

**TOWN OF SUTTON**  
**Planning Board**  
Pillsbury Memorial  
Hall Meeting Minutes  
November 11, 2014

Present: Planning Board Members: Carrie Thomas, Chairperson; Carole O'Connell, Bob DeFelice, Roger Wells, and Julie McCarthy, members; Dan Sundquist, Ex-Officio; (Peter Blakeman, member, was absent); Laurie Hayward, Land Use Coordinator (LUC); Sutton Fire Chief, Cory Cochran; Clayton Platt, applicant; Jon Feins, owner; Thomas Quarles, attorney for Feins, and Peter Messer, an abutter and interested member of the public.

**The meeting was called to order** at 7:04PM, by Carrie Thomas, Chairperson.

**Public Hearing:**

Thomas Quarles stated that he understood there was no tape recorder. The LUC corrected him, stating that there is a tape recorder.

**The Chair opened the continuance public hearing for PB 2014-06**, stating that this is the hearing, the continuance for Case 2014-06, concerning a request by Jon Feins, for a Minor Three-Lot Subdivision located on Stonehouse Road; Sutton, Tax Map # 10-688,134 which is in a Rural-agricultural district.

The Chair asked Platt whether he had anything new to present. Platt said that the only thing he has is the letter from the traffic study that he provided, which is from 2006 and which he feels refutes the issue of Stonehouse Road and its condition. The Chair asked Platt if he was going to change the driveway orientations. Platt answered that, no, there was no change to the driveways. The Chair asked for confirmation that that means the plan is for one driveway serving two houses and one driveway serving a single house. Platt stated they were looking for one driveway for one house and "one driveway entrance" for two houses and an easement to allow a single driveway from lot 2 and a driveway next to it for lot 3. The Chair asked, if it is one driveway to serve two lots or two driveways on one lot. Platt said that there is a possibility for two driveways if that is desired.

The Chair asked if there was correspondence. The LUC read two emails, one from Michelle Feins and one from Martin Feins.

"To: Sutton Planning Board  
From: Michelle Feins (abutter)  
77 Stonehouse Rd., Sutton, NH  
Re: Proposed minor subdivision on Stonehouse road  
Members of the Sutton Planning Board:

After reading the minutes of the October 28th planning board meeting, I would like to comment as an abutter to the Stonehouse Road proposal for a minor subdivision. Unfortunately, I cannot attend the planning board meeting. My first reaction to the minutes is surprise that Mr. Sundquist has concern over the capacity and condition of Stonehouse Road. There is no traffic on Stonehouse road. I travel it many times daily for the last 8 years. 99 out of 100 times I do not see or pass another vehicle. On those rare occasions when I do

come across another vehicle, I can easily pass them. The condition of the road is clearly not "poor" as stated by Mr. Sundquist. I have never had any problems with driving on the road. In fact, I have complimented the road agent for maintenance of the road. Several years ago there was an issue during mud season on a stretch of

Stonehouse Road past the Stone House, but the road agent fixed that and the last couple years have been fine. According to the minutes, the planning board is considering upgrading a road that needs no upgrading. The subdivider would possibly be required to pay a portion of the cost, which could be thousands of dollars. I assume Sutton taxpayers would be paying the rest of the cost. As a resident and taxpayer, I am opposed to spending the town's tax dollars on an unneeded upgrade to Stonehouse Road. Stonehouse Road will not be impacted by 2 additional house lots.  
Sincerely, Michelle Feins"

"To: Sutton Planning Board

From: Martin Feins (abutter)

Re: Proposed minor subdivision on Stonehouse Road

Members of the Sutton Planning board:

I wish to comment on the minutes of Oct. 28th regarding the minor subdivision on Stonehouse Rd.:

1. Mr. Sundquist is incorrect about the capacity of Stonehouse Road carrying additional traffic when near zero traffic exists. I travel that road every day and do not see another car the overwhelming majority of times I drive on that road.
2. Prior to living on Stonehouse Road I lived on a similar unpaved road in New London, which was actually narrower than Stonehouse Road and had three times the number of houses. This is New Hampshire and many unpaved roads such as these exist. They create the charm and character of rural living.
3. Taxpayer dollars should not be expended to fix a road that does not need fixing and that can easily handle more capacity.
4. It appears that Mr. Sundquist does not favor development on Stonehouse Road. He appears to want to stop any subdivision or try to negotiate with the owner/applicant into agreeing that no further subdivision be allowed. This is simply a backhanded approach to curtail legal development.
5. Unless Mr. Sundquist is a qualified engineer, surveyor or one who is certified to perform traffic studies or impact studies, he cannot make informed decisions on the adequacy or capacity of Stonehouse Road with regards to a minor subdivision of 169 acres of land. My experience living on the road should have far more validity than that of someone who walked the road once and decided the road was not adequate or in poor condition.

Sincerely, Martin Feins"

The LUC then read the email clarifying recommendations made previously from the Fire Chief, Cory Cochran.

"After our site review walk on Sunday, October 12th, we have come to the following recommendations: Because of the narrowness of Stone House Road and the added seasonal challenges such as narrowing conditions from snow and mud not allowing us to pull over enough to pass emergency vehicles, we do not feel we could transport enough water to extinguish a house fire.

In addition to the conditions of Stone House Road, we are concerned about the width and length of the shared driveway.

The steepness of the driveway exceeds the nine percent maximum grade for town roads. Due to these conditions and the fact that it will be privately maintained, we would recommend the following choices to be added as stipulations to the acceptance of the subdivision.

If the subdivision is accepted, we would ask that the conditions below be put on the deeds for the buyer and all future buyers to be kept informed of their obligations.

1. To have each house protected by a sprinkler system that is approved by a certified engineer along with the construction of a driveway with a minimum width of 20 feet or to install 14 foot driveway and maintain

layovers at a minimum of every 400 feet. Layovers to be an additional 12 feet of width by 65 feet of length to parallel driveway.

2. To provide a 10,000 gallon cistern at each residence in a predetermined location by the Sutton Fire Department. Installation, access and maintenance is the homeowners responsibility along with the construction of a driveway with a minimum width of 20 feet or to install 14 foot driveway and maintain layovers at a minimum of every 400 feet. Layovers to be an additional 12 feet of width by 65 feet of length to parallel driveway.”

Cochran stated that he could amend the email to allow for a 14 feet driveway with layovers.

Wells stated that he understood that the applicant had submitted a traffic summary and asked if that was submitted and intended to be part of the application submission. Platt answered that yes it was. Wells asked that hat document be read as well. The Chair read the two page letter regarding traffic study from 2006.

“This memorandum addresses the adequacy of Stone House Road as an access for two proposed house lots on Stone House Road west of its intersection with the proposed subdivision road. The application currently before the Planning Board has three proposed lots along this segment of Stone House Road, one of which has already been approved and built. Under the new proposal, this segment of Stone House Road will provide access for a total of four houses.

The proposed upgrades to Stone House Road east of the proposed subdivision road will actually extend and taper 150 feet (ft) west of the proposed subdivision entrance. To the west of the taper, the existing width of Stone House Road ranges from 13 to 15 ft, as measured by the applicant. Along Stone House Road, a turnout exists between the proposed subdivision road and the Mebel house, and the newly approved and built driveway will also accommodate a turnout.

The American Association of State Highway and Transportation Officials (AASHTO) has set forth guidelines for geometric design of very low-volume roads. These guidelines do support two-way single-lane roads. AASHTO states that two-way single-lane roads are:

- normally used for local roads carrying less than 50 vehicles per day (vpd)
- designed to operate at low speeds, typically no more than 30 miles per hour (mph)
- often unpaved
- normally have widths in the range of 11.5 to 13 ft

AASHTO states that design values of stopping sight distance for two-way single-lane roads should be twice the stopping sight distance as for comparable two-lane roads. Accordingly, such one-lane roads should have turnouts as appropriate, considering topography and alignment, and considering widening at crests if sight distances are limited.

Institute of Transportation Engineers, *Trip Generation*, seventh edition, (Washington DC, 2003), Land Use 210, single- family detached housing.

AASHTO further states that “even more flexibility than for new construction projects is provided to the designer for projects on existing roads . . . [and that] rather the designer is discouraged at most sites from making unnecessary geometric design and roadside improvements, but is encouraged to look for evidence of site-specific safety problems and to focus safety expenditures on those sites where a site-specific safety problem exists that is potentially correctable by a specific roadway or roadside improvement.

AASHTO states that “many low-volume roads have unpaved surfaces” and that “unpaved roads are generally appropriate for all functional subclasses of very low-volume local roads.” AASHTO cites a report that “. . . found crash rates for unpaved roads to be lower for narrower roadway widths.” AASHTO suggests that, “therefore, existing unpaved roads should generally not be widened as a safety measure unless there is evidence of a site-specific safety problem that may be corrected by widening.” AASHTO states that “unpaved roads are intended to operate at low to moderate speeds” and that “provision of roadside clear zones, flatter slopes, or traffic barriers is generally inconsistent with the economic decision to build and maintain an unpaved surface and is generally not necessary for the low-speed environment of an unpaved road.”

Stone House Road west of the proposed development road is to serve four single-family detached houses (two

existing plus two proposed). Accordingly, the estimated daily volume on this road segment is 38 vehicle-trips per day, 7 less than 50 vpd. On this basis, use of existing Stone House Road for four houses is reasonable per AASHTO guidelines for two-way single-lane roads.

Sight distances along Stone House Road itself (when turnouts are considered) and at driveway intersections will not only provide for the intended 25-mph travel speeds but for speeds of up to 30 mph.

In summary, a single-lane two-way road is appropriate for estimated traffic volumes. The road will have appropriate turnouts as well a hammerhead turnaround at the west end. Thus, TEPP LLC concludes that this segment of Stone House Road will provide adequate safety and operational features."

Wells asked that the sentence regarding 38 movements be read again so that he could understand how that calculation is made. The Chair read:

"is to serve four single-family detached houses (two existing plus two proposed). Accordingly, the estimated daily volume on this road segment is 38 vehicle-trips per day".

Wells questioned whether this letter is based on having only two houses on the road. The Chair replied that they are specifying "this segment" of Stonehouse Road has only two houses. O'Connell spoke stating that she is confused by the reference of "west of the proposed development". Platt explained that the proposed development is the one from 2006. And, the reference to "west" is about the properties beyond the proposed development. Platt indicated that he submitted this to show that Stonehouse Road is not inadequate for further development. The document was included as it would seem to as well cover the rest of Stonehouse Road. McCarthy asked who deemed the initial section of Stonehouse Road to be the same as the Feins section of Stonehouse Road. She clarified by asking who made the determination. Platt stated that determination was not made. Platt further stated that the letter really doesn't apply at this time. Wells then questioned Platt on why he included this document. Platt said that it shows that the road is adequate for up to 50 vehicle trips per day. Wells asked how many houses are on Stonehouse road now. The answer given is that there are currently five houses on Stonehouse Road. Wells pointed out that the average trip per day per house is ten and that says that the Road is carrying 50 trips per day, before the subdivision.

Tom Quarles, Attorney for Jon Feins, spoke explaining that they did not do a new traffic study and they don't consider that they should be required to provide one. Quarles argued that the Board should consider only the segment of the road in front of the Feins property. Quarles stated that this is a Class V town maintained road and that's the town's issue. Quarles further stated that issues of improving or restricting access off of Stonehouse Road are not appropriate as concerns when looking at this subdivision. Quarles stated that the condition of the road is not proper in a consideration of this subdivision application. Quarles stated that is their legal analysis of the situation and they would be willing to consider some conditions. Quarles mentioned as an example of something they would entertain, they might consider some of the Fire Department concerns. Quarles stated that this is a minor subdivision and he believes that the level of scrutiny is excessive.

Quarles offered his opinion that if the Board intends to discuss improvements to Stonehouse Road or exaction fees, he feels that is beyond the scope of the Boards' authority. But, he said they could discuss the driveway characteristics.

Jae Whitelaw, the town's attorney, spoke. She suggested that "the cart may be in front of the horse", pointing out that the applicant has asked for a series of waivers from Town Regulations and asking if he really wanted to discuss the driveway before addressing the requested waivers.

The Chair said they could discuss the waiver requests. Quarles stated that he thought most of the waivers were completely unnecessary.

DeFelice spoke up explaining that his family does business with the law firm that Quarles represents and asked the Board whether he should recuse himself. Whitelaw asked whether DeFelice feels he can make a completely unbiased decision despite that his family has a relationship with the same firm. Quarles offered that he does "not even know the gentleman's name". DeFelice confirmed that they do not know each other. Whitelaw said, given that, DeFelice could continue and asked Quarles if he had any issues with that. Quarles said that he did not.

Quarles stated that there are five waiver requests. He further stated that these waiver requests were the result of the meeting that Platt had with the LUC and that "together they came up with this". He indicated that he did not know why the list was as it was. He complained that the Subdivision Regulations are lengthy and there is no separate section for requirements for minor subdivisions. He stated "the origin was as much the LUC as it is Mr. Platt". He said that he does not see any discussion of common driveways. Whitelaw pointed out that is a non-issue. She explained the requirement is that they not have more than two lots on a common driveway and they have submitted a plan where there are only two lots on the common driveway. Quarles then agreed that they were no longer seeking a waiver for #1, the common-drive limitation. Quarles explained that waiver request #2 is for the requirement that current and future utility poles be shown. He stated that the

current poles are shown and they are asking for a waiver or the requirement to show future utility plans because they want to leave those decisions up to the buyers. Quarles explained the waiver request #3 is for the traffic study requirement and he believes the Regulations specify this as a requirement for major, not for minor subdivisions. Quarles stated this does not change the relevance of the previous discussion regarding the relevance of the 2006 study. Quarles stated that if the Board's position is that exaction fees should be assessed or work be done at the owner's expense on the access road, and then they dispute whether the Board has the authority to require that. Regarding waiver request #4, which is for cost estimates, Quarles suggested this might be for legal fees and engineering fees, he argued that these estimates make sense for major subdivisions, but not for minor and doesn't seem applicable. Regarding waiver request #5, Quarles pointed out that V.B. covers 22 different points which are lengthy and detailed and make sense for larger subdivisions, not for a three lot minor subdivision. Quarles again stated this is the way the LUC requested Platt do the waiver request.

The LUC spoke, addressing what she understood she recommended to Mr. Platt. The LUC stated that she did recommend to Mr. Platt that he go through the Regulations and that he ask for any waivers that he felt he needed. The LUC said that she does not believe that she made any attempt to advise Platt what waivers he should request. She addressed Platt and asked if that is accurate. Platt said that the LUC's statement was accurate; the exception being that he did discuss the utility plan waiver specifically. The LUC agreed that they did discuss a waiver for the utility plan. The LUC stated that she wanted those present to understand that she does not advise about what waivers should be requested. She does advise that an applicant read the Regulations. Additionally she likely tells applicants that, if an applicant feels that waivers are needed, the request for waiver should be included in the application package.

The Chair asked if the applicant was asking for a waiver from the fire department recommendations as that might be considered to fall under V.B. Quarles said that they are willing to discuss the Fire Department request.

Whitelaw addressed the issue of waivers, including that there is a standard that must be considered in granting waivers and there is a statutory provision. She suggested that each waiver should be viewed and considered individually and a determination of whether to waive that item made. Whitelaw stated that first it should be determined whether a specific item even applies in this application. She explained the difference between

applicable and not applicable and waivers for applicable additional requirements and if something is applicable, then determine whether it meets the requirements for a waiver. Quarles stated that he could not find anything in the Regulations about waivers, except as they apply to Site Plan Reviews. Whitelaw pointed out the provision for subdivisions is located in Section IX.A. Modifications and quoted "The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such modification will properly carry out the purpose and intent of the master plan and of these regulations." Whitelaw explained that this town regulation tracks New Hampshire Statute. Asked what statute, Whitelaw cited New Hampshire Revised Statutes Annotated (RSA) 674:36, II(n).

After some discussion about how to best address the request for waivers, including the request for a waiver from the bulk of Regulation V.B., it was agreed that the Board would address each point and vote which items were not applicable and for those that are applicable whether to waive the requirement.

**Waiver Request #1 Common Driveway- Three-Lot limitation not an issue as the revised plan calls for a two-lot subdivision. It was agreed that with the revised plan, the applicant was no longer seeking a waiver from the common driveway regulation**

**Waiver Request #2 Utility Plans per Section V.A.k. Waiver approved. Motion to approve by Wells; seconded by Sundquist and voted unanimously.**

**Waiver Request #3 Traffic Study per Section V.A.r Not Applicable. Motion by Wells that Waiver does not need to be discussed because the application is not for a major subdivision; seconded by Sundquist and voted unanimously.**

**Waiver Request #4 Cost Estimates of all recommended improvements per Section V.A.s. Sundquist clarified intent on this explaining that is about subdivision internal infrastructure improvements. Waiver approved. Motion to approve is made by Wells, citing the reasoning given by Sundquist. The motion is seconded by O'Connell and was voted to waive unanimously.**

**Waiver Request #5 Most Discretionary requirements per Section V.B.**

The following was agreed to regarding V.B. Additional Requirements:

- 1. Water and Sewage-Disposal Capability- Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 2. Topographic Map: Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 3. Road Profiles: Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 4. Road Cross-Sections: Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 5. Road Construction Details: Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 6. Deed Restrictions/Covenants: Full legal descriptions of easements, rights-of-way, covenants, reservations, and other restrictions. Sundquist pointed out that the deed easements are legal documents and they would require that Whitelaw be able to review the proposed deed language and pass on it. Quarles explained that it is their intent to have an easement across the first 2 lots for a common driveway and they would simply like to have a legal description drawn up of that common driveway. Whitelaw suggested that they not address the substantive items at this point only whether the requirement will be waived. No waiver given. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 7. Existing Roads: A statement of the work required on existing roads to meet the minimum standards of these regulations, including cost estimates. Board discussed the need to address the adequacy of Stonehouse Road for access. No waiver given. Motion by Wells; seconded by Sundquist and voted unanimously.**
- 8. Future Plans: Already provided.**
- 9. Offers: Offers of cession of any land proposed to be dedicated to the Town for public use. Waiver approved. Motion to waive by Wells; seconded by Sundquist and voted unanimously.**

10. Utility Plan – No vote this is a duplicate of #1

11. State Approvals: All information and certification of approval required by any State agency. There was discussion that this was a legal requirement that the Board had no authority to waive. No waiver given. Motion by Wells; seconded by Sundquist and voted unanimously.

12. Drainage: A soils map. Platt explained that he used the older maps and did include limited soils information including where the test pits were located. Wells asked what if it is all ledge? Platt pointed out that there was an approval for 32 lots back in 2006. Waiver approved. Motion by Wells; seconded by Sundquist and voted unanimously.

13. A fiscal-economic impact study. Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously..

14. An environmental impact study. Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

15. All studies - including but not limited to road-traffic. Already complied

16. For all studies prepared by an outside consultant, the applicant shall pay the estimated cost. Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

17. For a major subdivision a copy of the proposed plans shall be submitted to. Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

18. Provision for open space and recreation: Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

19. For inspection services required by the Planning Board for a major subdivision. Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

20. Fire Protection: An adequate water supply for fire protection shall be available within the subdivision in the form of either fire protection cisterns or fire ponds or within a reasonable distance from the subdivision as determined by the Board after recommendation from the Fire Chief or the Board of Fire Engineers No waiver given. Motion by Wells; seconded by Sundquist and voted unanimously.

21. A plan for disposal of stumps and clearing debris. Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

22. Security for Performance: Not Applicable. Motion by Wells; seconded by Sundquist and voted unanimously.

The Chair confirmed that the Board declined to waive the requirements in Regulations Section V.B items 6, 7, 11 and 20. The rest were either Not Applicable, Provided, Addressed, or Waived.

Quarles opened a discussion regarding deed restrictions. He stated that they do expect to include restrictions on deeds once the plan is agreed to. Quarles asked to now react to what the Fire Chief said in the email. He stated that they are not against 14 feet for the driveway.

He thinks the layover requirements are excessive and the width and length of the layovers are also excessive. He asked for 8 feet X 30 feet, not 12 feet x 65 feet. Cochran addressed the reasoning on layover size including the size of the equipment and that they generally call five local departments to the site of any house fire so making sure that all of the equipment can get in to fight the fire is the challenge. There ensued extensive discussion about the issues of fighting fires on long steep slopes and that the length up the slope considerably exceeds the maximum distance capabilities from truck to fire. DeFelice asked the Chief how many pieces of large equipment were called to the last large structure fire. Cochran said there were 13 pieces of large equipment.

Feins asked about sprinklers and there was a short discussion about sprinklers. DeFelice explained that sprinklers help save lives; they do not save property.

Sundquist suggested that they need to get the input and then move to deliberations and asked Whitelaw for her input. Whitelaw asked Quarles if he was

offering sprinklers as a deed restriction. Quarles stated that he is offering sprinklers as a condition of approval and that as a deed restriction.

Regarding the common driveway, Quarles said they could agree to a 14 foot wide drive with layovers to be 8 feet x 65 feet. Quarles also stated that he thought the number of layovers should be reduced to two. The Chair asked Chief Cochran to explain the reasoning behind his request. Cochran stated that layovers should be, at the very least, 10 feet wide as the trucks are 9 feet wide and 32 feet long. The Chair asked Cochran about reducing the number of layovers for the four thousand feet of driveway. Asked about the cisterns, Quarles stated it is "either or", cisterns or sprinklers, not both. Wells addressed the issue with an example, the Meadowview subdivision put in a 14 foot wide drive, 1,000 feet long with 1 layby 60 feet long so that, in this case there was roughly 450 feet, then a layby, then another 450 feet. It was pointed out that Cochran indicated that the distance between layovers could be expanded to 450 feet thereby reducing the number. Asked for the length of the shared driveway proposed, Platt stated that, at the farthest extent it would be 4,000 feet. Quarles said he thought they could agree to a layover every 800 feet of driveway length at 10 feet x 65 feet. Quarles argued that it is about 2,000 feet to the first house, so only one house requires the full 4,000 feet of driveway. Quarles questioned the importance of the provisions if it is only about property damage. Quarles noted that the requirements do affect the marketability of the property so he's asking for flexibility in reducing the fire department recommendations. O'Connell spoke asking for clarification of what they were proposing. She stated that there had been many different scenarios presented including one with two driveways running parallel. Quarles stated that their preference is for one common driveway, not for two running parallel. Platt addressed the reason that they even suggested the two driveways, explaining that he understood there was a concern expressed by the Board about issues connected to common driveways in terms of cost sharing and maintenance issues amongst owners. The Chair pointed out that there is nothing at this point that dictates where the houses would be located. The assumption is they will be at the top of the property for the views; but, they could be close to Stonehouse Road. Wells responded that there is nothing that requires a layby be added until a house is proposed to be built beyond the first 450 feet from Stonehouse Road; up to 1,000 feet, there is only one needed. The Chair added that means that the homeowner can decide how many laybys he wishes to pay for and place his house accordingly. Quarles offered that they could do one layby for the first 1,000 feet and then a second layby up to the second thousand feet where the split is for the next driveway and then one more to cover the remaining 1,000 feet. Quarles concluded that they could agree to a total of three laybys.

Sundquist asked a procedural question. He explained that it had begun to sound as though they were deliberating. He suggested that they continue listening to the proposals and anything else that is on the mind

of the applicant so that the Board has all of the information they need and then close the hearing and begin deliberating. Whitelaw responded that what they are doing is appropriate as it is gathering information on what the applicant is willing to do and not willing to do and that the Board likely has the information it needs and in the end will do what it feels is appropriate based on that information. Sundquist pointed out that this is the last of a series of hearings and that the timeframe for hearings on this application runs out with this meeting. Sundquist added that the Board should make sure that it has the information that will be the basis for a decision and should move quickly then to deliberations and a decision. Quarles asked if the Board was asking for a concrete proposal. He explained that they would like to do a common driveway 14 feet wide with four layovers 8 feet wide and 65 feet long. The Chair asked the Fire Chief if he was OK with 8 feet wide. Cochran replied that he is more comfortable with 10 feet. Quarles indicated that if that was a deal breaker they could go with 10 feet. The Chair asked the Fire Chief if he was OK with only four layovers to cover the entire 4,000 feet. Cochran said that he is not comfortable with only four and would be more comfortable with 800 feet. The Chair asked Cochran how they could fight a fire on the top of a hill, especially if there are no cisterns. Cochran explained that they bring a tanker truck and they then have to run hoses from the truck to the fire site. The Chair noted that she had seen old photos of a large Sutton Hotel that burned to the ground

because the fire department hoses were short by 20 feet. Quarles stated that they can agree to a layby every 800 feet.

The Chair asked about the legal obligation that the Planning Board and the Town of Sutton have regarding the ability to fight a fire. She questioned whether buyers could simply opt not to follow the recommendations of the Fire Department. Sundquist reminded her of the responsibility to provide for public safety. Whitelaw stated that Town Regulations require the Planning Board to consider public health and safety.

Wells moved the hearing be closed, McCarthy seconded. Peter Messer spoke. He said the traffic on Stonehouse Road is not a problem. He also expressed support for approval. There being no additional public input, **it was voted unanimously to close the public hearing.**

**This closed the public hearing and opened deliberations.**

The Chair asked if the Board wished to discuss the easy pieces of this first. Wells suggested they take up the larger question of whether the application is appropriate and if it is determined to be appropriate what conditions should be placed on it. Wells then explained that he feels the subdivision proposed is scattered and premature. O'Connell asked Wells what makes him think that it is scattered and premature. Wells explained that the traffic study they provided only covers the section directly in front of the property. Wells said that he feels that you must consider the entire road. There are currently 5 houses on the road, with the standard 10 vehicles per day per house and that means that there are already 50 vehicle trips. Wells pointed out that the applicant has stated that he does not want to make improvements to Stonehouse Road and if that is the case, it is not appropriate for further subdivision. Wells stated that everybody has a right to build a house on their own land and there are lots on Stonehouse that do not currently have a house and that would have every right to build one house. Even without the addition of houses on the property in question, the road would be burdened by those houses and the town would need to address that; but, if these properties were each allowed to subdivide the issues would simply become worse and worse. He additionally pointed out that the applicant's own submission established that the point at which a low volume road reaches capacity is 50 vehicle trips per day and Stonehouse Road has already reached that. Wells added that this point is the basis for a determination that the proposed subdivision would be premature. Wells noted that Stonehouse Road is a Class V road, 2 rods wide, lots of trees in the right of way, and it is a town designated scenic road. The Chair asked if it matters that some of the houses are seasonal and so not inhabited all year round. There was a brief discussion about whether you could consider this issue when houses change hands and their use, seasonal or not, changes. Sundquist pointed out that the Ayers have children and live there year round. O'Connell asked if a road designated as scenic can be improved. Sundquist pointed out that any roads that present a safety issue can be improved by the town. He explained that on the west side of Stonehouse there is an issue with the trees near/or in the travel way and with snow storage. Sundquist discussed the current condition of the road and ways that laybys should be constructed to improve the situation. Sundquist noted that the winter presents special issues as there is no adequate place to store snow and that leads to the road narrowing due to snow banks. He also noted that a part of the consideration is in terms of what improvements can be made on such a small, narrow road with drainage issues.

Sundquist pointed out that there are ways to improve any road situation; but at a cost. Wells discussed that they need to consider reasonable, low cost means to address these small long standing roads. He suggested that widening these roads might not be as good a solution as providing for more laybys. Sundquist reiterated that he already knows of options for useful laybys that could improve conditions on Stonehouse Road. Wells went on to describe how the town might recognize the issues of these small country roads, use careful placement of laybys and other road efforts to improve the roads recognizing the town's responsibility to act to

protect not just property rights, but public safety. Wells stated that they need to find reasonable, low cost, low impact ways of making things work. The Chair asked if this wasn't more a topic to be brought up at town meeting. Wells explained that it is not up to the Select Board to determine this; it is up to the Planning Board to say whether something is scattered and premature. It then may be up to the Select Board to determine how to solve the issue. The Chair asked if this isn't then an issue of property rights and whether the Board can tell people what to do with their property including whether they can subdivide. Wells replied that they have a right to build on it not to subdivide it. Wells added that there is the right to protect the public that comes into this.

Sundquist addressed a question to Whitelaw about laybys. He stated that there are locations where a driveway entrance and the right of way surrounding them might make a good layby and questioned what the town should do to approach landowners. Whitelaw explained that the landowner owns to the middle of the road and the town has an easement on the landowners' property that would cover any laybys. She further explained that the landowner has a right to the use of the easement as long as it doesn't hinder the town's purpose in using the easement, for example the owner could perhaps plant flowers; but not build a stonewall. Whitelaw concluded that she believes that the town has the right to do that. The Chair pointed out that this is likely the current informal approach.

Whitelaw summarized the discussion to this point as one about whether it is appropriate to consider the whole of Stonehouse Road when looking at this application. Wells noted that the applicant's traffic report supports the conclusion that the road is not adequate for the new houses proposed. Sundquist added that his walk with the road agent says the same thing. Sundquist reminded the LUC that they would like to acquire the ASHTO book on Low Volume Highways. The Chair added it should be the most recent edition. There was a brief discussion about whether ten vehicle trips per day per household is appropriate at that location. DeFelice pointed out that they were using the applicant's submittal for their discussion purposes. Sundquist offered that certainly the road could be made adequate for the three lots which would take the vehicle trips per day from 50 to 80; but, the cost to do it to high standards would be into the hundreds of thousands. Sundquist added that Wells is correct work needs to be done to find ways to improve in a less costly way. The Chair asked if there was additional input. The Chair questioned whether this leads to a greater question about whether every road should be assessed and improved. Sundquist pointed out that is the Planning Board's job along with the Capital Improvement Program to support doing the work of maintaining roads. Wells asked if there was a motion on the floor and was told that there was not. The Chair indicated that she is not comfortable voting. Whitelaw said that the Board had heard the proposal and the input from the applicant and others and have discussed it and it is appropriate to vote if the Board chooses to.

**Wells moved that the application as submitted is premature and scattered growth and should be denied without prejudice. McCarthy seconded the motion. The Chair called for discussion. Sundquist called for a roll call vote. The LUC took the roll call vote with the following results: Thomas, NO; O'Connell, NO; Sundquist, Yes; DeFelice, Yes; McCarthy, Yes; and Wells, Yes. The motion is carried to deny the application for subdivision without prejudice.**

It was suggested that the LUC draft the notice and explanation and have town counsel review it. Wells moved to have the LUC prepare a draft of the Notice of Decision and letter and have the Board vote on it at the next meeting, November 25, 2014. Whitelaw suggested that whenever the Board denies an application, the LUC should draft the Notice of Decision and letter of denial and bring it to the next Board meeting for Board approval before sending it to the applicant.

**Wells moved; Sundquist seconded and it was voted unanimously to have the Land Use Coordinator draft the Notice of Decision and letter of denial and bring it to the next meeting for approval.**

The Board decided to table additional agenda items.

*Approved 11/25/2014*

**The next meeting of the Planning Board will be held on Tuesday, November 25, 2014.**

The Chair asked the applicant if there were any additional questions. Quarles responded that he felt that this should be decided by town vote not by this Board and this is a Class V road and the town's responsibility or it should be discontinued and be a Class VI road. Quarles indicated that he might pursue this further in the courts.

**The remaining agenda being tabled, it was unanimously voted that the meeting be adjourned at 9:05 PM.**

Respectfully submitted,

Laurie Hayward  
Land Use Coordinator