

DEERFIELD PLANNING BOARD  
P O BOX 159  
DEERFIELD, N H 03037

JULY 13, 2022

MINUTES OF MEETING

PRESENT: Board members Peter Schibbelhute, Board of Selectmen Representative, Fred McGarry, William Perron, Donald Wyman. Also present Cameron Prolman, SNHPC, and Jane Boucher, secretary.

7PM Chair Peter Schibbelhute called the meeting to order.

BUILDING INSPECTOR/PAUL COLBY

Paul Colby, newly appointed Building Inspector, Welfare Director, introduced himself noting 40 years of service in municipal government and said that he will be happy and available to meet with anyone needing service .

APPROVAL OF MANIFEST

William Perron moved and Fred McGarry seconded to approve the manifest in the amount of \$320.87 and two time sheets for Jane Boucher. ( SNHPC Contract \$320.87, time sheets for 18 1/2 and 20 hours). Voted in favor.

APPROVAL OF MINUTES

Fred McGarry moved to approve the minutes of June 22, 2022. William Perron seconded. The following corrections were made to the minutes:

.Page 2; First sentence: Correct to read:"...requires a buffer of 100 feet"...

.Page 4: Second Paragraph Remove and replace with "Fred McGarry noted that he had gone to the site and he could not find drill holes along the stone wall on the east side of Reservation Road at angle points Mr. Blaisdell had shown on the plan as having drill holes set. He also called for moving the driveway for Lot 62 40 south of the proposed location. Mr. McGarry further objected to the shape of Lot 62-2 and recommended using the stone wall that runs parallel to Reservation Road as the easterly property line for lots 62-1, 62-2 and 62-3. Mr. Blaisdell said he considered that but it would remove the woods road from Lot 62-4 which he is retaining ownership for put it on Lot 62-3. Mr. McGarry said he had spoken to the Fire Chief who indicated that he would like to see a 30,000 gallon cistern installed to provide fire protection to both this four lot subdivision as well as the recently approved four lot subdivision owned by Mr. Blaisdell which is directly across the road from this subdivision. Mr. Blaisdell objected to providing a cistern because this subdivision was creating only for new lots rather than five which the Board has used in the

past as requirement for a cistern.

Voted in favor.

REQUEST FOR LOT MERGER

The Board reviewed a request from Joyce Lebel and Tyler Lebel to merge Lots 70 and 71 on Map 423 and Lots 73 and 74 on Map 423 , Stage Road, Deerfield, NH.

It was noted that no bond for road construction had been posted.

Fred McGarry moved to approve the request for consolidation of Lots 70 and 71 on Map 423 and Lots 73 and 74 on Map 423 for Joyce Lebel and Tyler Lebel. Donald Wyman seconded. Voted in favor.

7:15PM CONTINUATION: PUBLIC HEARING MAJOR SUBDIVISION; EDWARD AND SANDRA CROSS RANGE ROAD.

Edward Cross and several residents were present.

Board members reviewed revised copies of subdivision plans, copies of 2 waiver requests, copies of ISO Drought Study re: Fire pond, letter re: Subdivision from Steve Keach, KNA, and comments from Attorney James Raymond re: Declaration of Covenants and Restrictions and Creation of Homeowners Association. Copies of all with the exception of the subdivision plans, are attached to these minutes.

Mr. Cross noted that Steve Keach's response to the water study provided was "that is exactly what I was looking for."

Fred McGarry said he would like to speak with Christian Smith regarding the fact that everything is based on a report done by Roscoe Blaisdell dated 8/9/21. He would like to see a more specific soil survey. He indicated that he would like to speak with Steve Keach as well.

Mr. Cross felt that he has done everything required by the Board to to comply with what has been requested.

Mr. McGarry also noted that there was no reference to maintenance of roads in the documents for the Homeowners Association. The Homeowners Association will be responsible for road maintenance.

Peter Schibbelhute noted that members of the Association should be owners of property on both roads. It should be clearly stated that the Association is responsible for maintenance of both private roads.

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Mr. McGarry noted that tree plantings need to replace any vegetation that is removed.

Edward Cross said that removal of trees is far less intrusive as was on the original plan.

Fred McGarry felt an allowance be in place to replace any trees that are removed. He felt an allotment be included in the bond. It was agreed that an \$500.00 allotment for up to 25 trees if specified for replacement. Detail on plan showing this requirement. Trees to be specified as hemlock, scotch or pine. Cost of tree replacement to be included in bond. Bond amount to be determined by Steve Keach.

Both Edward Cross and Cameron Prolman said that Steve Keach will provide a bond amount once the Planning Board conditionally approves the subdivision.

Chair Schibbelhute said that the fence at the pond be moved back for future maintenance.

Mr. McGarry noted that silt fence be identified and location of gate and dry hydrant be shown.

Further detail noted:

- . Bollards to be shown on plan
- . Show 10 foot fence
- . Granite bound detail to be shown
- . Show drill holes on metal fence 1/2" in diameter/min. of 1/2" deep

Fred McGarry will speak with Mr. Smith. Peter Schibbelhute will speak with Steve Keach.

Nick Covatis, an abutter, questioned who would enforce any cutting of trees by land owners. Chair Schibbelhute advised that the Homeowners Association will enforce any restrictions and if unable to do, the Town will enforce.

Fred McGarry moved to continue the Public Hearing for a Major Subdivision for Edward and Sandra Cross to July 27, 2022 as the second appointment. William Perron seconded. Voted in favor.

9:30PM CONCEPTUAL MEETING; JOHN NEWMAN LLS, NORTHWOOD, NH  
John Newman was present along with Mr. and Mrs. Robb Mooso.

Mr. Newman said that the Mooso's who wish to apply for a minor subdivision to cut off two acres in Northwood, NH. This property accesses Gulf Road in Deerfield. They plan to cut off two acres from an abutting property to construct a garage. This will not increase traffic as it will only be the location of a

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garage. Wetlands have been delineated.

Fred McGarry questioned the fact the plan showed a proposed well on the property. Mr. Newman explained that the owners may, in the future, put a bathroom in the garage.

Mr. Newman said they are going before the Zoning Board in Northwood for approval of a variance on 7/14/22. Chair Schibbelhute commented that they will want to see a copy of the variance with a statement to be approved by the Deerfield Planning Board that any future changes in future use need to be approved by the Deerfield Planning Board.

Mr. Newman was told that he will need to apply for a public hearing with the Planning Board to approve the proposed subdivision for property in Northwood NH. Any future residential development will need approval by the Deerfield Planning Board.

Mr. Newman will submit a plan with a note indicating a signage block for Deerfield Planning Board approval that any future residential development will require approval by the Deerfield Planning Board. A Public Hearing will be held to receive approval by the Board.

Fred McGarry referred to RSA 674 53VII.

The meeting was adjourned at 10PM.

Recorded and transcribed by Jane Boucher  
Pending Approval by the Planning Board

70 Portsmouth Avenue  
3<sup>rd</sup> Floor, Unit 2  
Stratham, NH 03885  
Phone: (603)-583-4860  
Fax: (603)-583-4863

June 29, 2022

Mr. Peter Schibbelhute, Chairman  
Town of Deerfield Planning Board  
PO Box 159  
Deerfield, NH 03037

RE: Proposed Subdivision of Land of Edward & Sandra Cross  
Range Road, Deerfield, NH  
Tax Map 414 Lot #: 71

Dear Members of the Board:

This is written to formalize a request for waivers specific to the stormwater regulations for the referenced subdivision application.

Your petitioner seeks the following relief:

1. We respectfully request a waiver to Subdivision Regulations Section IV-5 which require a stormwater evaluation consistent with the NHDES AoT rules and design criteria. We feel the waiver is justified as proposed subdivision is served by 2-private ways which will remain in private ownership. We have proposed improvements to the Range Road swale and added entrance culverts with riprap outlet control protection. Proposed driveway culverts have been evaluated and erosion and sediment controls have been designed to mitigate any potential impact to the Town right-of-way (ROW) associated with Range Road. All stormwater ultimately flows to a large wetland complex and ultimately an existing 72" culvert which flows south under Range Road. It is our understanding that the Planning Board wanted the driveway culverts and driveway swales protected from erosion potential thereby protecting the existing swale within the Range Road ROW. Finally, any potential minor potential flow increases do not pose an adverse impact to the existing wetland nor municipal drainage system due to the overall subcatchment draining to the wetland and 72" culvert under Range Road.

Thank you for your consideration.

Very truly yours,  
BEALS ASSOCIATES, PLLC

*Christian O. Smith*

Christian O. Smith, PE  
Principal

July 12, 2022

Mr. Peter Schibbelhute; Chairman  
Deerfield Planning Board  
Post Office Box 159  
Deerfield, New Hampshire 03037

Subject: **Proposed Subdivision of the Land of Edward & Sandra Cross  
Range Road (Map 414 – Lot 71); Deerfield, New Hampshire  
KNA Project No. 21-0816-3**

Dear Mr. Schibbelhute:

As you may recall, on September 22<sup>nd</sup>, January 26<sup>th</sup>, February 23<sup>rd</sup> and April 27<sup>th</sup> we issued letter reports in response to the subject application. Within each report we offered a series of comments and recommendations generated upon consideration and review of project plans and supporting information received through each respective date. Subsequently, on July 6<sup>th</sup> we received the following additional and/or revised information from the applicant's consultants:

- Project plans (6 drawings) having various dates of preparation and revision; and last revised on June 30, 2022.
- A report entitled "Drainage Analysis & Sediment and Erosion Control Plan", dated December 22, 2021, last revised June 29, 2022.
- A report entitled "50-Year Drought Study" prepared by the applicant's consultant on May 27, 2022; and ultimately endorsed by Insurance Services Office, Inc. (ISO) on June 07, 2022.
- Correspondence addressed to the Planning Board, prepared by the applicant's consultant on March 03, 2022, for the purposes of requesting a waiver from the requirements of Section IV-4 of the Subdivision Regulations.
- Correspondence addressed the Planning Board, prepared by the applicant's consultant on June 29, 2022, for the purposes of requesting a waiver from the full requirements of Section IV-5 of the Subdivision Regulations.

Based upon our consideration and review of these materials we offer the following remarks:

**General Comments**

1. The only State Agency Permit required under this application is NHDES Subdivision Approval. As acknowledged by the text of Note No. 5 on the subdivision plat (Sheet 1), this approval has been received.

*Civil Engineering*

*Land Surveying*

*Landscape Architecture*

10 Commerce Park North, Suite 3B

Bedford, NH 03110

Phone (603) 627-2881

Fax (603) 627-2915

2. Again, as acknowledged in our prior letter reports it is understood the applicant intends to “dedicate” a 0.367-acre parcel at the northeast corner of the subject tract to the Town of Deerfield for future use as fire pond. In the event the applicant intends to convey fee simple title to this land to the Town of Deerfield, please be reminded acceptance of this property by the municipality will require action by the Board of Selectmen under applicable statute. Alternately, if it is the applicant’s intent to simply “dedicate” easement rights to the municipality, such action on the part of the Board of Selectmen is neither necessary nor required. Regardless of intended outcome, we recommend Sheet 1 of the final drawings clarify applicant’s intent (fee simple dedication or dedication of easement rights).
3. In order to satisfy the requirements of Sections V-1 and V-2 of the Subdivision Regulations we recommend any approval granted to this application by the Planning Board be conditional upon the applicant posting a performance guarantee, in an amount and form acceptable to the Town of Deerfield, to serve as a financial surety for full and final completion of private ways, related infrastructure and public improvements.

#### **Zoning Matters**

1. We understand the applicant previously submitted draft homeowner association documents for this planned Open Space Development pursuant to applicable requirements of Section 325.4.H of the Zoning Ordinance. We recommend any approval granted to this application occur subsequent, or be conditional upon, receipt of favorable review of these documents by Town Counsel.

#### **Planning/Design Matters**

1. Sheet 3 of the drawings, entitled “Road Access Plan – H1” illustrates the alignment and grading of two private ways intended to provide vehicular access to each of five proposed lots from Range Road. Since the date of the prior submittal the applicant’s consultant has modified the design of these two private ways to incorporate Driveway Design and Construction Standards specified under Section IV-4.C of the Subdivision Regulations. In addition, the applicant’s consultant has submitted a waiver request for the Board’s consideration. Under this waiver request, the applicant seeks to effectively permit substitution of the aforementioned Driveway Design and Construction Standards at Section IV-4.C for Design and Construction Standards for Streets specified under Section IV-4. B. For reasons specified in the applicant’s request of March 03, 2022, we support approval of this waiver request.
2. To satisfy applicable requirements of Section III-6. E (3) (f) of the Subdivision Regulations the applicant’s consultant previously prepared and submitted a stormwater management report. At that time, we recommended the content of this report be expanded to fully address all applicable requirements contained in Section IV-5 of the Subdivision Regulations. As acknowledged above, the most recent submittal included a copy of a drainage report last revised on June 29, 2022, together with a request for a waiver of the



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full requirements of Section IV-5 of the Subdivision Regulations pertaining to analysis scope and format. Based upon consideration and review of the current submittal we are satisfied the design engineer has incorporated accommodations for stormwater management appropriate for this "scaled back" subdivision proposal. Accordingly, we are not opposed to possible approval of the applicant's request for what amounts to a partial waiver of the full requirements of Section IV-5.

3. In the event the Planning Board elects to grant one or more waivers of specific requirements of the Subdivision Regulations we would recommend a note acknowledging such outcome(s) appear on the final plat.
4. An excerpt (Figure 5-2) from an AASHTO publication entitled A Policy on Geometric Design of Highways and Streets appears at the upper left corner of Sheet 1. We recommend this (now superfluous) excerpt be deleted from the final subdivision plat.

We trust you will find the foregoing remarks responsive to your recent request. In the event your Board should have specific questions or require additional assistance related to this application, please contact this writer at your convenience.

Sincerely:

Steven B. Keach, P.E.  
President  
Keach-Nordstrom Associates, Inc.



**From:** cprolman@snhpc.org,

**To:** peteschib@gmail.com, McGarry128@myfairpoint.net, bob.cote@yahoo.com, win28yates@aol.com,

**Cc:** f5fy@aol.com,

**Subject:** FW: Cross Subdivision - Range Road - Open space covenant documents

**Date:** Tue, Jul 12, 2022 9:27 am

**Attachments:** Dec of Covenants + Restrictions\_Range Rd HOA Deerfield\_Feb2022.docx (23K)

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Hi All,

Please see Jim Raymond's comments below on the Declaration of Covenants & Restrictions for the Cross subdivision.

Thanks,

Cam

**From:** James F. Raymond <jraymond@uptonhatfield.com>

**Sent:** Monday, July 11, 2022 5:48 PM

**To:** Cameron Prolman <cprolman@snhpc.org>

**Subject:** FW: Cross Subdivision - Range Road - Open space covenant documents

Cam,

At your request, we reviewed the draft declaration of covenants and restrictions for the Range Road subdivision. As we understand, the subdivision will have five lots with open space, as required by the ordinance. The declaration creates restrictions on use of the open space and requires the lot owners to be members of the homeowners' association, the primary purpose of which is to manage the common area.

The restrictions are appropriate for protection of the open space. We have not, however, seen the proposed subdivision plan, so we cannot comment on whether the open space is usable for the allowed recreational purposes, but the restrictions on its use are typical of projects of this nature. Article I, section 4, permits the declarant to convey utility easements across the open space. The Board may want to consider conditions on those easement rights if they could materially affect the purposes of the open space, although if the easements are for typical residential utilities, the board may reasonably conclude that any adverse impact is not material.

The declaration requires the lot owners to be members of an unincorporated homeowners' association. As we have seen in other subdivisions in Deerfield, homeowners' associations whose primary purpose is management of the open space tend to become dormant and do not effectively enforce restrictions. The covenants in section article III, section 2, also give the town the right the covenants. But as written, only the association, in article II, section 5.1, is given the right to collect for costs of enforcement. The town should be given a similar power to collect costs, including attorney's fees, in article III, section 2.

With that revision, the board may reasonably find that the draft declaration is acceptable.

Jim

**JAMES F. RAYMOND**

**UPTON & HATFIELD, LLP**

10 Centre Street

P.O. Box 1090

Concord, NH 03302-1090

T: 603-224-7791

F: 603-224-0320

[jraymond@uptonhatfield.com](mailto:jraymond@uptonhatfield.com)

[www.uptonhatfield.com](http://www.uptonhatfield.com)

**STATEMENT OF CONFIDENTIALITY**

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**DECLARATION OF COVENANTS AND RESTRICTIONS FOR COMMON LAND  
AND CREATION OF HOMEOWNERS ASSOCIATION  
FOR THE RANGE ROAD HOMEOWNERS ASSOCIATION  
RANGE ROAD, DEERFIELD, NEW HAMPSHIRE**

This Declaration Of Covenants And Restrictions is made this \_\_\_\_ day of \_\_\_\_\_, 2022 by **Edward and Sandra Cross**, together with their successors in interest, as developers of the subdivision, with a mailing address of 4 Thurston Pond Road, Deerfield, New Hampshire 03037(hereinafter called "Declarant").

WHEREAS the Declarant is the owner of a certain tract or parcel of land located on the northerly side of Range Road, Deerfield, Rockingham County, New Hampshire, consisting of approximately \_\_\_\_ acres and shown on a subdivision plan entitled, " Open Space Subdivision, Prepared for the Owners of Record Edward E. & Sandra Cross, Situated in the Town of Deerfield, NH, Tax Map 414, Lot 71, prepared by Blaisdell Survey, LLC, Roscoe T. Blaisdell, LLS, recorded in the Rockingham County Registry of Deeds as Plan No. D-\_\_\_\_ (the "Plan"); and

WHEREAS the Plan is an Open Space Development pursuant to Section 325 of the Town of Deerfield Zoning Ordinances and consists of five (5) residential building lots designated as Lots 71-4 through 71-8 (the "Lots"), and one (1) Open Space Common Area lot designated as Lot 71; and

WHEREAS the Declarant wishes to impose covenants and restrictions upon the Open Space Common Area Lot to assure that it remains in its natural state except for certain permitted recreational and construction uses; and

WHEREAS the Declarant wishes to create a Homeowners Association (the "Association") for the purpose of maintaining and administering the Open Space Common Area Lot;

NOW THEREFORE the Declarant hereby declares that the Open Space Common Area Lot shall be subject to the covenants and restrictions hereinafter set forth and that the Association shall be established for the purpose of maintain and administering the Open Space Common Area Lot.

## ARTICLE 1

### COVENANTS AND RESTRICTIONS

1. Covenants. The Open Space Common Area Lot shall forever be and remain subject to the following restrictions, which covenants and restrictions shall bind the Declarant, its successors in interest, and the Owner of each Lot.

- 1.1. The purpose of the Open Space Common Area Lot after completion of the proposed improvements depicted on the Plan is to retain the area forever in its undeveloped, scenic and open space condition and to prevent any use of the Open Space Common Area Lot that will significantly impair, or interfere with, its conservation value; to protect the natural habitat of birds, animals, and the vegetation contained in the Open Space Common Area Lot.

- 1.2. It shall be maintained in perpetuity as open space.

- 1.3. The Open Space Common Area Lot may be used for recreational trails for use by hikers, non-motorized bicycles, skiers and snowshoe users (no other motorized vehicles shall be allowed).

- 1.4. No structure or improvement of any kind, size or shape shall be constructed, placed or introduced onto the Open Space Common Area Lot without prior approval from the Town of Deerfield.

- 1.5. The Open Space Common Area Lot may be used for placement of utilities, swales, drainage easements and other easements benefiting the Lot.

- 1.6. During the course of construction of the roads as shown on the Plan, excavation of gravel, fill and similar resources from the Open Space Common Area Lot shall be allowed for use in such construction, provided that any areas of the Open Space Common Area Lot affected by such excavation shall be reasonably restored, which

includes reshaping, loaming/seeding, and planting of additional vegetation (if needed for site stabilization/erosion control). Upon completion of the proposed improvements depicted on the Plan, no filling or excavation of soil or other alteration of topography or cutting or removal of standing trees shall be allowed, except those that present an imminent threat to person or property. In addition, trees may be removed in accordance with accepted silva cultural practices as outlined in the publication entitled Good Forestry Practices in the Granite State by the Society for the Protection of NH Forests. No disturbance of other natural features shall be allowed unless such activities are commonly necessary to maintain the existing natural environment of the open space.

- 1.7. There shall be no dumping or depositing of trash, debris, stumps, yard waste, hazardous fluid or materials, vehicle bodies or parts within the Open Space Common Area Lot.
- 1.8. No discharge of firearms or shooting with a bow and arrow or trapping of animals shall be permitted upon the Open Space Common Area lot.
- 1.9. The Open Space Common Area Lot comprises the entirety of the Common Area of the subdivision. As such, maintenance, if any, in the Open Space Lot will be performed by the Association. Costs for the maintenance, liability insurance, monitoring and annual reporting of the Open Space Common Area Lot will be treated as a Common Expense and paid by the Lot Owners in accordance with the provisions of this Declaration. The term maintenance shall include monitoring and reporting of the conditions of the Open Space Common Area Lot requirements by the Association or by the Town of Deerfield. The Association will be responsible for annually monitoring the Open Space Common Area Lots and reporting any violations to the Town of Deerfield.
- 1.10. Such reasonable rules and regulations as may from time to time be promulgated by the Association for recreational or other permitted use of the Open Space Common Area Lot.
- 1.11. Access to the Open Space Common Area Lot shall be as depicted on the Plan.

- 1.12. The Open Space Common Area Lot shall be used only by Lot Owners and their guests and invitees.
  - 1.13. The above conservation restrictions are meant to protect the land as open space as required by the Deerfield Planning Board, under Article 111, Section 325 of the Deerfield Zoning Ordinance (2020 version).
2. Enforcement. The burden of these restrictions shall run with the land and be enforceable by any present or future owners of any Lot within the subdivision, or by the Association, or by any official of the Town of Deerfield, however, the Town of Deerfield shall not be deemed to have any obligation with respect to such enforcement. The Association shall be responsible for and maintain sufficient funds in a dedicated account for annual monitoring, reporting to the Town, and enforcement of these Covenants.
3. Violation of Restrictions.
    - 3.1. In the event that a violation of any provision of this Declaration comes to the attention of the owner of any Lot within the subdivision or the Town of Deerfield, the party allegedly causing such violation shall be notified in writing of the nature of such violation, which notice shall be delivered in hand or by certified mail, return receipt requested.
    - 3.2. Said party shall have ten (10) days after receipt of such notice to undertake appropriate actions including restoration, which are reasonably calculated to swiftly cure the conditions constituting the violation.
    - 3.3. If said party fails to take such curative action, the owner of any lot within the subdivision may undertake any actions that are reasonably necessary to cure the violation, including the filing of appropriate legal action to enjoin prohibited conduct; the cost of any curative measure, including reasonable attorney's fees, shall be paid by the violating party.

4. Declarant's Right to Convey Easements. As long as the Declarant or any successor or assignee of the Declarant is the owner of any of the Lots, the Declarant or such successor or assignee shall have the right to grant easements across the Open Space Common Area Lot for utilities servicing any one or more of the Lots. Even though one or more Lots may have previously been conveyed and such lot owner(s) shall own an undivided interest in the Open Space Common Area Lot, as herein provided, such easement when signed by the Declarant or successor or assignee alone shall be sufficient to vest title to said easement in the grantee thereof without any other lot owner joining in the conveyance. By the acceptance of a deed to a Lot, the lot owner(s) shall be deemed to appoint the Declarant or any successor or assign of the Declarant as their attorney-in-fact for the purpose of conveying any such easement across the Open Space Common Area Lot.

## **ARTICLE II.**

### **THE ASSOCIATION**

1. Membership. There is hereby established the Range Road Homeowner's Association (the "Association") which shall be established as a nonprofit association pursuant to the laws of the State of New Hampshire formed for the purposes of maintaining and administering the Open Space Common Area Lot. The owner of each Lot ("Lot Owner") shall be a member of the Association. In the event that the owner of a lot shall be more than one person, the vote and rights associated with that Lot's membership shall be exercised by one person designated by the owner(s). Each Lot Owner shall have one (1) vote. The Declarant or its successor or assigns shall have a vote for each Lot owned by it. Unless otherwise provided herein, or by law, a majority of the votes cast at a meeting of the Members shall be required to adopt any action by the Membership. Three fifths (60%) of the Members of the Association shall constitute a quorum for action by the Members at a meeting.
2. Annual Meeting, Special Meetings. An annual meeting of the Membership shall be held on the first Saturday of April of each year at a place and time designated by the Board of Directors. The first annual meeting, before the election of the initial Board, shall be noticed and directed by the Declarant. At the first annual meeting and at each successive annual meeting, a Board of Directors consisting of five (5) Directors shall be elected by the Members. Each Director shall have a one-year term. Provided, however, that if an annual meeting shall not be held in accordance herewith, the then serving directors shall continue to serve until their successors are elected.



3. Board of Directors. The five member Board of Directors elected at each annual meeting shall take such actions by majority vote of the Directors as they deem appropriate for the maintenance and administration of the Open Space Common Area Lot, to include, but not necessarily be limited to, cutting or clearing any trees or growth allowed by this Declaration, maintaining existing or creating new walking trails, clearing debris, posting notices, preventing nuisances, adopting rules and regulations governing the use of the Open Space Common Area Lot, and other actions deemed appropriate by the Board. The Board shall meet periodically as it deems necessary to act on any business brought before the Board. Provided, however, that if any Member of the Association should submit a written request to the Board for specific action by the Board, then the Board shall meet within thirty (30) days to address such request.
4. Written Consent. Any action of the Members or of the Directors can be authorized by written consent instead of a meeting provided that the written consent is signed by a majority of the Members or Directors.
5. Common Expenses. Directors shall not receive compensation for their services on the Board. However, the Board may incur expenses in the course of its maintenance and administration of the Open Space Common Area Lot. Such expenses may include, but may not necessarily be limited to, hiring contractors for tree cutting and clearing, and maintaining a policy or policies of liability and workers compensation insurance in the event the Board determines such insurance to be necessary.
- 5.1. Assessments. Expenses incurred by the Board shall be assessed at least annually, or at earlier intervals if the Board so determines, equally upon all Members of the Association. Each Member shall pay their share of the assessment within fifteen (15) days after receipt of a bill therefor. Any unpaid assessments shall be a lien upon the Member's Lot. The Association shall have the right to enforce and collect unpaid assessments, and all costs incurred by the Board therefor (including reasonable attorneys fees) and interest at the rate of eighteen (18%) percent per annum shall be an additional assessment against that Member.

### **ARTICLE III.**

#### **GENERAL PROVISIONS**

1. These covenants and restrictions will run with the land and will inure to and be binding upon all future owners of any interest in and to the Open Space Common Area Lot.
2. These covenants and restrictions may be enforced by proceedings at law or in equity by the Declarant (or its successors or assigns), or by the Town of Deerfield through its Planning Board, Conservation Commission or Board of Selectmen, or by any owner of a Lot, against any person or persons violating or attempting to violate any covenant or restriction herein, either to restrain violation thereof or to recover damages or both. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
3. Fee simple title to the Open Space Common Area Lot will be held by the Lot Owners with each owning an equal undivided percentage interest therein. The Open Space Common Area Lot will not be further subdivided or partitioned, and no person or entity other than the Lot Owners will hold any interest in them. Each deed to the Lots shall include an undivided interest in the Open Space Common Area Lot, shall be subject to this Declaration and by acceptance of a deed to any Lot, the grantee thereof accepts the restrictions created hereunder and agrees to keep the Open Space Common Area Lot in its restricted and undeveloped state as hereinbefore provided. The undivided interest in the Open Space Common Area Lot shall not be separately deeded from the ownership of a Lot, its ownership being appurtenant to the ownership of the Lot.
4. If any portion of this Declaration shall be determined to be void due to unconstitutionality or any illegality, the void provisions shall be severed from the whole and the remaining provisions of this Declaration shall continue in full force and effect.
5. This Declaration will be governed by and construed and interpreted in accordance with the laws of the State of New Hampshire.
6. This Declaration may be amended upon (i) prior approval of the Deerfield Planning Board and (ii) after vote of the Members of the Association, provided, however, that written notice of any proposed amendment must be sent to every member at least sixty (60) days in advance of any such vote. Any amendment shall be recorded in the Rockingham County Registry of Deeds. No amendment of this Declaration shall eliminate any provisions hereof

that are required by Section 325 of the Deerfield Zoning Ordinance or would otherwise cause this Declaration to be in violation of said Ordinance or the conditions of approval of the Plan.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Edward Cross

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Sandra Cross

**STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM**

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned Notary Public, personally appeared Edward Cross and Sandra Cross, who proved to me through satisfactory identification, which here/was \_\_\_\_\_, to be the person(s) whose names are subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes therein contained, and as their free act and deed.

Before me, \_\_\_\_\_

Notary Public/Justice of the Peace

My Commission Expires:

# BA BEALS

ASSOCIATES, PLLC

Land Planning • Civil Engineering  
Landscape Architecture • Septic Design & Evaluation  
Stratham, NH

May 27, 2022

Insurance Services Office, Inc.  
Public Protection Department  
1000 Bishop Gate Blvd Suite 300  
Mount Laurel, NJ 08054-5404

RE: 50-Year Drought Study  
Rockingham County  
4 Thurston Pond Road  
Deerfield, NH 03037

Dear Sir / Madam:

We have received the total yearly precipitation data furnished by the Regional Climate Center (RCC) under the direction of the National Climatic Data Center of NOAA and NECI (attached). Our conclusions, based on this data are summarized as follows:

- ✕ The average total yearly precipitation is 35.88 inches for the period from 1972 thru 2021.
1. The lowest total yearly precipitation for the entire period was 27.49 inches, which occurred in 2015.
  2. The annual precipitation for 2015 was 8.39 inches below the 50-Year 35.88 inches annual average.  $35.88" - 27.49" = 8.39"$  Deficit
  3. During the past 50-years the worst Drought occurred in 2015.
  4. By comparison with the average during that period the drought in 2015 it represented a deficit of 8.39 inches of rainfall below the 50-Year average.
  5. The total yearly precipitation Rockingham County will vary each year, and in the future can deviate above or below the 50-year average.
  6. A drought in which the total yearly precipitation fell 8.39 inches below the 50-Year average only occurred once during the past 50-years.

(Computation spreadsheet attached)

## **Site Survey**

Blaisdell Survey LLC. completed an onsite testing at 4 Thurston Pond Road Deerfield, NH 03037. Blaisdell found a natural water percolation rate of 2 minutes, per inch, at 28" below the natural surface. The test boring also found a natural refusal at an estimated 138-inch depth. Their estimated seasonal highwater table concurs with the NCDC water shed report. The Blaisdell data supports a hypothesis that the pond should provide adequate recharge and storage to provide the required water for suppression to meet the supply requirement of 30,000-gallons+ of availability set by the Insurance Services Office (Verisk). The design indicates that natural water will reside between 28 and 38 inches. With the ponds bottom set at an average of 120 inches and the water suction strainer being placed 12 inches above the bottom, and the strainer being 6 inches in diameter, this leaves 102 inches of usable water. After removing the possible 12 inches for vortex, this scenario, leaves 90 inches of serviceable water. By using the 38-inch benchmark of the lower annual surface water, minus the Drought Study's 8.39-inch deficit, and minus the 24" deficit from possible ice conditions, the upper available surface level of water will start at 70.39 inches.

## **Total Water**

120 inch (bottom) minus 12 inch (strainer base) minus 6 inch (suction strainer) minus 12 inches of possible vortex, equates that usable water will start at a depth of 90 inches.

## **Deficit Water (loss below the water's surface)**

Considering the water starts at a 38-inch benchmark (lower annual surface water level), minus the 50-Years Drought Study's 8.39-inch deficit, and minus the 24" deficit from possible icing conditions, the mitigated level of available surface water will start at 70.39 inches.

**Water available for Fire Suppression –**       $90'' - 70.39'' = 19.61''$  of water

**Impounded area of water supply**

1. The impounded storage area created from 70.39 inches to 90 inches offers 4,318 cubic feet of water availability for Fire Suppression;
2. Using a formula of one cubic foot equal 7.48 gallons;
3. And with a cubic foot of water equaling 7.48 gallons and 4,318 cubic feet being available, this resulting impoundment will result in 32,295 gallons of true static water storage being available;
4. The above figures do not include the natural percolation of 2 inches per minute. The percolation rate offers an additional 0.62 gallons per minute of water per cubic foot.

**Percolation Recharge Rate (gallons per minute)**      **0.62 gpm**

By multiplying the Recharge rate of 0.62 gallons per minute, times the cubic feet of water, then times by the 120-minute flow demand, an additional gallons of water is available for the Needed Fire Flow of: 74.4

**Static Water Available at Drought (gallons)**      32,295

**Refill rate in gallons over 2 hours**       $\div$   $0.62 \times 120 = 74.4$

**Calculated Available Water For Fire Suppression**      32,369 gallons



*Date* 06-07-2022

I concur with the above data and results:

CROSS SUBDIVISION

RANGE ROAD, DEERFIELD, NH

BLAISDELL SURVEY, LLC

10 EVALUATED BY RTB DATE: 8-09-21

<u>DEPTH (IN.)</u>	<u>DESCRIPTION</u>
0-18	10YR 3/3, DARK BROWN, FINE SANDY LOAM, FRIABLE
18-25	10YR 3/6, DARK YELLOWISH BROWN, FINE SANDY LOAM, FRIABLE
25-138	2.5Y 5/4, LIGHT OLIVE BROWN, FINE SANDY LOAM, FRIABLE

GRAVEL THROUGHOUT PROFILE

ESTIMATED SEASONAL HIGH WATER TABLE @ 10"  
OBSERVED WATER @ 50      ROOTS TO: 25"  
REFUSAL @ possible AT 138"      RESTRICTIVE LAYER @ NONE"  
PERCOLATION RATE: 2 MIN/INCH @ 28"

