



Town of Hebron
Zoning Board of Adjustment
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NOTICE OF DECISION

Date: August 17, 2022

Case No. 290

You are hereby notified that, following a hearing concluded on August 16, 2022, the application of an **APPEAL** under NH RSA 676.5 by Newfound Serenity LLC to the denial of a site plan application by the Hebron Planning Board on April 6, 2022 has been **GRANTED** in part and **DENIED** in part by at least three members of the Hebron Zoning Board of Adjustment as follows:

PLANNING BOARD REASON FOR DENIAL #1 – The property is prone to flooding and contains series 1, 2, 3 and 4 designated wetlands which were not adequately addressed by the applicant.

The Zoning Board of Adjustment voted to GRANT the appeal with regard to this issue. The Zoning Ordinance provides that designated wetlands are "Seventeen areas of wetlands (Numbers 2 through 18) as documented in the *Wetlands of Hebron Inventory 1997* by Amanda Stone." The only designated wetland on the property is the Cockermouth River, and none of the RV sites or pads are within the required 250 buffer. The other three newly discovered small wetlands are non-designated wetlands, and therefore the Zoning Ordinance requires no buffer for each one for anything other than a leach field. The plans that have been provided do show a leach field, and it is outside of the 50–75-foot buffer required for non-designated wetlands. Therefore, provided that the leach field is constructed in the proposed location and outside of the leach field buffer that is required for non-designated wetlands, there is no basis in the Zoning Ordinance to deny the appeal.

PLANNING BOARD REASON FOR DENIAL #2 – The proposed Site Plan does not contain a minimum of 20,000 square feet for each rental space as required by the Hebron Zoning Ordinance, Article VII Rural District B.6.

The Zoning Board of Adjustment voted to DENY the appeal with regard to Reason for Denial #2. The Zoning Ordinance requires that "each rental space for any tent, camper, travel trailer or other transient unit shall contain a minimum of 20,000 square feet." The proposed site plan shows 9 "sites" and none of them are 20,000 square feet. The applicant alleges that there is nothing in the Zoning Ordinance which prohibits "aggregation" of square footage (including the area within the Cockermouth WPOD buffer zone), and that as long as the Property contains at least 180,000 square feet total, the requirements of the Zoning Ordinance are met. The Zoning Board of Adjustment disagrees. Ours is a permissive zoning ordinance which prohibits any use

not specifically permitted. Because the Zoning Ordinance does not specifically allow the aggregation of square footage and the clustering of RV sites, it is prohibited.

PLANNING BOARD REASON FOR DENIAL #3 – The Property is located in the Wetland Protection Overlay (“WPO”) District, and the use of wheeled and motorized recreational vehicles are prohibited in the WPO District, Table 2.

The Zoning Board of Adjustment voted to GRANT the appeal with regard to this reason for denial of the site plan. The WPOD includes all areas within the town that are defined in the Zoning Ordinance as wetlands, designated prime wetlands, designated wetlands, non-designated wetlands or vernal pools, as well as the required buffer areas surrounding each. Designated wetlands consist of “Seventeen areas of wetlands (Numbers 2 through 18) as documented in the *Wetlands of Hebron Inventory 1997* by Amanda Stone.” The Zoning Board of Adjustment agrees with the applicant that only a portion of the property is within the WPOD, and that portion is the area within 250 feet of the Cockermouth River. The proposed site plan does not show any wheeled or motorized recreational vehicles in the WPOD, though it does show an “existing trail” within the buffer area. The applicant has represented that no motorized or wheeled vehicles will be permitted on the path, and this decision is CONDITIONED upon that representation.

PLANNING BOARD REASON FOR DENIAL #4 – The proposed Site Plan does not satisfy the following purposes of the WPO District by proposing to locate 9 RV units within the WPO District where the Property is susceptible to flooding and given the proximity to the Cockermouth River which flows directly into Newfound Lake.

The Zoning Board of Adjustment voted to GRANT the appeal with regard to Reason for Denial #4. The Zoning Board of Adjustment agrees with the applicant that only a portion of the property is within the existing WPOD, and that portion is the area within 250 feet of the Cockermouth River. There are no RV sites proposed to be located within the WPOD.

PLANNING BOARD REASON FOR DENIAL #5 – The 10-year flood analysis was not reviewed by the applicant.

The Zoning Board of Adjustment determined that it DOES NOT HAVE JURISDICTION over this issue because it does not involve the application, construction or interpretation of the Zoning Ordinance. Nothing in the Zoning Ordinance requires that the applicant undertake a 10-year flood analysis. Moreover, it is clear from the record that the applicant did, in fact, undertake a 10-year flood analysis.

PLANNING BOARD REASON FOR DENIAL #6 – Preliminary new FEMA Floodplain Maps for Hebron have been released and were not taken into account by the applicant.

The Zoning Board of Adjustment voted to GRANT the appeal with regard to Reason for Denial #6. The preliminary FEMA Floodplain Maps for Hebron are proposed by FEMA and have not yet been adopted by the town or incorporated into the Zoning Ordinance and, therefore, cannot be applied by the planning board. The maps associated with the “Flood Insurance Study for the County of Grafton, NH” dated February 20, 2008 as issued by the Federal Emergency

Management Agency (FEMA) are the maps currently incorporated and part of the Zoning Ordinance and are the only maps which may be applied.

PLANNING BOARD REASON FOR DENIAL #7 – When this subdivision was approved, the intent was for this lot to be developed residentially.

The Zoning Board of Adjustment determined that it DOES NOT HAVE JURISDICTION over this issue because it does not involve the application, construction or interpretation of the Zoning Ordinance.

HEBRON ZONING BOARD OF ADJUSTMENT

A handwritten signature in black ink, appearing to read "DS McQuilkin", written over a horizontal line.

DOUGLAS S. MCQUILKIN - CHAIRMAN

Any person affected by the Board's decision has the right to appeal the decision within thirty (30) days of this notice. The required first step, prior to any appeal being taken to court, is to apply to the Zoning Board of Adjustment for a rehearing. The motion for a rehearing must set forth all of the grounds on which the appeal is based. See New Hampshire Revised Statutes Annotated (NH RSA), Chapter 677. for details.