

February 21, 2024

APPROVED

1 In attendance at Town Hall: Arnie Rosenblatt, Tracie Adams, Tom Silvia, Tom Quinn, Cynthia
2 Dokmo, Bill Stoughton – Board of Selectmen Ex-Officio, Rob Clemens (alternate), and Brian
3 Cullen (alternate).

4
5 Staff present: Nic Strong (Community Development Director), Kristan Patenaude (Recording
6 Secretary) (remote)

7
8 Arnie Rosenblatt called the meeting to order at 7:00pm.

9
10 *Rob Clemens sat for Chris Yates.*

11
12 **PUBLIC HEARING(S):**

- 13
14 1. **CASE #: PZ18271-120523 – Vonderosa Properties, LLC (Owners & Applicants);**
15 **County & Upham Road, PIN #: 004-145-000.** Subdivision Application. To subdivide
16 Tax Map 4 Lot 145 into five (5) residential lots. *Zoned Residential Rural. Continued from*
17 *January 3, 2024*
18
19 2. **CASE #: PZ18272-120523 – Vonderosa Properties, LLC (Owners & Applicants);**
20 **Cricket Corner & Upham Road, PIN #: 004-116-000.** Subdivision Application. To
21 subdivide Tax Map 4 Lot 116 into nine (9) residential lots. *Zoned Residential Rural.*
22 *Continued from January 3, 2024*
23
24 3. **CASE #: PZ18273-120523– Vonderosa Properties, LLC (Owners & Applicants);**
25 **County, Upham & Spring Road, PIN #: 004-118-000, 004-119-000 & 004-121-000 &**
26 **006-102-000.** Subdivision Application. To subdivide Tax Map 4 Lots 118, 119 & 121,
27 and Tax Map 6 Lot 102 into seven (7) conservation lots and thirty-seven (37) residential
28 lots. *Zoned Residential Rural. Continued from January 3, 2024*

29
30 Arnie Rosenblatt read and opened the cases, then noted that there has been a request for
31 continuance for each of these hearings. The Board discussed dates to continue these hearings to.

32
33 **Tracie Adams moved to continue CASE #: PZ18271-120523, PZ18272-120523, &**
34 **PZ18273-120523, Vonderosa Properties for County, Cricket Corner, Upham &**
35 **Spring Roads to April 3, 2024, at 7pm at Town Hall. Seconded by Tom Quinn.**
36 **Vote: 6-0-0 motion carried unanimously.**

37
38 **COMPLETENESS REVIEW OF APPLICATION AND PUBLIC HEARING IF**
39 **APPLICATION IS ACCEPTED AS COMPLETE:**

- 40
41 4. **CASE #: PZ18482-013024 – Nelson Realty Trust (Owner & Applicant); 66 Route**
42 **101A, PIN #: 002-083-000.** Non-Residential Site Plan Application. To depict a proposed
43 11, 250 SF warehouse with the associated site improvements. *Zoned Commercial Zone.*
44

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45 Arnie Rosenblatt read and opened the case.

46

47 Arnie Rosenblatt asked Nic Strong if there were any completeness issues for this application and
48 she stated that there were not.

49

50 **Tracie Adams moved that the application is complete. Seconded by Tom Silvia.**

51 **Vote: 6-0-0 motion carried unanimously.**

52

53 **Cynthia Dokmo moved that there is no regional impact. Seconded by Tom Quinn.**

54 **Vote: 6-0-0 motion carried unanimously.**

55

56 Sam Foisie, Meridian Land Services, explained that the property is Zoned Industrial and is
57 approximately 1.97 acres. The proposed expansion of the lot is a 11,250 +/- s.f. warehouse. The
58 proposed development area is located at the rear of the lot. The existing front portion of the lot is
59 developed with an existing warehouse building. The interior of the building will be used by
60 Resin Systems and the external portion of the lot is also used by an auto wholesaler. The
61 application is for a Non-Residential Site Plan and a Town of Amherst stormwater permit. The
62 applicant also needs to update the driveway permit. The application requires a NH DOT permit
63 for the connection to the utilities within the right of way. A construction approval for the
64 proposed connection of the proposed warehouse to the adjacent septic system will also be
65 required. Additionally, a Pennichuck Water connection approval is needed.

66

67 Sam Foisie stated that the applicant previously went before the Zoning Board of Adjustment and
68 received a variance to allow for the building to be within 10' of the rear lot line. There are three
69 proposed access points to this property, one from Route 101A and then two new access points,
70 one to the west and one to the north. It should be noted that there was an additional existing
71 access point that has since been removed in order to meet the impervious coverages thresholds.
72 Previously, the site contained parallel parking spaces along the proposed building. Those have
73 been removed as part of this application as they are no longer needed. There is no parking being
74 added, but additional parking spaces could be added if needed.

75

76 Sam Foisie explained that the proposed building will be serviced by water, gas, an off-site sewer
77 system for the adjacent lots, and underground electricity. The existing septic approval will need
78 to be amended, as noted in the Staff Report. The applicant also needs to provide proof of
79 contacting the Pennichuck and has requested a letter regarding the proposed use and to include
80 landscaping. Once received, this will be provided to Staff to go along with the approvals. The
81 applicant has also contacted Liberty Gas to coordinate the connection.

82

83 Sam Foisie stated that the site will be treated for stormwater using two infiltration systems
84 located on the east and the west sides of the proposed warehouse. This will capture as much as
85 possible of the proposed impervious areas and infiltrate for the entire storm events. The proposed
86 stormwater system does comply with Amherst's Stormwater Regulations. A lighting plan has
87 been presented which meets the new lighting ordinance by installing building mounted lights and
88 no light poles in the landscape areas.

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89
90 Sam Foisie explained that there is not much landscaping proposed on the plan, due to the
91 existing configuration of the site. There are three trees presented on the plan to provide a buffer
92 from the new visual impacts to the public. There is not much room at the front of the site for
93 landscaping, due to existing underground utilities. There are also overhead powerlines in this
94 area, which do not allow much additional landscaping. A waiver was originally noted on the plan
95 from the stormwater regulations, but it has been determined that the waiver is no longer needed.
96 The applicant is requesting four waivers. The first is a waiver from Section 5.1 of the general
97 landscaping requirements is for requiring a landscape architect for projects that have a value of
98 more than \$500,000. Cynthia Boisvert, of Arago Land Consultants, LLC, has been a landscape
99 architect prior to this requirement and has done several landscape plans in Town which have all
100 been successes. The three other waivers are generally the same and have to do with the existing
101 configuration of the site in the impervious areas and where landscaping could reasonably fit on
102 the lot. These include the requirements in Section 5.5 B.1. and Section 5.5 D.1. and 2. There is
103 not adequate room to fit landscaping in the areas of the site to provide a visual buffer. Due to the
104 existing configuration of the lot, there is no change of visual impact to the public from the
105 proposal. Also, Section 5.6, requires landscaping along frontage but there is no green area to fit
106 landscaping between the parking and the right of way on the site. Regarding Section 5.7 there is
107 an additional landscaping requirement for a 10' green space along the building that is within the
108 public right of way. On this site, the existing pavement goes right up to the building and was
109 needed for access around the site.

110
111 Sam Foisie addressed Staff comments. Regarding mention of the Aquifer Conservation District,
112 no chemicals are proposed to be stored within the building, and a note can be added to the plan to
113 demonstrate compliance.

114
115 Rob Clemens and Brian Cullen had no questions at this time.

116
117 Bill Stoughton asked if all of the proposed impervious area around the building is needed for
118 access to the building. Sam Foisie stated that it is needed for access and is one of the reasons that
119 the building was pushed back as far as possible with the variance request.

120
121 Bill Stoughton asked if the applicant has any concerns with the conditions in the Staff Report,
122 specifically condition precedent #4. Sam Foisie stated that he has not reviewed them yet but
123 would likely suggest similar language as has been used in the past.

124
125 Bill Stoughton asked if commencement of installation of stormwater BMPs would be acceptable,
126 with respect to active and substantial development; also, if installation of the final course of
127 asphalt paving would be acceptable for the substantial completion of improvements. Sam Foisie
128 stated that both would be acceptable.

129
130 Cynthia Dokmo had no questions at this time.

131

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132 Tom Silvia asked about the waiver from Section 5.1. for a stamp by a landscape architect. Sam
133 Foisie explained that this is a Town requirement, for projects with site improvement costs greater
134 than \$500,000. The applicant does not believe a stamp of this type is necessary as only three
135 trees are proposed on the landscaping plan, relative to the size of the project. Tom Silvia noted
136 that this has come before the Board a number of times and waivers keep being requested from it.
137 The Board should consider if this Section should be followed.

138
139 In response to a question from Tom Quinn, Sam Foisie explained that this is being considered as
140 a standalone site and parking on an adjacent site was not accounted for as part of this plan. If this
141 was ever sold off as a different use, this lot could not stand on its own. The lot could not be
142 further subdivided, as it is below the minimum acreage requirement, but there could potentially
143 be a lot line adjustment done to consider this further.

144
145 Tom Quinn asked if the building at the front of the lot would continue to be used as an auto
146 wholesale business. Dan Prawdzik, the owner, stated that he owns the building and the wholesale
147 car business. Most of the business is to rent parking space to nearby Champion Motors. The
148 building will be kept as a licensed wholesale car dealership, though it does not do much business.
149 He will likely not allow Champion Motors to keep as many cars on the lot. There are no retail
150 auto sales done on this site.

151
152 Tom Quinn asked if the number of parking spaces proposed on both lots is adequate. Sam Foisie
153 stated the number of spots is sufficient, as Resin Systems parks on the other site and there is no
154 proposal to increase the number of employees based on this proposal. If the spaces were not
155 found to be adequate, there is additional room for 15 more parallel parking spaces along the
156 warehouse. Tom Quinn asked if there was sufficient parking if the business was ever sold off.
157 Sam Foisie stated that, based on the parking calculations for the site, the proposed number is
158 adequate.

159
160 Tracie Adams asked about adding the soil types and monitoring well location to the plans. Sam
161 Foisie stated that he would include them on the existing conditions plan. Tracie Adams asked
162 about the proposed building height. Sam Foisie stated that the proposed building will be the same
163 as the existing Resin Systems building. The owner stated that the proposed building will be
164 exactly the same, but 3' taller.

165
166 Arnie Rosenblatt asked for public comment. There was none at this time.

167
168 Brian Cullen noted that the area proposed for additional parallel parking spots is currently
169 impervious area but is not currently being used for parking. He asked if this could instead be
170 used for landscaping. Sam Foisie explained that there was concern if there would be enough
171 parking if the site was ever sold off. A use change could require more parking, which is what that
172 area is being set aside for. It also is more convenient for accessing the proposed warehouse bays.

173
174 **Bill Stoughton moved to grant the waivers requested to Sections 5.1, 5.5, 5.6, and**
175 **5.7. of the Non-Residential Site Plan Review Regulations as the Board has**

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176 **determined that specific circumstances relative to the site plan or conditions of the**
177 **land in such site plan, namely the presence of underground and aboveground**
178 **utilities, stormwater best management practices, and required paving or building**
179 **access, indicate the waiver will properly carry out the spirit intent of the**
180 **regulations. Seconded by Tom Quinn.**

181
182 **Discussion:**
183 **Tom Quinn stated that the size of the proposed building seems to preclude the**
184 **landscaping plan required under the regulations, as only three trees are proposed to**
185 **be planted, and he would recommend denying that waiver.**

186
187 **Roll Call Vote: Bill Stoughton - aye; Cynthia Dokmo - aye; Tracie Adams - aye;**
188 **Tom Silvia - aye; Rob Clemens - aye; Tom Quinn - nay. 5-1-0 motion carried.**
189

190 Bill Stoughton asked if Sam Foisie had reviewed conditions precedent #4, which states that if
191 construction inspections are required, there must be receipt of an estimate of the construction
192 inspection and submission of that amount placed in escrow. Bill Stoughton stated that he
193 believes there should be enforcement of the plans and conditions approved by the Board. He is in
194 favor of including this condition precedent. Sam Foisie stated that, as the inspections are not yet
195 clear, agreeing to this would be going in blindly for the applicant. While he agreed that a pre-
196 construction meeting is a good idea, he noted that the Town does not require preconstruction
197 meetings unless for a road being turned over to the Town.

198
199 Bill Stoughton stated that he believes this has to include compliance with the stormwater
200 regulations but asked Nic Strong if anything else should be included. Nic Strong stated that for
201 commercial site plans it would be the drainage infrastructure. Generally, Keach Nordstrom
202 comes up with an estimate for major milestone inspections, this is discussed and agreed upon at
203 the preconstruction meeting, and funds are put in place to allow for the inspections. This would
204 deal with drainage and site work.

205
206 Bill Stoughton stated that he has concern that the Town has good regulations that may not be
207 enforced, monitored, or inspected along the way of a project. The enforcement has a huge gap in
208 the items the regulations intend to create. Typically, Nic Strong has made sure that Keach
209 Nordstrom is set up to complete certain inspections, paid for by the applicant. Bill Stoughton
210 stated that he would like to make sure regulation enforcement is also carried out for other
211 projects that may not include a site plan or subdivision application approval. There are many
212 circumstances in which enforcement could be better carried out, and one example is to get a level
213 of consistency such as including conditions like the one being discussed.

214
215 Tom Silvia asked why the Planning Board is making this part of its approval, when it is being
216 carried out by another entity in Town. He suggested fixing the enforcement issues. Bill
217 Stoughton stated that, for a subdivision or non-residential site plan, the Board has a mechanism
218 to make sure this is done. He is concerned with other areas in which the Planning Board is not

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219 involved and making sure the same process is carried out. The process should be carried out on
220 both ends.

221
222 Arnie Rosenblatt stated that the Town's enforcement mechanisms are poor, and Bill Stoughton is
223 trying to provide another means of enforcement with his comments and a way to give the
224 enforcement more teeth. Bill Stoughton agreed and noted that this is a broader effort that he
225 continues to work on.

226
227 **Bill Stoughton moved to approve CASE #: PZ18482-013024 for Nelson Realty Trust**
228 **for the above cited Non-Residential Site Plan Review of Map 2 Lot 83, 66 Route**
229 **101A, for the construction of an 11,250 s.f. warehouse with associated site**
230 **improvements, with the conditions set forth in the Staff Report including proposed**
231 **condition precedent #4, with impact fees assessed at the Industrial rate, and with**
232 **active and substantial development for building defined as the commencement of**
233 **installation of stormwater best management practices, and with substantial**
234 **completion of the improvements defined as installation of the final course of asphalt**
235 **paving. Seconded by Tom Quinn.**

236
237 **Discussion:**
238 **Tom Quinn stated that this is a standalone lot, and he has a concern regarding the**
239 **parking and lack of improving the visual impact of the proposed building. This**
240 **could be an issue in the future, but he is still in favor of the motion.**

241
242 **Vote: 6-0-0 motion carried unanimously.**

243
244 The Board addressed the Findings of Fact.

245
246 **FINDINGS OF FACT:**
247 The following findings of fact support the Planning Board's approval of this application:

248
249 **Application Description**
250 Case # PZ18482-013024, PIN#: 002-083-000. Resin Systems prepared for Nelson Realty Trust,
251 Non-Residential Site Plan, Tax Map 2 Lot 83 in the Commercial District with Aquifer
252 Conservation & Wellhead Protection District Overlay. The application proposed construction of
253 an 11,250 SF warehouse with associated site improvements.

254
255 The Staff Report's description and chronology is adopted by the Board as a portion of the
256 Findings of Fact and can be referred to for further details.

257
258 **Application Completeness**
259 Per the Non-Residential Site Plan Review Regulations, Article III, the Planning Board was
260 provided with application documents which were reviewed. It was determined that the
261 application was sufficiently complete to proceed with consideration by the Board per RSA 676:4,
262 I. (b).

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263

264 **Land Usage Requirements**

265 Per the Zoning Ordinance, Section 4.7, the proposed land use meets the existing land uses
266 permitted in the Commercial Zoning District. The ZBA granted the application a variance to the
267 rear setback requirement on December 19, 2023.

268

269 **Compliance with Regulations**

270 General Standards 2.1 requirements were achieved to the satisfaction of the Planning Board.

271

272 Section 8.1 Parking Space Requirements were deemed to comply with the regulation for
273 commercial use.

274

275 Section 12.1 Architectural Design Standards' purpose is achieved to the satisfaction of the
276 Planning Board.

277

278 **Environmental Requirements**

279 Per Section 2.1 A.7., environmental factors such as pollution, noise, odor, and protection of
280 natural land features were evaluated, and it was determined that adequate provisions were made.

281

282 Per Section 2.1 A.8., the landscape plan was found to be in keeping with the general character of
283 the area.

284

285 Per Section 5.1, the purpose of the Landscaping section, protecting, enhancing, and promoting
286 economic, ecological, and aesthetically pleasing landscaping that improves safety and positively
287 impacts stormwater quality and quantity, is achieved to the satisfaction of the Planning Board.

288

289 **Waivers**

290 The following 4 waiver(s) were requested by the applicant(s):

291 Article V, Section 5.1 Landscaping Standards, the applicant requested a waiver for relief from
292 the requirement for the landscape plan to be provided and endorsed by a licensed landscape
293 architect. The waiver was granted.

294

295 Article V, Section 5.5 B.1., and 5.5 D.1., & 2., Landscape Buffer Requirements on the periphery
296 of the property and within a property. A waiver was requested to prevent loss of parking, loss of
297 the ability to circulate traffic appropriately and access to overhead doors in the rear of the
298 proposed building. The waiver was granted.

299

300 Article V, Section 5.6 Landscape Along Building Frontages where a minimum of one (1) shrub
301 every five (5) feet of building frontage shall be provided. A waiver was requested due to strict
302 compliance requiring the removal of pavement that would reduce the site's ability to circulate
303 traffic appropriately. The waiver was granted.

304

305 Article V, Section 5.7 A., Landscaping Parking Lots and Access Ways. A waiver was requested
306 from peripheral landscaping required along all sides of the parking lot or access way that abuts

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307 adjoining property or public right-of-way. Strict compliance would require removal of existing
308 parking spaces and reduce the site's ability to circulate traffic appropriately. The waiver was
309 granted.

310

311 **Stormwater Management**

312 General Standards 2.1 A.5., Stormwater drainage was addressed in the Stormwater Management
313 Report. This report was reviewed, and it was determined that stormwater management and
314 erosion and sediment control plans meet the Town's requirements.

315

316 **Conditions**

317 The applicant acknowledges the conditions precedent and conditions subsequent in the Staff
318 Report as well as any additions from the Planning Board are required.

319

320 **Summary**

321 The Planning Board finds that with the conditions imposed in the approval, the application meets
322 the spirit and intent of the Ordinances and Regulations.

323

324 **Cynthia Dokmo moved to approve the Findings of Fact as presented. Seconded by**
325 **Tom Silvia.**

326 **Vote: 6-0-0 motion carried unanimously.**

327

328 **OTHER BUSINESS:**

329

330 **5. REGIONAL IMPACT:**

331 *a. CASE #: PZ18526-020624 – Christopher & Victoria Judson (Owners &*
332 *Applicants); 12 Lakeview Street, PIN #: 024-046-000 – Conditional Use Permit. To*
333 *raze the existing non-conforming primary structure and construct a more conforming*
334 *primary structure with a legal ISDS, well, and storm water management techniques.*
335 *Zoned Residential Rural.*

336

337 Arnie Rosenblatt read and opened the case.

338

339 **Tracie Adams moved that there is no regional impact. Seconded by Tom Quinn.**

340 **Vote: 6-0-0 motion carried unanimously.**

341

342 6. Minutes: January 3, 2023

343 **Tracie Adams moved to approve the minutes of January 3, 2023, as amended [Line**
344 **605: change “wat” to “way”; Line 605: change “subdivision” to “subdivisions”; Line**
345 **1: Add “Chair” title for Arnie Rosenblatt.] Seconded by Tom Silvia.**

346 **Vote: 5-0-1 motion carried [T. Quinn abstaining.]**

347

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348 **Tracie Adams moved to approve the site walk minutes of January 31, 2023, as**
349 **amended [Line 57: change to “Upham Road to County Road”]. Seconded by Tom**
350 **Quinn.**
351 **Vote: 5-0-1 motion carried [C. Dokmo abstaining.]**
352

353 **OTHER BUSINESS:**

354
355 7. Any other business that may come before the Board.

356 **Cynthia Dokmo moved to adjourn the meeting at 7:48pm. Seconded by Tom Quinn.**
357 **Vote: 6-0-0 motion carried unanimously.**
358

359 Respectfully submitted,
360 Kristan Patenaude

361
362 Minutes approved: March 6, 2024