontaine asked for a motion in the affirmative to deny the conditional use permit.

33
34 **MOTION by Mr. Lewis to deny the relief under Section 490-702D(2) concerning maximum**
35 **display area as well as denying relief under Section 490-702(2)(A) Section 3 concerning the**
36 **maximum portion of the freestanding sign dedicated to changeable copy.**

37 **SECOND by Mr. Norcross.**

38
39 Mrs. Harvey said she thinks that each person in favor should state their reason why they are
40 voting in favor of denying relief, so that it can be put into the record.

41 Chairman Belair asked Mr. LaFontaine if that is necessary.

42 Mr. LaFontaine said, there was a State law that passed. You can say it doesn't meet the criteria in
43 Subsection D2.

1 Mr. Lewis said, pursuant to our conversation, the sign as proposed does not meet current sign
2 ordinance requirements. As such we are choosing to deny relief under those rules.

3
4 **VOTE ON MOTION: 4 - 3 (Ms. Carlson, Mr. Lewis, Chairman Belair and Mr. Norcross in
5 favor. Mrs. Harvey, Ms. Donovan, and Mr. Pelletier opposed.)**

6
7 **OLD BUSINESS**

8
9 1. 89 BRADY AVE REALTY OPEN SPACE SUBDIVISION PLAN – Public Hearing for
10 eleven lot Open Space Preservation subdivision at 89 Brady Ave, Map 132, Lot 11635.
11 Continued from 7/11/2023.

12
13 **NEW BUSINESS**

14
15 2. 89 BRADY AVE REALTY SUBDIVISION PLAN – Preliminary Hearing for residential
16 subdivision for duplex dwelling at 89 Brady Ave, Map 132, Lot 11635.

17
18 **MOTION by Mr. Lewis to accept the 89 Brady Ave Realty subdivision plan application as
19 complete.**

20 **SECOND by Ms. Carlson.**

21
22 **VOTE ON MOTION: 7 – 0**

23 **UNANIMOUS**

24
25 Abutters: Johnston Family was present.

26
27 Staff Comments:

28 He discussed previous meeting and revisions to the previous plan. We have two applications
29 because they are subdividing out the duplex frontage lot on Brady Avenue, which he showed on
30 the plan. That will be removed from the 40 acre parcel and not subject to all of the criteria in the
31 open space subdivision ordinance.

32 They are reconstructing Brady Avenue to improve the sight distance. At our July meeting, we
33 talked about an email that we received from the Safety Officer who was concerned about sight
34 distance. The 2005 plan proposed the same reconstruction and they are proposing it here to
35 improve sight distance.

36 They added plantings to the cul-de-sac.

37 They marked the pedestrian access to the open space with the fence.

38 The Conservation Commission did review this application for the open space subdivision and
39 they did move to approve with a recommendation that the road width be reduced to limit or
40 eliminate the wetland impact. He spoke with Jim Brown and Dave Jordan about this. We can
41 incorporate a condition of approval to explore potentially regrading the area so that the wetland
42 won't be impacted.

43 He explained that they are pending State permits. Those can be incorporated as part of the
44 approval.

1 Reconstruction should be completed on Brady Avenue prior to first occupancy permit. That can
2 be done with a condition of approval.
3 Road and utility bondings are required.
4 They need Wetland Bureau approval.
5 There will be a conservation easement and restriction on the open space, and that will be
6 reviewed by our attorney and there are outside inspections.
7 We received approval from the Assessing Department.
8 Engineering approval is pending.
9 At our July meeting, there was discussion about the water line, which terminates around Turner
10 Dairy and there was discussion if that line could be extended to service this development. He
11 reached out to Municipal Services, the Water Department, and our senior engineer Jim Brown.
12 That line is quite out of date, and needs to be updated from Cortland all the way to Turner
13 Dairy. They did not support extending the line off that infrastructure. He read Jim's email.
14 Municipal Services felt that until the town updates the 2,917 feet of pipe, that it wouldn't be
15 prudent to add an extension.
16 He has conditions ready for both the duplex subdivision and the open space subdivision. We
17 would have to move to hear in one hearing for the duplex subdivision. There are waivers for both
18 based off the odd shaped lot. We talked at the last meeting about if waivers would be required
19 for lot shapes and the determination was, they would be. Other recommendations are that the
20 wetland buffer and open space be marked in the field.
21
22 David Jordan, engineer/land surveyor with Greenman Pedersen, is representing the applicant 89
23 Brady Ave Realty Trust, in terms of the changes that were made to the subdivision plan that this
24 board saw in July. Jacob summarized quite well what has been done. In terms of the plans, no
25 substantive changes, just some notes based on comments from Jim Brown and RCCD. We
26 submitted, separate from the open space subdivision, this plan to subdivide out this 4 acre lot.
27 The reason for that is, the open space subdivision sits with 11 lots. This lot is off by itself. It's a 4
28 acre lot that fully complies with conventional zoning. It is not part of the open space subdivision.
29 It is by itself and doesn't make sense for it to be part of the open space development, and
30 encumbered by the homeowner's association that will be responsible for a number of things. We
31 submitted this plan and if we get through this and the board is ready to act on this plan and the
32 open space subdivision, he thinks sequentially this plan should be acted on first, and then the
33 open space subdivision plan should be acted on. The open space subdivision, taking that lot out,
34 leaves us with 36 acres that we are then moving forward with an open space subdivision on. He
35 explained that, that subdivision plan with 11 lots, stands by itself on 36 acres. The two plans now
36 stand by themselves. The predominant issue is, there is really no reason for this lot, not serviced
37 by the roadway, to be encumbered by the homeowner's association and conditions that go with
38 the open space subdivision. In terms of the 11 lot open space subdivision, we have outside
39 engineering approval. Alteration of terrain permits have been received. We are responding to
40 those. We expect to have the State alteration of terrain permit in hand hopefully by the end of the
41 month. The wetland permit is pending before DES. Gove Environmental has received comments
42 from the State and those are being responded to. Once those permits are issued, the State
43 subdivision approval can be issued. We expect all those to be wrapped up in the next 2-4 weeks.
44 The plans for reconstruction of Brady Avenue were submitted to DOT. They are there pending
45 review. The plans that we submitted are the same ones that were submitted by the prior engineer

1 in 2005 and approved by DOT in 2005, so we don't expect any issues. We have one waiver
2 pending on lot shapes. He then read through the criteria.

3
4 278-6:4.1 – The lot size and shape of the proposed lots is appropriate for the proposed use
5 (single-family lot) in order to meet the required 25,000 s.f. for a single-family lot in an open
6 space subdivision and to allow adequate area for the house, driveway and yard, some of the lots
7 have a more triangular shape.

8
9 7:1.1 – This property as shown is well-suited for the proposed use. Strict conformity particularly
10 with regards to lot shape, is impossible on some of the lots. Because the required minimum lot
11 frontage in the open space subdivision regulations is 75 feet, the lots around the cul-de-sac end
12 up being configured in a more triangular shape in order to allow adequate area to build out the
13 house and yards.

14
15 7:1.2 – The spirit and intent of the regulation is to prevent odd-shaped lots and maintain
16 reasonable uniformity in the placement of structures in a given area. Despite some of the
17 proposed lots not being “generally square or rectangular in shape” the location of the homes on
18 these lots will be consistent with the other lots in the subdivision without the need for a long
19 driveway or awkward placement.

20
21 Chairman Belair asked Mr. Jordan, do you have one for the lot 12672?

22 Mr. Jordan asked, can he stipulate that what he just read is applicable to this lot at 105 Brady
23 Avenue?

24 Chairman Belair said, yes you may.

25
26 Chairman Belair asked for public input. There was none. He wants to clarify, when you said the
27 4 acre lot met our regulations, it was just shy of that condition of the odd shaped lot.

28 Mr. Jordan said that's correct.

29 Chairman Belair said, you mentioned DOT because Brady Avenue is a State road.

30 Mr. Jordan said that's correct.

31
32 Mr. Norcross said, around the 4 acre lot, it looks as though the open space wraps around that 4
33 acres, is that correct?

34 Mr. Jordan said it is part of the open space, with the open space subdivision plan. That was
35 intentional. He discussed the requirements. One is to provide a 50 foot buffer. It is to provide
36 further protection. The open space plan will be restricted so that there is no further subdivision
37 development alteration of the open space lot. It is further protection that prevents anyone from
38 wanting to do something on the back of this lot.

39 Mr. Norcross mentioned that we are creating a really crazy lot line. Do they need to preserve that
40 open space for the other portion?

41 Mr. LaFontaine said, that is one of the updates we did with the open space ordinance. He showed
42 that portion. It is just to provide additional buffer and make sure the open space is contiguous
43 throughout the parcel. One requirement is that we delineate the open space. He would imagine
44 we'd put placards there to delineate the open space for that parcel even though it is not part of
45 the open space subdivision. That is what we've done routinely with open space subdivisions.

1
 2 Mr. Pelletier said he doesn't really mind triangular lots, but he does mind lots coming to a
 3 definite point. There are two, 7 & 9, that come to a direct point. Is there a reason why that lot line
 4 can't be adjusted over? There is also one across the street from that.
 5 Mr. Jordan said, there are a couple regulations that fight each other. One says generally square or
 6 rectangular. The other one says all lot lines should be perpendicular or radial to the street line for
 7 the first 150 feet back. So all of these lot lines along this road are perpendicular or radial to the
 8 curb. We could come back 150 feet and throw an angle in it, but that almost seems worse. We
 9 are trying to balance all the regulations the best we can.
 10 Mr. Pelletier said he is asking because, if he was the homeowner, what would he do with the
 11 point way back there? If he fenced that yard in, what purpose would that lot line do?
 12 Mr. Jordan said, there is wetland so nobody will do anything back there.
 13 Chairman Belair agrees that the regulations are fighting each other.
 14
 15 Mr. Lewis asked Mr. LaFontaine, on page 2 under other – where it says, the applicant should
 16 specify the proposed use of the open space per 490-704C(3). Can you expand on that?
 17 Mr. LaFontaine said, when we updated the ordinance in 2021, one modification that we made
 18 was that applicant specify the use of the open space subdivision. What we were seeing a lot was,
 19 it was leftover land and not a lot of upland. We altered the ordinance to address that and
 20 increased the upland required in the open space, and we also required a purpose statement to
 21 indicate what the use or value was of the open space, and how it adhered to our ordinance. They
 22 added a note 16 that states the purpose, which he read.
 23 Mr. Lewis asked, under the wetlands and floodplain, the Conservation Commission granted with
 24 recommendation that road width be reduced to limit or eliminate wetland impact. Can you
 25 discuss that and how we propose to address that issue?
 26 Mr. Jordan explained that there is a very small wetland impact, which he showed on the plan.
 27 The reason for that is, the grading coming from the roadway clips the wetland, and it is like a
 28 200 square foot impact. It was suggested by the Conservation Commission that if the roadway
 29 width were reduced from 24 feet to 22 feet, then maybe that impact would be avoided all
 30 together. He thinks the general sense from Municipal Service and Jim Brown is, they prefer not
 31 to reduce the road width. We can explore the possibility of keeping the road at 24 feet and have a
 32 2 to 1 side slope to avoid impacting the wetland. Jacob had suggested as a potential condition
 33 that we will agree to work with Engineering and Jim Brown and see if we can make that change
 34 to his satisfaction. And if we can't, we will do that and the impact will be eliminated altogether.
 35 Chairman Belair said he assumes there is no wiggle room as far as the 24 foot pavement has to
 36 follow the center of the right-of-way ?
 37 Mr. Jordan said it is their standards.
 38 Chairman Belair said he understands why they want to keep the 24 feet.
 39
 40 Ms. Carlson said, one condition was, prior to occupancy, complete the reconstruction of Brady
 41 Avenue. When are they reconstructing Brady Avenue?
 42 Mr. LaFontaine said, the applicant is responsible for constructing it to improve the sight distance.
 43
 44 Chairman Belair asked Jacob to give conditions for the duplex lot.
 45

1 Mr. LaFontaine said he recommends, if the board's concerns are satisfied, that you move to hear
2 in one hearing, grant the waiver and conditional approval, subject to the following conditions:

- 3 1. Prior to recording plan, submit Engineering approval.
- 4 2. Prior to recording plan, set or bond monuments.
- 5 3. Prior to recording plan, note waiver on plan.
- 6 4. Prior to recording plan, submit State permits, that's the AOT, driveway and subdivision.
- 7 5. Prior to construction, mark wetland buffer and 50 foot wooded buffer in field.
- 8 6. Prior to occupancy, complete reconstruction of Brady Avenue.
- 9 7. Prior to occupancy, pay impact fee of \$8,762 for a single family or \$7,588 per unit for duplex.
- 10 8. All representations made by applicant or agents and all notes on the plan are incorporated as
11 part of the approval.

12
13 Mrs. Harvey asked, regarding the new subdivision request with the open space wrapping the
14 back part and the wetlands being cut down the middle, did this come to the Conservation
15 Commission for the second one?

16 Mr. LaFontaine said, it didn't need to. There is no wetland impact for the frontage lot.

17 Mrs. Harvey finds that a curious way to do a subdivision. To take wetlands, which could
18 possibly be a vernal pool, but we don't know for sure, since it wasn't looked at in the right
19 season, to take that portion away from the open space. And put a lot of the area in back. She
20 understands about the 4 acre minimum requirement, but even that can be adjusted with a waiver
21 or whatever it takes to have it be reduced. From a conservation perspective, she thinks the
22 members of the Conservation Commission would possibly agree that it is probably more
23 important to have those wetlands in the open space part to avoid any future impact into them.
24 She explained that we are having trouble with easement areas now with wetland impacts. She
25 understands why you wanted the 4 acres, but can you explain about, rather than put all of the
26 wetlands into the open space, and be part of the 4 acres?

27 Mr. Jordan said, regarding not knowing if it's a vernal pool, we know it isn't. Gove
28 Environmental did do a vernal pool survey this spring and he showed the only one that was
29 identified. In terms of the 4 acres, we can't go less than 4 acres. Anything less than that, we have
30 to go to the ZBA for a variance. Understanding the shape of the parent parcel which is somewhat
31 awkward, we tried to come up with a configuration that makes sense and protects the abutters by
32 preserving some open space adjacent to their properties. That's what drove the shape of this lot
33 as we have it. He understands your point of trying to get wetlands in the open space. We did that
34 but even in your open space regulations, there is a desire not to have the open space be all
35 wetlands, but have a significant portion be uplands as well. We are just trying to balance a lot of
36 the requirements and this is the best middle ground we could come up with.

37
38 Chairman Belair said, he has a duplex lot with wetland. Why is that bad? When it rains, that's
39 where the water goes. He would be happier to have a wetland on his yard, than have it perfectly
40 flat and if it rains, it comes into the basement.

41
42 Mr. Lewis asked, we will begin with the duplex not the larger parcel?

43 Mr. LaFontaine said yes, procedurally it is appropriate to approve the duplex.
44

1 **MOTION by Mr. Lewis with regards to the subdivision proposal for the duplex 4 acres lot,**
 2 **for a conditional use permit to grant relief with regards to lot size width, depth, shape and**
 3 **orientation under Section 278-6:4.1, to provide such relief as stipulated under 278-7:1.1**
 4 **and 7:1.2 with regards to strict conformity and specific circumstances relative to the**
 5 **subdivision, or conditions of the land and such subdivision which indicate that the waiver**
 6 **will properly carry out the spirit and intent of these regulations.**

7
 8 Mr. Jordan said, you have to vote to hear in one hearing.

9
 10 **Mr. Lewis withdrew his motion.**

11
 12 **MOTION by Mr. Lewis to hear in one hearing, grant waivers and conditional approval**
 13 **subject to the 8 conditions as stipulated by Mr. LaFontaine.**

14 **SECOND by Ms. Carlson.**

15
 16 **VOTE ON MOTION: 7 - 0**

17 **UNANIMOUS**

18
 19 Chairman Belair said, that puts that lot on your plan. And that brings us back to the original plan.
 20 He asked Jacob to read the conditions.

21
 22 Mr. LaFontaine said the recommendation is to grant waiver for lot shape and grant conditional
 23 approval with the following conditions:

- 24 1. Prior to recording plan, submit Engineering approval.
- 25 2. Prior to recording plan, comply with road/utility bonding requirement in Section 278-5.
- 26 3. Prior to recording plan, submit State permits - that's the AOT, driveway, and subdivision
- 27 permits.
- 28 4. Prior to recording plan, set or bond monuments.
- 29 5. Prior to recording plan, reduce or eliminate wetland impact caused by road, subject to
- 30 Engineering Department review.
- 31 6. Prior to recording plan, pay for outside inspections per direction of Engineering Department.
- 32 7. Prior to building permit, mark wetland and 50 foot perimeter buffer in field.
- 33 8. Prior to occupancy, complete reconstruction of Brady Avenue prior to first occupancy.
- 34 9. Prior to occupancy, delineate open space boundaries.
- 35 10. Prior to occupancy, record conservation easement/restriction on open space after review by
- 36 town attorney at applicant's expense and approval from Conservation Commission.
- 37 11. Prior to occupancy, submit baseline monitoring documentation report.
- 38 12. Prior to occupancy, submit approval of homeowner's association documents by town
- 39 attorney.
- 40 13. Prior to occupancy, pay impact fee of \$8,762 per dwelling.
- 41 14. Prior to occupancy, construct all site improvements in accordance with approved plan.
- 42 15. All representations made by the applicant or agents and all notes on the plan are incorporated
- 43 as part of the approval.
- 44

1 Chairman Belair said, the only thing he didn't hear on there, and doesn't need to be stipulated as
2 a condition, is the impact on the road with the side slope versus doing something to make that
3 work. That is something that you will work on?

4 Mr. Jordan said that's correct.

5
6 **MOTION by Mr. Lewis to grant the waiver, grant conditional approval with the 15**
7 **conditions as stipulated by Mr. LaFontaine.**

8 **SECOND by Ms. Carlson.**

9
10 **VOTE ON MOTION: 7-0**

11 **UNANIMOUS**

12
13 **PUBLIC MATTERS**

14
15 1. GPD Optoelectronics

16
17 Mr. LaFontaine said that Mr. Castagna is here on behalf of GPD Optoelectronics at 7 Manor
18 Parkway. They want to add a 300 square foot elevated platform which he showed on the plan. It
19 will meet the setback and will be under the 500 square foot threshold of our site plan regulations.
20 He showed the loading dock, and said it will be an elevated platform to store tanks of various
21 gases. When the tanks are empty, they will be brought back out and stored there for retrieval.
22 Does the board have any concerns?

23
24 The consensus of the board is that they have no concerns.

25
26 2. Tuscan Village dumpster enclosure

27
28 Mr. LaFontaine said that Mr. Gross is here to discuss the dumpster enclosures at Tuscan Village.
29 He showed the site plan with two proposed locations for buildings 1200 and 3000. They will
30 match the existing enclosure and will correspond with the building materials. He showed an
31 image of it. He showed both enclosures. They are pretty consistent with what we have seen at
32 Tuscan Village. Jacob thinks they are attractive. The last time we talked about this, they were
33 proposed along the floodplain. There was discussion about having someone from the jewel
34 buildings dragging trash through the parking lot. This was a more acceptable location. Do you
35 have any concerns or questions?

36 Ms. Carlson said, it is a good looking dumpster enclosure.

37 Mr. Gross said the one you see there, part of that is existing. The back wall will come out. That
38 dumpster now services building 900, with the phone company and mattress store. They don't
39 generate a lot of trash. This larger will service the 1200 building with a couple restaurants and
40 the jewel buildings, which will have a couple smaller restaurants. Several months ago we came
41 for a dumpster enclosure that was next to the floodplain and the board didn't like it there. This
42 was a better location for us. It is closer to the businesses. The other dumpster was originally
43 approved for building 3000. We didn't see any details for it but it does match the architecture
44 features of the 3000 building which is Hanover.

1 The consensus of the board is that they have no concerns.

2
3 3. Mary Queen of Peace

4
5 Mr. LaFontaine said that Mary Queen of Peace wants to host a Harvestfest event on October
6 15th, from 12:30 to 4:30, and will use the existing parking lot. They will have a petting zoo,
7 vendors and kids games. He showed the sketch plan. In the email they mentioned potentially
8 parking along Lawrence Road. He isn't sure if the police department will like that. We spoke
9 with the Community Services Director and she is looking into the utilization of the field. He
10 heard from someone from Salem Baseball that they do fall ball on Saturdays so it should work. It
11 has overflow parking. He doesn't know if they will need it. Are you comfortable with this?
12 Mr. Pelletier said, it works both ways. The church lets baseball use their parking lot.

13
14 The consensus of the board is that they are OK with it.

15
16 4. Dicks Sporting Goods

17
18 Mr. LaFontaine said, at the last meeting you granted conditional approval for Dicks Sporting
19 Goods. One condition was to enhance the northern façade of the building and that was to be
20 reviewed by you. He showed what was previously proposed and we asked them to break up the
21 wall. The board talked about the ability to have a view of the field from the interior of the store.
22 They are going to do that. He showed the new field viewing window and they will add another
23 story above. Is the board satisfied with the improvements?

24
25 The consensus of the board is that this is OK.

26
27 5. Tesla

28
29 Mr. LaFontaine said there is a request from Tesla to install EV charging stations at the Mall at
30 Rockingham Park. He showed the parking lot and the location of the existing EV charging
31 stations and the proposed area. He spoke with a representative from Tesla. We don't have EV
32 charging regulations. Other communities have adopted some and it maybe something to
33 consider. The other communities want spaces in less utilized areas. He did ask them to consider
34 moving this field to the north of the median to move them further away from this entrance. He
35 thinks they will explore that. They do show a spot being lost. There is conditional use permit for
36 the mall, and that would be a shame to do a conditional use permit for a loss of one space. They
37 are looking to do a space elsewhere to avoid that process. If they do not lose a space and if they
38 are not able to move the field, are we OK with this, with the recommendation they move the field
39 on the other side of the median?

40 Chairman Belair said, just work with them.

41 Ms. Carlson asked, there is another company that has other charging stations?

42 Mr. LaFontaine said that's correct. He doesn't know a lot about it. He thinks it will be
43 compatible with different cars.

44 Chairman Belair asked, at some point will this board need an EV charging ordinance, or is that a
45 waste of time?

1 Mr. LaFontaine said, maybe if we just have regulations. It seems like the informal approval has
 2 worked to some extent.

3
 4 6. 470 South Broadway

5
 6 Mr. LaFontaine said, we have a request for an EV charging station at 470 South Broadway. He
 7 showed the plan and explained. And he showed an aerial view of the parking space. He
 8 explained what they want to do.

9 Ms. Donovan asked, does the Fire Department weigh in on what is happening? They probably
 10 inspect them but in hearing about parking garages and there are a lot of fires with these. They
 11 burn hot and they can't put them out. So a lot of places are rethinking that. What does the Fire
 12 Department think about it? She is thinking that the next Tuscan garage may want one. How does
 13 that work?

14 Mr. LaFontaine said that is a good idea. Deputy Fire Chief Mike Galipeau reviews these
 15 applications and the also the Chief Building Official.

16 Chairman Belair said, we are just approving the box. The building safety people are in charge of
 17 making sure it's safe, etc. He doesn't think we need to get into it.

18 Ms. Donovan said, she is not saying we should, but she is just curious to know if that is being
 19 thought about.

20 Mr. LaFontaine said that is a good point. It is an emerging technology. We are learning the same
 21 thing with solar. He will raise it.

22
 23 **MOTION by Ms. Carlson to adjourn.**

24 **SECOND by Mr. Lewis.**

25
 26 **VOTE ON MOTION: 7 – 0**

27 **UNANIMOUS**

28
 29 The meeting adjourned at 8:36 p.m.

30 For further information, kindly refer to the DVD dated 9/12/2023, located in the Planning Office.

31
 32 Minutes by: Susan Strugnell, Planning Board Recording Secretary

33 Approved: Planning Board

34 Date: September 26, 2023, approved