

To Chairman Gaiman and Zoning Board Members:

This is a supplemental objection to the application for a special exemption by the applicants Faby Gagne and Lucy Sirios. The March ZBA meeting and the April 4 site walk on Lots A21-1 and A 30, provide the basis for this series of objections. The site walk highlighted the various deficiencies with the application, land issues and the approved subdivision plan.

With Zoning Ordinance 23.0 Savings clause in mind, disturbances of wetlands and the setbacks from wetlands were clearly in view during the site walk. Construction without approvals or permissions or permit were available to be seen during the site walk. Violations of abutters easement could be imagined based on the walk.

As evidenced by the site walk, the applicants' application is deficient due to the condition of the Old Peterborough Road. Lot A21-1 does not have a home on it which is needed for a home occupation; 5.3.1a, 5.3.1d, and 6.6.1e. Lot A30 is located on Old Peterborough Road, as stated in the Stipulation between the Town of Wilton and A7T Forest Products, "whereas the Old Peterborough Rd is a Class VI highway providing access to A&T's Property." Applicants' home is not on Burton Highway or on a Class V highway as required by 5.2.2 and 6.2.3. The Stipulation subjects the building permit for A30 with "RSA Chapter 647, section 41." Why is this important for the denial of the applicants' request? It is a public safety issues, see 4.12.c. The Stipulation details the limitation of municipal responsibility and liability toward the Class VI road. Municipality shall not maintain the highway nor provide any services for safety such as fire or ambulance. See Section 4 of the Stipulation, "Neither the Town of Wilton nor any department, officer or employee thereof shall be liable for any damages to any person or entity including, but not limited to A&T, together with its successors, assigns, personal representatives, guests or invitees, for personal injuries including death and dismemberment and/or property damages as a result of the inability of the Town of Wilton or any other person or entity to access said parcel and/or to travel on the road accessing said parcel in order to provide school transportation, police, fire emergency, medical and/or ambulance services, all as a result of the maintenance, possibility or condition of the road."

In the initial meeting, the Board heard from abutters Preston and Blagbrough regarding their easement rights on lots A21-1 and A30. In the case of the Blagbrough, their easements were created in 1963. The subdivision of 2002 reinforced their rights with a undisturbed area for the well line to the well located on lot A21-1. Preston testified that his right of way easement runs through the barn constructed on lot A30 just a few years ago. Preston also testified he has wells located just north of the house on lot A30. It is unimaginable that the ZBA feels it has the right to determine the use of the land could run counter to the easements rights of the abutters which predates the subdivision. Additionally, during the site walk abutter Blagbrough asked Chairman Faiman to walk to front of lot A21-1. This request was denied though there had been two objections raised in March. One, abutter on lotA21-2 complained about the status of the front portion of the private drive as it comes off Burton Highway. Secondly,

abutter Blagbrough raised the issue of the canal easement and its impacts to the front of the drive. This easement, again granted in 1963, governs the flooding of the canal, and as well, during the bridge relocation project on Burton Highway in 2002, had a pipeline running from lot A63 under the road into the canal as described by the easement. I believe this was an error. The situation with easements of the abutters causes a decline in the abutters property value. Violates 4.12.d.

In the March meeting, the Chairman mentioned that ordinance 4.10.10 Stormwater was not applicable in this case. However, the Chairman failed to quote the entire ordinance, the portion which does apply to this case and was evidenced during the site walk in April. Under Stormwater Management 4.10.10, ordinance states, "Where activity is within the Watershed Protection District, the Aquifer Protection District, or any aquifer or well head protection area, all surface stormwater shall be kept on-site and handled in such a manner as to allow the water to infiltrate in the ground before leaving the site." Both applicants lots are in the Watershed District.

The dressage paddock on Lot A21-1: Abutter Blagbrough pointed out the problem with this structure. It was built without permission and not a permitted use according to the subdivision plan. It made cuts into the slopes of the lot. The paddock resides within the protective well radii of the abutter. The wetland as identified by Gove has been destroyed with an installed fill drive up from the Old Peterborough Road without permission from Town and NHDES, violating the subdivision plan. Manure and horse using could seep into the well water and downslope ground water eventually entering Mill Brook. It is a structure within a wetland setback of the Watershed District. The constructed road interferes with the well pipeline easement to the abutters. Corner of the paddock obstructs the abutter Blagbrough well easement. This will have to be removed. Violates 4.12.d.

Barn on lot A30: There appeared to be a discharge pipe out the back of the barn seemingly for the discharge of manure onto the downward sloping back field abutting the Preston pond. This goes to the question about wetlands, water runoff, and water flowing into Mill Brook via the Preston Pond.

If the Barn is used by twelve or so people, there was no sanitation facilities in the barn. The applicants should receive NHDES assessment whether their house toilet/septic can maintain a home occupation business. Refer to the Planning Board case SP03-0623 Elaine L. Kalhori, seeking a home occupation. "A MacMartin asked for written confirmation from the New Hampshire Department of Environmental Services (DES) that the existing septic system as described in the July 25, 2023 letter from Meridian Land Services, is sufficient for the proposed use." Consistent application of rules for home occupations.

The site walk identified the breach of the stone wall as noted by subdivision plan as intact. The installation by Eversource of underground wires violating the easement abutter Blagbrough was clearly noted. That construction by Eversource also negatively impacted the road surface of the Old Peterborough Road making it impossible for

downslope abutters to use the road due to the blockage. Additionally, the subdivision plan, as required by subdivision regulation 5.9, must have utility easements delineated on the plat prior to approval. And the plan does not. The landowner cannot grant easement that interferes with already granted easement with a superior claim. That should invalidate the Eversource easement. This deficiency in the subdivision plan is a problem.

On the site walk, besides the unapproved breach of the stonewall, the roadway with culverts was clearly visible which crossed a wetland as identified by Gove without permission from the Planning Board or NHDES. In fact, the subdivision plan clearly depicts no roadway breaching the stone wall and crossing the Old Peterborough Road. It is hard to imagine how this subdivision plan got approved with such deficiencies. The applicants' lot A30 is accessed on the Old Peterborough as authorized as a condition of the Stipulation in 2003 for permission to build, not by a logging road that should have been reclaimed and the stonewalls returned to their original position as a boundary for the Old Peterborough Road.

On the site walk, attendees could see the four drive accesses from the Old Peterborough Road, 2 going to A21-1 and 2 going to A30. Maybe one of these was approved but at least three are a violation of the subdivision plan. Two are crossing wetlands without approval. Refer to Gove Report on Wetlands.

As such, in the year 2019, abutter Blagbrough with attorney brought issues before a closed meeting of the Selectmen. Attached are the minutes of that meeting. To this date, there has been no resolution to the issues raised in that meeting. Issues raised before the Select Board work was being done without any permits along with disturbances of delineated wetlands. The Town approved a subdivision with the stone wall intact and provided for a corridor of unimproved land for the easement for water pipeline to Blagbrough well on A21-1. Subdivision Plan did not authorize the installation of underground utilities within lot A21-1. There was no permits or approval authorizing the extension of the private driveway within lot A21-1 to intersect with Old Peterborough Road or permit for any dredge and fill of wetlands along Old Peterborough Road. The 2003 Stipulation states access to lot A30 is via Old Peterborough Road and there was no mention of any easement rights to go across Old Peterborough. The subdivision was a two lot subdivision of lot A21 into two lots; with no other lot was subject of the subdivision application.

On the site walk, it was observed the slope of the lots and the downward flow of runoff water going down the road into the stream that flows into Mill Brook. Abutter Blagbrough pointed out the wetlands along the road identified by Gove and Todd, and mentioned the long length of wetlands along the border between A22 and A21-1 which impacts all the setbacks on A21-1. The wetland within the canal impacts the setbacks along the private way and A21-1 as well.

Getting to the site walk, attendees can see how abutter Blagbrough home on A22 with five rooms viewing the private way, can witness the increase in vehicle traffic and noise. This substantial increase in traffic and noise, see 4.10.2 and 4.12.e.

Runoff and waste going onto abutters land and into Mill Brook, a waters of the United States. Containment and also protection from harmful effects from goat manure/horse manure.

Permit rights under the bridge construction period.

A&T Forest Products filed Intent to Cuts and made a logging road, crossing the Old Peterborough. He crossed a wetland and he installed culvert with fill. As such that logging road was subject to Env-Wt303.04(g)(1), "Access shall not be used for subdivision, development, or other land conversion to non-forestry uses, except that forestry uses may be combined with normal agricultural operations or trail construction or maintenance or both."

Thank you.

Sincerely

Kenton Blagbrough,  
Lot A22