



# TOWN OF BOW

## Planning Board

10 Grandview Road, Bow, New Hampshire 03304

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### APPROVED MINUTES

March 23, 2023

<https://www.youtube.com/live/Xl6iv9o5sL0?feature=share>

The Town of Bow Planning Board met on Thursday, March 23, 2023 at 7:00 PM in Room C of the Municipal Office Building. Chair Don Berube began the meeting at 7:00 PM with the roll call of the Board.

A site walk for Application no. 401-23 Wetland Protection Conditional Use Permit Application Owner: Justin Stephens was completed at 6:00 p.m. before the meeting.

#### 7:00 ROLL CALL

Planning Board Members present were Don Berube, Chair; Sandy Crystall, Vice Chair; Adam Sandahl, Secretary; Jonathan Pietrangelo, member; Michael Lawton, member; Kip McDaniel, alternate; Mike Wayne, Selectman Representative; Bruce Marshall, Selectmen Representative Alternate. Others present were Karri Makinen, Community Development Director; Matt Monahan, CNHRPC (remote); Ginger Iverson, Recording Secretary. Not present: David Glasier, member; and Sarah Guinther, alternate.

#### I. MINOR MODIFICATION/CONCEPTUAL CONSULTATION

#### II. PUBLIC HEARINGS

Chair Berube read item number 1 into the record.

#### 1. Public Hearing to review proposed amendments to Subdivision Regulations – Revisions to Section 8.01.C and associated typical drawings in the Appendices relative to road construction standards.

Mr. Monahan provided background for proposing amendments to the Subdivision Regulations. Citing an application from last summer, Mr. Monahan indicated that road width standards currently in place do not meet the necessary requirements for closed drainage and drainage with granite curbing according to the Bow Police, Fire, and Public Works Departments. Closed drainage would require a wider road width than open drainage. Mr. Monahan referred to the packet which includes draft road standards based on Hooksett, New Hampshire standards which were then adapted to Bow’s needs. Typical drawings of proposed open and closed drainage roadway cross sections were designed to match the newly proposed regulations. When snow plowing, road width needs to be greater on roads with closed drainage (curbing) to allow the plow additional room and with open drainage they can plow beyond the edge of the road. Topics discussed were lot frontage, typical designs, vegetation, curbing - sloped vs. straight and asphalt vs. granite. The updated road standards document contains several inaccuracies.

At 7:22 p.m. Chair Berube opened the Public Hearing

At 7:23 p.m. Chair Berube closed the Public Hearing

The Board decided to consult the Bow Town Engineer to review and clarify the documents addressing the following items: impact on Cape Cod Berms curbing, straight or sloped granite curbs, curb height, table

43 inaccuracies, and the typical drawings.

44  
45 *Upon motion made by Mr. Pietrangelo and seconded by Ms. Crystall it was resolved to continue revisions*  
46 *to the “Updated Road Standards” Section 8.01 C2 to the April 20, 2023 Planning Board Meeting.*  
47 *The motion carried with the unanimous approval of the Board.*

48  
49 Chairman Berube read item number 2 into the record.

50  
51 **Application no. 401-23 (continued from 2/16/23) Wetland Protection Conditional Use Permit**  
52 **Application Owner: Justin Stephens. The intent of this plan is to obtain a Conditional Use Permit**  
53 **for the construction of a residential driveway with two culverts that would allow access to the**  
54 **buildable area on Map 2, Block 4, Lot 8. Wetlands Impact: 2,871 sq. ft. Wetlands Buffer Impact:**  
55 **3,037 sq. ft. Located at: Bela View Drive Map 2, Block 4, Lot 8**

56  
57 Mr. Wayne requested that Mr. Marshall join the meeting in his place as Mr. Wayne was absent from the  
58 February 16, 2023 meeting.

59  
60 Eli Leino, an attorney with Bernstein Shur, Spencer Tate with Meridian Land Services, and Justin  
61 Stephens were there to present the application. Mr. Tate mentioned the legality issue concerning the right-  
62 of-way access at the last meeting, and the Board’s recent receipt of an e-mail from Town Counsel. The  
63 Board decided to enter a Non-Public session to discuss this e-mail.

64  
65 *At 7:34 p.m., upon motion made by Mr. Pietrangelo and duly seconded by Ms. Crystall it was voted to*  
66 *enter Non-Public session in accordance with RSA 91-A:3, II (l) Consideration of legal advice provided by*  
67 *legal counsel, either in writing or orally, to one or more members of the public body, even where legal*  
68 *counsel is not present. Roll call vote: Don Berube – yes; Sandy Crystall – yes; Adam Sandahl – yes;*  
69 *Jonathan Pietrangelo – yes; Michael Lawton – yes; and Bruce Marshall – yes.*

70  
71 *At 7:44 p.m., upon motion made by Mr. Pietrangelo and duly seconded by Ms. Crystall it was voted to*  
72 *leave Non-Public session and return to public session. Roll call vote: Don Berube – yes; Sandy Crystall –*  
73 *yes; Adam Sandahl – yes; Jonathan Pietrangelo – yes; Michael Lawton – yes; and Bruce Marshall – yes.*  
74 *The motion passed with a 6-0 vote.*

75  
76 Spencer Tate gave an update to his February 16, 2023 presentation for the Conditional Use Permit (CUP)  
77 application #401-23. The intent is to put in a single lane driveway, compliant with Bow regulations, to  
78 access Lot 2-4-8 over a 50 ft. wide by 200 ft. long right-of-way for the purpose of constructing a single-  
79 family residence. There are several patches of forested hemlock, red maple, and isolated swamp that is a  
80 jurisdictional wetland which requires a 30 ft. buffer. A NHDES permit is being sought for the wetland  
81 impact. The applicant stated that the criteria in article 10.01 Section F in the CUP narrative has been met.  
82 A justification statement along with some supporting documents including a wetlands functional  
83 assessment which identifies the wetland areas having the highest value for groundwater recharge have  
84 been provided. According to the drainage analysis, at a 50-year storm event, assuming no water leaves  
85 the site, the water would stage up between a 1/16 and 3/32 of an inch. There is a very negligible volume  
86 of water that would increase as a result of the displacement associated with the proposed driveway.  
87 There will be a reduction of off-site run-off around 35 cubic feet per second (cfs) at the 50-year storm  
88 event. The wetland complex will continue to function as it does currently or better. There are no  
89 anticipated impacts with adjacent lots and reduced runoff going into the existing conveyance swale. Mr.  
90 Stephens plans to improve the drainage way along the Bela View Drive right-of-way from the driveway  
91 to the north to avoid having to improve or install additional culverts down or up gradient from this site.

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Mr. Sandahl inquired about the small stream that comes out into the road not increasing off-site flow. “If you are going to dam that off, where does that water go?” Mr. Tate said it will stage up within the wetland area and adjacent upland areas and at a 50-year storm event will stage up 1/16 inch.

Attorney Leino said that at the Zoning Board’s March 21, 2023 meeting, due to the Bow Public Works Director’s concern about ponding (puddling) in the Town’s right-of-way, the Zoning Board decided that one of their conditions of approval was for a performance bond to be put in place. Attorney Leino stated there are pre-existing drainage issues that Mr. Stephens should not be responsible for and is asking for reasonability in terms of negotiating this. Mr. Pietrangelo said that there are pre-existing drainage issues that should not be the responsibility of the applicant. Ms. Crystall said that Bela View currently has existing drainage issues.

Mr. Marshall asked Mr. Tate to confirm that at 50-year storm event, wetlands on either side of the driveway are going to go up 1/8 inch. Mr. Tate reiterated that the increase was between 1/16 inch and 3/32 inch. The proposed driveway won’t significantly affect the amount of water but will change the rate at which it runs off.

At 8:08 p.m. Chair Berube opened the Public Hearing.  
At 8:09 p.m. Chair Berube closed the Public Hearing.

*Upon motion made by Ms. Crystall and seconded by Mr. Pietrangelo it was resolved that application 401-23: Justin Stephens does not have regional impact. The motion passed by unanimous vote of the Board.*

*Upon motion made by Ms. Crystall and seconded by Mr. Sandahl it was resolved to conditionally approve application 401-23: Justin Stephens subject to the following conditions:*

- 1. Receipt of a NHDES Wetlands Permit.*
- 2. Revising of the note to indicate the correct owner.*
- 3. Post a \$20,000 performance bond to ensure that post-construction drainage does not worsen the drainage in the Town right-of-way between the driveways of Lots 2-4-9-B8 and 2-4-9-B9 driveways for a period of one year post-completion of driveway.*
- 4. Add notations on the plan for approximate wetland buffer locations.*

*The motion passed by unanimous vote of the Board.*

Chair Berube read item number 3 into the record.

**Application #403-23: Eversource Energy** – Wetland Protection Conditional Use Permit for 617 sq. ft. of wetland impact and 6,226 sq. ft. of buffer impact to replace one structure along the D121 Transmission Line corridor. Located at Eversource Energy Right-of-Way, Map 44, Block 2, Lot 134.

Lindsey White from GZA GeoEnvironmental, Inc. and Ashley Friend from Eversource Energy presented the application for a single utility pole replacement in the Town of Bow, the D121 transmission line, which is part of a larger asset condition replacement project. The total project will be replacing 18 poles, only one of them, Pole 37, located off Dicandra Drive is in Bow. The work is within the wetlands and wetland buffer areas and for minimization they are proposing use of temporary upland and wetland matting in the entire work area. They’ll replace the pole and restore the area with mulch and seed as

140 needed. A wetland monitor will do weekly inspection of erosion controls. The work is anticipated to  
141 commence in September.

142  
143 Chair Berube asked the Board if there were any questions and there being none, opened the Public  
144 Hearing.

145  
146 At 8:31 p.m. Chair Berube opened the Public Hearing.

147  
148 At 8:32 p.m. Chair Berube closed the Public Hearing.

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150 Ms. Makinen asked for comments from the Conservation Commission and Ms. Crystall asked about the  
151 filing of the Corps of Engineers NH General Permit. Ms. Friend stated that upon receipt of their State  
152 Statutory Permit by Notification they file with the Army Corps and follow a self-verification through the  
153 NH General Permit. Mr. Sandahl asked about the AoT Permit. Ms. White said the rest of the project is  
154 part of an AoT permit but because they are not doing any ground disturbance this area is not included in  
155 the AoT Permit. Ms. Crystall said that it does not require the AoT condition.

156  
157 *Upon motion made by Mr. Pietrangelo and seconded by Ms. Crystall it was resolved that application*  
158 *#403-23: Eversource Energy does not have regional impact. The motion passed by unanimous vote of the*  
159 *Board.*

160  
161 *Upon motion made by Ms. Crystall and seconded by Mr. Pietrangelo it was resolved to conditionally*  
162 *approve application #403-23: Eversource Energy subject to the following conditions:*

- 163  
164 *1. Receipt of NHDES Wetlands Statutory Permit by Notification (SPN)*  
165 *2. Filing of EPA Notice of Intent (NOI)*  
166 *3. Filing of minimum impact project through the Army Corps of Engineers New Hampshire*  
167 *General Permit*

168  
169 *The motion passed by unanimous vote of the Board.*

170  
171 Chair Berube read item number 5 into the record.

172  
173 **Application #501-23: Strategic Contracting Co., LLC** – Major Subdivision for a five-lot residential  
174 subdivision. Located at 178 Woodhill Hooksett Road, Map 43, Block 2, Lot 43.

175  
176 Tim Bernier of T.F. Bernier, Inc. presented the application on behalf of Strategic Contracting Co., LLC.  
177 The entire tract is 41.4 acres with 1,094 feet of frontage on Woodhill Hooksett Road. They are proposing  
178 a five-lot subdivision with the lots ranging from 2.3 acres to 16.4 acres. Four of the five lots would have  
179 access to a common recreation easement on the back side of the New Lots s, 1, 2 and 4. The applicant  
180 proposes a wetland buffer impact of 1835 sq. ft. for the driveway. The Conservation Commission  
181 reviewed the plans. Mr. Bernier said at the culvert there might be a scoured channel which may need  
182 further investigation as a larger buffer would be required if it is a stream. The applicant requests waivers  
183 for Sections 3.02O & 6.03O for utilities underground; Section 3.03A & 3.03B for a grading and drainage  
184 plan; and Section 6.03W for an Operational Brief. The fourth possible waiver deals with the number of  
185 lots on a dead-end road and whether an existing road at the time the ordinance was passed will be  
186 interpreted differently. Mr. Bernier introduced Pat Panciocco, an attorney representing Strategic  
187 Contracting Co., LLC.

188

189 Attorney Panciocco is addressing Section 3.02 P of Bow's subdivision regulations. This was adopted in  
190 July 1979 and it states that any road servicing more than 12 residences shall have an approved secondary  
191 means of egress. The secondary egress may be parallel to the primary egress to accommodate safety  
192 vehicles. Their contention is that this was intended to apply to new roads that are created by a subdivision,  
193 not existing roads. There were 18 lots approved at the time this restriction was adopted by the Board and  
194 after that another 14 lots were added. In her opinion this shows that lots continued being approved by the  
195 Board above and beyond the 12 allowed. This implies that the Board knew Section 3.02 P didn't apply to  
196 the existing road. In 1997 the former owner of this property proposed a 12-lot subdivision, similar to this  
197 proposal, and was denied because of this restriction. Attorney Panciocco stated they were here tonight to  
198 request of the Board, under the terms of the waiver she submitted, pursuant to 674:36 (N) and Section  
199 11.00 of Bow's regulations, that the Board either confirm this limitation does not apply to Woodhill  
200 Hooksett Road because it's an existing road or that a waiver is in order because there is no way to remedy  
201 and provide a second means of egress because it is largely Town Conservation land at the end of the road.  
202 The road pre-dates the adoption of the regulation. Attorney Panciocco referenced a letter from Michael  
203 Donovan, a land use attorney who represented Mr. Dey (former owner) in 1997. Mr. Donovan stated that  
204 the road meant, "a new road."

205 Attorney Panciocco then discussed the division of lot 43 where a condition was imposed in 2004. The  
206 condition of the subdivision of lots 43 and 43-D stated that the property now owned by Strategic  
207 Contracting would not be subdivided any further without a secondary means of access. This is noted on  
208 the plan which is recorded with the Merrimack County Registry of Deeds. This is the applicant's issue to  
209 resolve. Ms. Makinen asked how they would resolve it. Attorney Panciocco said that the application from  
210 2004 would have to be reopened to have that note removed. They have tried to speak to the owner of Lot  
211 43-D and he is completely opposed to reopening the application. Therefore, they would have to go to the  
212 Court to have it expunged. Attorney Panciocco feels that the condition of approval and note on the plan  
213 for Lots 43 and 43-D was an error and asked, "how can you justify that some people can subdivide and  
214 others can't." Attorney Panciocco said we should speak with our Town attorney about this.

215  
216 Due to the condition placed on Lot 43, Matt Monahan suggested that the application be continued and the  
217 Board should seek Town Counsel's advice.

218  
219 *Upon motion made by Mr. Pietrangelo and seconded by Mr. Wayne it was resolved to continue*  
220 *Application #501-23: Strategic Contracting Co., LLC, and Application #404-23: Strategic Contracting*  
221 *Co., LLC to April 20, 2023 with intent to seek the opinion of Town Counsel. The motion passed by*  
222 *unanimous vote of the Board.*

223  
224 Chairman Berube read item 6 into the record.

225  
226 **Application #202-23: Amber Bow Associates, LLC** – Site Plan Modification for proposed change of use  
227 at the 85 Dow Road Building to be leased by Alta Equipment Group for the sales, rental, parts, and repairs  
228 of material handling equipment. Located at 83-85 Dow Road, Map 25, Block 4, Lot 42.

229  
230 Tim Bernier of T.F. Bernier, Inc. presented the application and Kevin Blacker from Alta Equipment  
231 Group was there to answer any questions.

232  
233 This is a modification of a site plan that was approved last year- application 203-22. The proposal is to  
234 add forklift repair, sales, and rentals to the existing site plan. The Zoning Board of Adjustment recently  
235 granted three special exceptions for this project including motor vehicle sales and rental, sales and  
236 installation of parts, and motor vehicle repairs and maintenance. The incoming tenant at 85 Dow Road is  
237 the Material Handling Division of Alta Equipment Group. Alta's primary material handling equipment is

238 forklifts, mostly electric and propane powered forklifts. They sell, rent, and maintain them, however, this  
239 is not a retail storefront. Forklift service trucks are on site.  
240 Ms. Makinen asked if there was any storage of batteries on site and how that is handled. Mr. Blacker  
241 stated they are stored inside mostly in the machines. Alta is not a battery dealer. On occasion they have  
242 batteries delivered free-machine and they are in new cases, a sealed battery, and they are stored on site on  
243 shelves or racking. Used batteries, mostly automotive style, are stored on acid catching spill containment  
244 pallets. Any waste battery from an industrial truck is completely taken out and disposed of either by the  
245 customer or by Alta. Metal supply companies remove those. They do battery counts and provide those to  
246 government agencies annually. All batteries are stored inside. Mr. Wayne asked if propane storage was  
247 outdoors. Mr. Blacker said at the current facility they are. They would have to approach the Town for  
248 requirements of a sealed or locked cage outside. These are small tanks, approximately 30 gallons. Mr.  
249 Wayne stated that this may be a concern for the Fire Department. Mr. Berube inquired if the new forklifts  
250 stored inside had propane tanks. Mr. Blacker said that new forklifts come with empty tanks and Alta has  
251 mini-sized bottles to move them around inside. Mr. Wayne asked if they had lithium batteries. Mr.  
252 Blacker said they do come and go but presently there are none. Their plans for storing them would be  
253 based on OSHA requirements. Mr. Blacker stated that the lithium-ion batteries that he has seen are all  
254 sealed, self-contained units. Mr. Wayne thought the Fire Chief should be consulted in the event they have  
255 lithium batteries in the future. Mr. Bernier stated that this building has one the most advanced fire  
256 suppression systems that he has worked with. Mr. Pietrangelo asked if the number of employees will stay  
257 the same, 31 employees, and Mr. Bernier confirmed this. The number of employees is fixed per the on-site  
258 septic and public water supply.

259  
260 The Board discussed the waivers and Mr. Bernier said they did complete a set of construction plans for  
261 Phase One and that nearly everything that's in this plan is part of the original plan set. Ms. Makinen  
262 explained that a modification is its own application.

263  
264 *Upon motion made by Mr. Pietrangelo and seconded by Ms. Crystall it was resolved to accept jurisdiction*  
265 *of Application #202-23: Amber Bow Associates, LLC. – Site Plan Modification. The motion passed by*  
266 *unanimous vote of the Board.*

267  
268 At 9:55 p.m. Chair Berube opened the Public Hearing.  
269 At 9:56 p.m. Chair Berube closed the Public Hearing.

270  
271 *Upon motion made by Mr. Pietrangelo and seconded by Ms. Crystall it was resolved that*  
272 *Application #202-23: Amber Bow Associates, LLC – Site Plan Modification does not have regional*  
273 *impact. The motion passed by unanimous vote of the Board.*

274  
275 Mr. Bernier ran through the changes since the original application:

- 276 - Man doors around the building
- 277 - Enlarged the parking lot, but are well within their AoT permit
- 278 - Building is slightly larger
- 279 - No concrete retaining wall
- 280 - Fire suppression system increased from 90,000 gallons to 105,000 gallons
- 281 - 2 doors into building
- 282 - Increase of 29 to 31 parking spaces
- 283 - Two parking lots got bigger but the loading area in the back is smaller (addition of 200 sq. ft. of  
284 impervious surface)
- 285 - Added leach field for public water supply treatment backwash

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- 286 - Transformer locations are now established. Each building has its own transformer operating on a  
287 408 volt system  
288 - 2 booster pumps to get 60 psi at every building with 85 gallons per minute peak  
289 - Fire suppression pump  
290

291 *Upon motion made by Ms. Crystall and seconded by Mr. Pietrangelo it was resolved to approve the*  
292 *following waivers from the Site Plan Application #202-23: Amber Bow Associates, LLC – Site Plan*  
293 *Modification:*

- 294 1. *Site Plan Regulation 5.02A & 8.02A for state plane grid coordinates,*  
295 2. *Site Plan Regulations 8.02B for lot lines, bearings distances, etc.*  
296 3. *Section Plan Regulation 8.02U for lighting plans.*  
297 4. *Site Plan Regulation Appendix A, Section D for off-street parking requirements.*  
298

299 *The motion passed by unanimous vote of the Board.*  
300

301 *Upon motion made by Mr. Pietrangelo and seconded by Ms. Crystall it was resolved to conditionally*  
302 *approve Application #202-23: Amber Bow Associates, LLC – Site Plan Modification with all the*  
303 *conditions listed below as the proposal complies with the Zoning Ordinance and the Site Plan Regulations*  
304 *given the plans presented and waivers granted:*

305 *Conditions of Approval:*

- 306 1. *Providing a plan note that the Stormwater control calculations prepared by a NH Professional*  
307 *Engineer were included on the original approved site plan application #203-22 (5.02N).*  
308 2. *Providing the elevation view of the building (8.02O)*  
309 3. *Receipt of the NHDES Septic Permit for waste backwash system.*  
310 4. *Review by the Fire Department for the storage of propane tanks as well as both lead-acid and*  
311 *lithium-ion batteries.*

312 *The motion passed by unanimous vote of the Board.*  
313

314 **III. OLD BUSINESS**

315 **IV. NEW BUSINESS**

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317 **Application 206-22, Amoskeag Beverages, LLC/Amoskeag Realty, LLC**  
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319 In a February 22, 2023 letter received from Granite Engineering, LLC on behalf of Amoskeag Beverages,  
320 a request was made that the Bow Planning Board grant a one-year extension to meet the conditions of  
321 approval.  
322

323 *Upon motion made by Ms. Crystall and seconded by Mr. Pietrangelo it was resolved to grant a one-year*  
324 *extension to Application 206-22, Amoskeag Beverages, LLC/Amoskeag Realty, LLC SITE PLAN ending on*  
325 *March 19, 2024.*

326 *The motion passed by unanimous vote of the Board.*  
327

328 **V. CORRESPONDENCE AND OTHER BUSINESS**  
329

330 **VI. REVIEW OF MINUTES – December 15, 2022 and February 16, 2023**

331 *Upon motion made by Mr. Wayne and seconded by Ms. Crystall it was resolved to approve the December*  
332 *15, 2023 meeting minutes. The motion carried by unanimous vote of the Board.*

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333

334 *Upon motion made by Mr. Sandahl and seconded by Ms. Crystall it was resolved to approve the amended*  
335 *February 16, 2023 meeting minutes. The motion carried by unanimous vote of the Board.*

336

337 *Ms. Crystall moved to adjourn the meeting. Mr. Pietrangelo seconded the motion. The motion carried by*  
338 *unanimous vote of the Board.*

339

340 Meeting adjourned at 10:31 p.m.

341

342 Respectfully submitted,

343

344 *Adam Sandahl*

345 *Secretary*

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