





45 Mr. Carpenter asked Mr. Maynard to point out the newly impacted well radii. Mr. Maynard pointed the  
46 two radii out. Mr. Carpenter asked what the distance was. Mr. Maynard indicated the leach field would  
47 be 37 feet and 44 feet to abutting wells and 61 feet to the on-site well.

48  
49 Chair Earley opened the meeting to public comment.

50  
51 Dr. Wilfred Wolheim, Water Resources professor at UNH (not a Windham resident), stated that he  
52 researches and studies water quality, but is not a septic expert or an engineer. He believes that seven-  
53 feet between a leach field and a stream seemed really close. The relocation of the septic leach field is an  
54 improvement. He noted that the report (Expert Panel Process for Advanced Septic System Technologies )  
55 talked about total phosphorus, which is what causes problems on lakes all over New Hampshire.  
56 Phosphorus can create harmful algae blooms. The report states that there is no septic design on the  
57 market that can remove phosphorus. A best management practice is to have as much distance as  
58 possible from the leach field to the water body and water table. He believes that consideration should be  
59 made about where the water table is and flow paths.

60  
61 Mr. Zurowski asked how phosphorus would impact a well. Dr. Wolheim stated that phosphorus is not  
62 harmful for humans to ingest and that it was in soda.

63  
64 Mr. Rounds asked Dr. Wolheim what his familiarity was with Cobbett's Pond. Dr. Wolheim stated that he  
65 isn't that familiar, but he has reviewed the layout and is aware of the UNH report. He stated that the  
66 density of homes and slope would be a concern for phosphorous.

67  
68 Mr. Earley asked about Dr. Wolheim's credentials and if he analyzed the site-specific issues. Dr. Wolheim  
69 stated that he is a hydrologist and studies surface water and tries to understand hydrologic processes  
70 that could impact water quality. He stated that he reviewed the prior plan that showed a seven-foot  
71 distance between the leach field and stream. Mr. Earley asked if phosphorus would leach into the lake.  
72 Dr. Wolheim believes that it would and a groundwater hydrologist should be consulted to determine if  
73 six-feet of depth to the water table is sufficient.

74  
75 Ms. McCarthy asked if a new clean solutions system compared to older systems around the  
76 neighborhood would impact the lake anymore. Dr. Wolheim stated that it wouldn't be as bad.

77  
78 Mr. Rounds asked what the ideal space would be to adequately absorb the phosphorus. Dr. Wolheim  
79 stated that as the density of an area increases switching to a modern sewer system is recommended.

80  
81 Roger Hohenberger, 5 Thomas Street, stated that he is concerned about the KNA report. He read Section  
82 616.8.2 of the WZO, "any reduction in the required buffer zone width may be granted by the Planning  
83 Board upon presentation of a hydrologic or other study that provides documentation and justification,  
84 acceptable to the Planning Board, that even with the reduction, the same or a greater degree of  
85 water quality protection would be afforded as would be with the full-width buffer zone." He noted that  
86 the September 14, 2023 Danforth (KNA) Memo only says "minimizes water quality impacts", which is not  
87 the same as to "the same or greater degree of protection". He also stated it's required that the same  
88 protection existed as the current condition. He believed the goal is not to minimize, but it was to prevent  
89 damage to the pond.



90  
91 Mr. Carpenter asked if the applicant submitted a hydrologic study as required in Section 616.7. Mr. Mello  
92 indicated that it was not required for a WPOD Major application.

93  
94 Mr. Maynard stated that a hydrologic study is only required for a WPOD subdivision / site plan  
95 application. He also said that phosphorus also comes from other sources not just septic systems,  
96 including stormwater runoff from lawns and roadways.

97  
98 Jackie Saba, 33 First Street, stated that the proposed leach field is within her well radius. Mr. Earley  
99 stated that there was a recent State legislative change that reduces the Board's power to consider well  
100 radii. He also stated that they would need to go back to the Board of Health for waivers from local  
101 requirements.

102  
103 Mr. Rounds asked Mr. Mello about consistency with the ZBA plan now that the plan has changed again.  
104 Mr. Mello stated that the Planning Board didn't need to worry about the ZBA and that such decision is  
105 for the Building Inspector and Code Enforcement Administrator. Mr. Mello stated that he believes that  
106 the plan would need to go to the Board of Health.

107  
108 Chair Earley raised the question about whether the application was complete if the proposed plan still  
109 needed to go to the Board of Health for waivers from required well radii. Mr. Mello noted that the Mr.  
110 Carpenter raised the question at an earlier meeting and he would make it a condition, if approved. Mr.  
111 Mello noted that it would be moot because he believed that the plan as presented needed to go to the  
112 Board of Health.

113  
114 Mr. Hohenberger asked Mr. Mello if his determination that a plan would need to go to the Board of  
115 Health is appealable. Mr. Mello stated that a written action to grant a permit or not is appealable. Mr.  
116 Hohenberger asked if the Staff's recommendation that an application was complete was appealable. Mr.  
117 Mello noted that Staff made a recommendation to the Planning Board that the application was complete  
118 earlier in the public hearing process and the Planning Board agreed then accepted the case and opened  
119 the public hearing.

120  
121 Mr. Carpenter again mentioned Section 616.7 of the WZO regarding the hydrologic study. Mr. Mello  
122 summarized the three different WPOD permits and that a hydrologic study was only required for WPOD  
123 Site Plan / Subdivision application. He also noted that when an Applicant requests a reduction in the  
124 buffer zone, a hydrologic or other study that is satisfied to the Planning Board is required. Mr. Carpenter  
125 stated that he did not believe that to be clear when he reads the ordinance. Attorney Campbell  
126 addressed the Board to confirm Mr. Mello's analysis of the WPOD requirements for a hydrologic study.  
127 He also discussed the Code Enforcement steps of review and appeals process for such.

128  
129 Mr. Rounds stated that he was concerned about the UNH study they received. He wants to make sure  
130 there is no additional damage to the pond. He needs to know from experts whether this will damage the  
131 pond. Absent that, he feels like he doesn't have enough information to make a decision.

132  
133 Mr. Carpenter stated that the argument that there are other existing properties polluting the pond  
134 doesn't mean they have to grant approval to make it worse.



135  
136 Mr. Maynard stated that his small property does not have a huge increase in runoff into the pond. He has  
137 done several best management practices. He stated that if there is specific information the Board wants,  
138 he is happy to provide it.

139  
140 Ms. McCarthy read a segment from Blue Moon's Environmental letter, "concerns about the buffer zone  
141 to the "tributary stream" could be addressed by implementing some of the ideas mentioned in the  
142 Cobbetts Pond Watershed Restoration Plan, 2010. The Restoration Plan suggested that carving out areas for  
143 bio-retention cells and/or rain gardens would help reduce loading of phosphorus to Cobbetts Pond". She  
144 asked Mr. Maynard to summarize the best management practices that are proposed. Mr. Maynard  
145 identified all the large trees that will not be cut. He noted that small trees are being cut, but the plan is  
146 trying to keep the large vegetation that creates a buffer. The suggested area for a bio-cell rain garden is  
147 not on his property.

148  
149 Mr. Carpenter asked about construction staging and worker parking. Mr. Maynard said his client has  
150 inquired with Mr. Tokanel, who has a property 5 or six houses away, that is willing to accommodate  
151 contractor parking. They are not planning to stage large stockpiles of material and will keep First Street  
152 passable throughout construction.

153  
154 John Bisson, Esq., for the Applicant, stated that the Planning Board suggested at the last meeting to  
155 make plan changes. He was suspicious that it would be a waste of time. He believes the right thing is to  
156 enforce the statues and zoning, which may not be popular. The question is, will the project degrade the  
157 pond? The reality of the neighborhood is that there is a gutter that goes off the roof, across a lawn, and  
158 into the stream. He submitted photos in his supplement of empty phosphorus contains. He stated that  
159 virtually every lawn along the lake is beautiful, green, and without weeds. His point is that the Town has  
160 an obligation to protect the water body, is the Town going to ignore all the other properties and prevent  
161 his client from building? He believes denying the permit is a taking – if his client cannot develop it, then  
162 the Town should pay for it. He noted Dr. Wolheim's said that the proposed system is better than  
163 everyone else's in the neighborhood.

164  
165 Mr. Rounds asked Attorney Campbell if a discretionary decision by the board a taking? And, if the  
166 argument that everyone else is doing something wrong a valid legal argument? Attorney Campbell stated  
167 that he believes an incorrect application or interpretation of an ordinance that is otherwise legal is not a  
168 taking. Atty. Campbell reminded the board that the first question they are being asked is the tributary  
169 stream buffer. The Board needs to consider if the 50-foot buffer provides the same or greater degree of  
170 protection as the full 100-feet.

171  
172 Mr. Carpenter stated he is looking at a new plan that is very different than what was submitted originally  
173 and to the ZBA. He asked Atty. Campbell if he thinks this latest change would need to go back to the ZBA.  
174 Attorney Campbell restated that he agrees with Mr. Mello that it is a Code Enforcement matter.

175  
176 Ms. Mason asked what the community can do for the protection of the lake. Atty. Campbell stated that  
177 he believes the new septic pump out ordinance will have a big impact on the health of the lake. Ms.  
178 Mason asked what the Town could do with all the various pipes going into streams and ponds. Atty.  
179 Campbell noted that significant issues could be addressed as a public nuisance. Ms. Mason appreciates



180 the keeping of the large trees and moving the leach field away from the stream. She noted that she  
181 believes the analysis provided by both experts.

182

183 **Ms. Mason made a motion to approve the reduction of the buffer for Case 2023-12 to 50-feet for the**  
184 **proposed leach field and other improvements as shown on the plan dated October 5, 2023. Ms.**  
185 **McCarthy seconded.**

186

187 **Mr. Monson said that his main concern was the tributary. He noted that the plan revisions were**  
188 **exactly what the Planning Board asked, including moving the leach field, adding dry wells, and**  
189 **reducing the amount of impervious surface. Those revisions made a difference to him. He noted that it**  
190 **is a lot of record, and something will be built there. He thinks the Applicant has done everything they**  
191 **could do to minimize the impact on the tributary. He believes that the six-foot depth to the water**  
192 **table is sufficient per studies he is aware of.**

193

194 **Mr. Rounds would say no because he thinks there will be an impact on the pond.**

195

196 **Mr. Earley noted that the 2010 Cobbett's Pond Watershed plan noted that the 231 estimated septic**  
197 **systems were responsible for 22% of the phosphorus in the pond. He believes that the protection**  
198 **needs to be the same or greater than and doesn't think this proposal satisfies that due to the**  
199 **increased phosphorus.**

200

201 **Ms. McCarthy read a quote from the Blue Moon report "In summary, the proposed construction of a**  
202 **single-family home on Lot 16-Q-179 can be completed and will fulfill the intent of the WPOD to not**  
203 **adversely affect the existing quality of the surface water in either Cobbett's Pond and/or the adjacent**  
204 **"tributary stream" on lot 16-Q-300A. Stringent reviews by the NHDES Shoreland Division and the**  
205 **NHDES Subsurface Division work together to comply with State regulations to protect water quality**  
206 **and support the local WPOD as well."**

207

208 **Mr. Carpenter noted that the plan revision to add gutters and underground dry wells that infiltrates**  
209 **the water into the ground, is a great treatment measure that virtually increases the pervious surface**  
210 **ratio compared to other lots along the pond.**

211

212 **The motion passed with the following roll-call vote:**

213 **Chair Earley, opposed**

214 **Mr. Monson, aye**

215 **Ms. Mason, aye**

216 **Mr. Rounds, opposed**

217 **Mr. Carpenter, aye**

218 **Ms. McCarthy, aye**

219

220

221 **Ms. Mason made a motion to approve the WPOD Major land development application for Case 2023-**  
222 **12 as shown on the plan dated October 5, 2023 for the same reasons stated above. Ms. McCarthy**  
223 **seconded.**

224



225 **Mr. Carpenter suggested adding conditions that First Street always remain passible during**  
226 **construction and the Applicant receive the necessary waivers from the Board of Health. Ms. Mason**  
227 **and Mrs. McCarthy noted that their respective motion and second still stood.**  
228

229 **The motion passed with the following roll-call vote:**

230 **Chair Earley, opposed**  
231 **Mr. Monson, aye**  
232 **Ms. Mason, aye**  
233 **Mr. Rounds, opposed**  
234 **Mr. Carpenter, aye**  
235 **Ms. McCarthy, aye**  
236  
237

238 **Case # 2023-21 - 59 Range Road – Parcel 18-L-302; Minor Site Plan; Zone – Professional, Business and**  
239 **Technology District and WPOD**

240 Chair Earley read the case and Mr. Hohenberger was re-seated.

241  
242 Mr. Mello noted that the Applicant requested an extension in time for the Board to consider the  
243 application complete.

244 **Mr. Carpenter made a motion to accept the Applicant’s extension request and to continue the matter**  
245 **to November 1, 2023. Ms. McCarthy seconded. The motion passed with the following roll-call vote:**

246 **Chair Earley, aye**  
247 **Mr. Monson, aye**  
248 **Ms. Mason, aye**  
249 **Mr. Rounds, aye**  
250 **Mr. Carpenter, aye**  
251 **Ms. McCarthy, aye**  
252 **Mr. Hohenberger, aye**  
253  
254

255 **Case # 2023-22 – 7 Grove Street – Parcel 17-L-84; Major WPOD; Zone – Residential District A and**  
256 **WPOD**

257 Tom Earley read the case into the record. Julie Suech noted the application complete.

258  
259 **Ms. Mason made a motion to accept the case as complete and open the hearing. Ms. McCarthy**  
260 **seconded. Hohenberger asked for a summary of the changes to the plan. Mr. Maynard noted the**  
261 **changes per the Keach comments. The motion passed with the following roll-call vote:**

262 **Chair Earley, aye**  
263 **Mr. Monson, aye**  
264 **Ms. Mason, aye**  
265 **Mr. Rounds, aye**  
266 **Mr. Carpenter, aye**  
267 **Ms. McCarthy, aye**  
268 **Mr. Hohenberger, aye**  
269



270 Mr. Maynard introduced the project and provided an overview of the plan.  
271  
272 Mr. Hohenberger asked about the Shoreland permit pending, inquired if there is any problem. Mr.  
273 Maynard has applied and is expecting to hear on the permit next week.  
274  
275 Mr. Carpenter asked about maneuvering room in the driveway and the roof type of the porch. The  
276 proposed roof is flat.  
277  
278 Mr. Rounds asked if there is a room atop the garage? Mr. Maynard responded in the affirmative and  
279 stated it was for an office.  
280  
281 Mr. Hohenberger inquired about the dimensions of the deck.  
282  
283 Mr. Monson would like to see a maintenance schedule for the porous pavement.  
284  
285 Public comment  
286  
287 Gina Ferrante, 5 Grove Street, stated that she believes she has an implied easement and needs to utilize  
288 the gravel area to get to her property as well as delivery drivers.  
289  
290 Mr. Maynard stated that they are leaving an area as-is where the neighbors utilize his clients property.  
291  
292 Mr. Carpenter asked if he could leave more area as gravel. Mr. Maynard stated that it would decrease the  
293 amount of impervious area and require a Variance because gravel gets compacted and filled with  
294 sediment so it doesn't count as impervious.  
295  
296 Andrew Corman, Owner, stated that he doesn't need the area for a driveway and shouldn't need to  
297 provide a driveway for a neighbor.  
298  
299 Ms. McCarthy asked Mr. Corman to point out the portion of the driveway that will remain to access the  
300 garage.  
301  
302 Mr. Rounds inquired what prescriptive easements were. Mr. Maynard described what prescriptive  
303 easements were. He believes that they only need to use the corner of the lot, which is being left in it's  
304 current condition.  
305  
306 Cole Hudson, 5 Grove Street, spoke about how when Ms. Ferrante built her house, she worked with the  
307 neighbors and incorporated their comments into the design. He also spoke about helping the owner  
308 when there was a fire.  
309  
310 Mr. Hohenberger asked how much of the driveway would need to be left to accommodate the neighbor?  
311 Mr. Maynard stated that the neighbor can access their lot as-is.  
312  
313 Ms. McCarthy asked if the road was private. Mr. Maynard stated that it was.  
314



315 Mr. Carpenter asked for the plan to be re-sent to the Fire Department. He also asked if the property  
316 owner would grant permission for the Planning Board to visit the site on their own time. Mr. Corman  
317 granted the Planning Board members permission.  
318

319 Mr. Monson considered conditional approval pending Fire Department signoff.  
320

321 **Mr. Carpenter made motion to conditionally approve Case 2023-22 as presented with the condition**  
322 **that Staff re-present the plans to the Fire Department and they indicated satisfaction. Mr. Rounds**  
323 **second. Mr. Hohenberger would be opposed because he would like a site-walk with the fire**  
324 **department to completely understand the plan. The motion failed with the following roll-call vote:**

325 **Chair Earley, opposed**  
326 **Mr. Monson, aye**  
327 **Ms. Mason, aye**  
328 **Mr. Rounds, opposed**  
329 **Mr. Carpenter, opposed**  
330 **Ms. McCarthy, opposed**  
331 **Mr. Hohenberger, opposed**  
332

333 **Mr. Hohenberger made a motion to plan a site visit with the fire department on 11/1/23 at 6:00 PM**  
334 **and continue the case to that same evening at 7:00 PM. Seconded by Mr. Rounds. The motion passed**  
335 **with the following roll-call vote:**

336 **Chair Earley, aye**  
337 **Mr. Monson, aye**  
338 **Ms. Mason, aye**  
339 **Mr. Rounds, aye**  
340 **Mr. Carpenter, aye**  
341 **Ms. McCarthy, aye**  
342 **Mr. Hohenberger, aye**  
343  
344

#### 345 **ANNOUNCEMENTS / LIAISON REPORTS**

346 Mr. Mello provided the following updates:

347 **DRC** – Aaron Maynard resigned. One full-member seat and one alternate seat is available. He  
348 will post a advertisement for volunteers and asked members to spread the word.  
349

350 **Rt. 111 Corridor Study** – On Monday, October 16, 2023 the Board of Selectmen finalized the  
351 Public Advisory Committee (PAC). The NH DOT will be contacting everyone to set up the first  
352 meeting.  
353

354 **Housing Grant** – Mr. Mello noted that he sent the scope to the PB on 9/7 and heard from one  
355 member about doing a kick-off meeting with the PB before the process really starts. Consultant  
356 provided standard contract, included scope they provided to the BOS, reviewed by Counsel,  
357 signed by Applicant, next is Town Signature. Mr. Mello noted a kick-off meeting with the Planning  
358 Board is included in the scope.





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**Zoning Amendments** – Mr. Mello provided an update on zoning amendments. The Board would like to hold the first public hearing for their first two amendments on November 8, 2023.

Mr. Hohenberger provided the following updates:

**CIP** – Mr. Hohenberger noted the BOS voted to move up appointments to April to give the CIP subcommittee more time to work on it.

**Planning Commission** – The BOS is going to have a joint-meeting with the Planning Board to have SNHPC and NRPC present within a month or so. Mr. Earley is planning to show up to the joint meeting. Mr. Mello noted that the Town Administrator has reached out to both groups to begin coordinating the meeting. Mr. Earley learned a lot about the services that SNHPC provides that he didn't know otherwise.

**REVIEW AND APPROVAL OF THE MINUTES FOR:**

September 20, 2023 and October 11, 2023 – The Board deferred the consideration of these minutes to a future meeting.

**ADJOURNMENT**

At 9:57 PM, Mr. Carpenter made a motion to adjourn the meeting. Seconded by Mr. Monson. **The motion passed with the following roll-call vote:**

- Chair Earley, aye**
- Mr. Monson, aye**
- Ms. Mason, aye**
- Mr. Rounds, aye**
- Mr. Carpenter, aye**
- Ms. McCarthy, aye**
- Mr. Hohenberger, aye**