



CITY OF CONCORD

New Hampshire's Main Street™
Community Development Department
Planning Division

Staff Report for Planning Board

Meeting on July 16, 2025
Project Summary – Minor Subdivision

Project: Two-lot subdivision (2025-060)
Property Owner: McCarthy Family Trust of 2021
Applicant: Zachary J. Letourneau
Project Address: 227 Garvins Falls Rd
Tax Map Lot: 92Z 4

Determination of Completeness:

When determining if an application is complete, the Board shall consider the requirements of Sections 9.06, 15.01, 15.02, and 35.16(1) of the Subdivision Regulations, the written recommendation of the Planning Division, as well as any written communications from the applicant, abutters, and parties of interest; **however, no hearing shall be opened nor shall testimony be received on a determination of completeness.** If it is determined that the application is complete, the Board shall then open the public hearing on the application. An application which is determined to be incomplete may be revised and resubmitted to a subsequent meeting of the Board for another determination of completeness.

The Planning Division reviewed the application for completeness based upon the criteria of the Subdivision Regulations and concluded that all criteria for completeness have been met, or will be met with granting of waiver requests, and that the application contains sufficient information and detail for a full review and action by the Board.

Based upon the Planning Division's review of the application, the Planning Division recommends that the Board move to:

- **Determine the application complete;**
- **State that the project does not meet the criteria for a development of regional impact per RSA 36:55; and**
- **Open the public hearing.**

The Board has 65 days within which to consider and act on the application once the application is determined complete, per RSA 676:4(I)(c). Provided the Board determines the application complete, the 65-day period shall commence on July 16, 2025, and end on **September 19, 2025**. If the applicant has not demonstrated compliance with the Subdivision Regulations by the end of the statutory timeline (**September 19, 2025**), the applicant may waive the requirement for Planning Board action within the 65-day time period and consent to an extension of the public hearing as may be mutually agreeable, or the Board may approve, approve conditionally, or deny the application based on the information provided at that time.

Project Description:

The site is assessed as 5.90 acres with a house built in 1988. The property owner proposes dividing the site into one 4.81-acre lot containing the existing house and a second one-acre lot. Both lots will have frontage on Garvins Falls Rd, with the one-acre lot having received a variance for frontage on April 2, 2025.

Compliance:

The following analysis of compliance with the Zoning Ordinance and Subdivision Regulations is based on a narrative dated May 20, 2025, prepared by Zachary J. Letourneau; a 1-sheet minor subdivision plan, dated April 25, 2025, revised on June 9, 2025, and June 18, 2025, prepared by J.E. Belanger Land Surveying PLLC; and a 1-sheet minor subdivision topographic plan, dated April 25, 2025, revised on June 9, 2025, and June 18, 2025, prepared by J.E. Belanger Land Surveying PLLC.

1. Project Details and Zoning Ordinance Compliance:

Zoning District:	Medium Residential (RM) District Open Space Residential (RO) District
Existing Use:	Single-Family Dwelling
Proposed Use:	Two-lot subdivision
Overlay Districts:	
Flood Hazard (FH) District	Yes
Shoreland Protection (SP) District	Yes
Historic (HI) District	None
Penacook Lake Watershed (WS) District	None
Aquifer Protection (AP) District	None

Zoning Code Item	Required	Lot 1 (RO)	Lot 2 (RM)
Minimum Total Area	40,000 square feet RM District 87,120 square feet RO District	209,533 square feet	43,560 square feet
Minimum Buildable Land	20,000 square feet	103,802 square feet	24,406 square feet
Minimum Lot Frontage	200 feet	200 feet	150 feet (variance granted April 2, 2025)
Minimum Front Yard	25 feet RM District 50 feet RO District	More than 50 feet	Undeveloped
Minimum Rear Yard	25 feet RM District 50 feet RO District	More than 50 feet	Undeveloped
Minimum Side Yard	15 feet RM District 40 feet RO District	North – more than 40 feet South – less than 40 feet (no expansion to existing nonconformity is proposed)	Undeveloped
Maximum Lot Coverage	20% RM District 10% RO District	Not provided	Undeveloped
Maximum Building Height	35 feet	Not provided	Undeveloped

- 1.1 Unless otherwise indicated in this memo, the proposed project is compliant with applicable Zoning Ordinance and Subdivision Regulation requirements.
- 1.2 As proposed, the project complies with the Zoning Ordinance with the variance that was granted on April 2, 2025.

2. Comments:

- 2.1 With the approved variance, staff was unaware of any nonconformities with the Zoning Ordinance at the time the notices were mailed, per Section 6.01(4) *Conformity with Zoning*.
- 2.2 No new streets or roads will be created, no municipal facilities will be extended, and no public improvements will be created. Accordingly, this is a minor subdivision, per Section 6.02(2) *Minor Subdivisions*.
- 2.3 The Assessing Department reviewed the application and had no general comments.
- 2.4 The Fire Department reviewed the application and had no general comments.
- 2.5 The Engineering Services Division reviewed the application and had no general comments.
- 2.6 The General Services Department reviewed the application and had no general comments.

3. Compliance with Subdivision Regulations:

The following items from Section 12, 13, and/or 15 of the Subdivision Regulations are missing from the application, all of which are minimum components necessary to determine the application complete.

- 3.1 Per Section 12.08(12) *Wells and Septic Systems*, Section 12.08(22) *Abutting Properties*, and Section 15.03(1) *Abutting Property*, the location of existing wells and subsurface waste disposal systems on the property and on immediately adjacent property, if new wells and septic systems are proposed, shall be shown on the existing conditions plan and subdivision plat. Wells and septic systems are not shown on the abutting properties as required, **but a waiver is requested** from providing wells and septic systems locations on abutting properties on both the existing conditions plan and the subdivision plat
- 3.2 Per Section 15.03(9) *Access and Driveways*, all existing and proposed driveways along the subdivision frontage, on abutting properties, and on the opposite sides of the streets shall be shown on the subdivision plat. This required access and driveway information is not shown on the subdivision plat, but **a waiver is requested** from providing the proposed driveway location on the subdivision plat.
- 3.3 Per Section 15.03(15) *Other Utilities*, the location and size of all existing and proposed underground and overhead nonmunicipal utilities shall be shown on the subdivision plat. The proposed provisions for electricity for the new one-acre lot are not shown on the subdivision plat, but **a waiver is requested** from providing the location and size of proposed underground and overhead nonmunicipal utilities on the subdivision plat.

The items below are missing from the application, but they are not required as part of the determination of completeness.

- 3.4 Per Section 13.01(6) *State and Federal Permits*, Section 13.02(10) *State and Federal Permits*, and Section 24.06 *State and Federal Permits*, the applicant shall obtain all state and federal permits where required, conform to the requirements and conditions of all state and federal permits in addition to the Subdivision Regulations, and provide a copy of any application made to a state or federal agency required for the approval of this subdivision. No copies of applications or permits were included with the submittal as required. Accordingly, copies of applications to and permits from the New Hampshire Department of Environmental Services for any wells or septic systems on the new lot shall be submitted to the Planning Division.
- 3.5 Per Section 13.02 *Utility, Drainage, and Slope Easements*, deeds of easement for new utilities located outside of any existing or proposed street shall be submitted. The proposed wellhead protection area encroaches onto the adjacent lot, so a utility easement shall be required.
- 3.6 Per Section 20.09 *Residential Single-Family Driveways*, each lot shall have safe, independent, and direct access from a public street. The driveway serving a new house shall have a slope no greater than 10%; a landing area at the intersection of the driveway and public street with a minimum length of 20 feet and a slope not exceeding 2%; minimum width of 10 feet and maximum width of 24 feet; driveway separation of 40 feet from existing and proposed driveways and intersections; maximum length of 1,000; and conformance to sight distances set forth in the most recent edition of the AASHTO Highway Safety Design and Operations Guide. As part of the driveway permit application for the new lot, a driveway plan shall be submitted showing compliance with the Zoning Ordinance, Section 20.09 *Residential Single-Family Driveways*, and the Concord Construction Standards and Details, noting that the strictest requirement holds in case of conflict between regulations.
- 3.7 Per Section 26.01 *General Requirements*, all subdivisions shall make adequate provision for non-municipal utilities as may be necessary and appropriate for the subdivision. The applicant is responsible for all coordination with the utility companies to assure that nonmunicipal utilities are installed in accordance with plans approved by the Planning Board pursuant to the Subdivision Regulations. **A waiver is requested** to show nonmunicipal utilities as part of the construction process, to be reviewed administratively.
- 3.8 Per Section 26.02 *Design Standards*, the following standards shall govern the design and construction of the nonmunicipal utilities for a subdivision: except in the Industrial (IN) Zoning District, all utility facilities including, but not limited to, gas, steam, electric power, telephone, telecommunication, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground on the property proposed for subdivision, the above ground utilities shall be removed and placed underground; and utilities shall be located within street rights-of-way in accordance with the typical street cross-sections, as contained in Section 20, *Street Layout and Access Standards* and Section 21, *Design Standards for Streets and Private Drives*. Staff notes that the applicant requested a waiver from providing the proposed location of nonmunicipal utilities. The applicant also **requests a waiver** from providing underground utilities.
- 3.9 The Assessing Department reviewed the application and had no compliance requirement comments.

3.10 The Fire Department reviewed the application and had no compliance requirement comments.

3.11 The Engineering Services Division reviewed the application and had no compliance requirement comments.

3.12 The General Services Department reviewed the application and had no compliance requirement comments.

4 Variances:

4.1 At the meeting held on April 2, 2025, the Zoning Board of Adjustment granted the applicant's requested variance as follows:

- Section 28-4-1(c) *Minimum Lot Frontage*/Section 28-4-1(h) *Table of Dimensional Regulations* to allow for 150 feet of frontage where 200 feet is required.

5 Waivers:

5.1 The applicant requests waivers from the following sections of the Subdivision Regulations:

- a. Section 12.08(12) *Wells and Septic Systems*, Section 12.08(22) *Abutting Properties*, and Section 15.03(1) *Abutting Property*, to not show the locations of existing wells and septic systems on abutting properties on either the existing conditions plan or subdivision plat;
- b. Section 15.03(9) *Access and Driveways* and Section 15.03(10) *Site Improvements*, to not show the location of the proposed driveway for the new lot on the subdivision plat;
- c. Section 15.03(15) *Other Utilities*, to not show the location and size of proposed underground and overhead nonmunicipal utilities on the subdivision plat;
- d. Section 26.01 *Nonmunicipal Utilities General Requirements* and Section 26.02 *Nonmunicipal Utilities Design Standards*, to allow overhead utilities and administrative review and approval of the location of nonmunicipal utilities for the new lot.

The applicant provided an analysis of the five waiver criteria listed in Section 35.08 of the Subdivision Regulations, and the criteria in RSA 674:36(II)(n). Staff reviewed the criteria and found the criteria to be satisfactorily addressed.

6 Conditional Use Permits:

6.1 No conditional use permits are requested.

7 Architectural Design Review:

7.1 Architectural design review is not necessary for this application.

8 Conservation Commission:

8.1 No appearances before the Conservation Commission are necessary for this application.

9 Recommendations:

9.1 Staff recommends that the Planning Board **adopt the findings of fact**, which include information provided in staff reports; the applicant's submission materials; testimony provided during the public hearing; and/or, other documents or materials provided in the public hearing.

Based on the adopted findings of fact, staff recommends that the Planning Board make the motions outlined below:

9.2 **Grant the waiver requests below** from the listed sections of the Subdivision Regulations, based on the evidence provided showing that the criteria of RSA 674:36(II)(n) and Section 35.08 of the Subdivision Regulations are met:

- a. Section 12.08(12) *Wells and Septic Systems*, Section 12.08(22) *Abutting Properties*, and Section 15.03(1) *Abutting Property*, to not show the locations of existing wells and septic systems on abutting properties on either the existing conditions plan or subdivision plat outside of being within 75 feet of the subject property;
- b. Section 15.03(9) *Access and Driveways* and Section 15.03(10) *Site Improvements*, to not show the location of the proposed driveway for the new lot on the subdivision plat and to instead show compliance with driveway regulations as part of the driveway permit application process;
- c. Section 15.03(15) *Other Utilities*, to not show the location and size of proposed underground and overhead nonmunicipal utilities on the subdivision plat and to instead show nonmunicipal utilities as part of the construction process for the new house, to be reviewed administratively; and
- d. Section 26.01 *Nonmunicipal Utilities General Requirements* and Section 26.02 *Nonmunicipal Utilities Design Standards*, from providing underground utilities.

9.3 **Grant minor subdivision approval** for the two-lot subdivision of 227 Garvins Falls Rd, subject to the following precedent and subsequent conditions:

- (a) **Precedent Conditions** – to be fulfilled within one year and prior to signature of the final plat by the Planning Board Chair and Clerk, unless otherwise specified:
 1. For compliance with the Subdivision Regulations, revise the subdivision plat as follows:
 - a. Per Section 12.02(4) and Section 15.03(17) *Conditions of Planning Board Approval*, the current note shall be revised to add the public hearing date of July 16, 2025.
 - b. List all granted waivers on the subdivision plat, using the identical language used in Item 9.2 (a) through (d), as applicable.
 2. Per Section 13.01(6) *State and Federal Permits*, Section 13.02(10) *State and Federal Permits*, and Section 24.06 *State and Federal Permits*, the applicant shall obtain all state and federal permits where required, conform to the requirements and conditions of all state and federal permits in addition to the Subdivision Regulations, and provide a copy of any application made to and permit received from a state or federal agency required for the approval of this subdivision. Accordingly, copies of applications to and permits from the New Hampshire Department of Environmental Services for any wells or septic systems on the new lot shall be submitted to the Planning Division, as well as any other state or federal permit applications or permits.
 3. Per Section 13.02 *Utility, Drainage, and Slope Easements*, submit for review and approval a utility easement for the proposed wellhead protection area that encroaches onto the adjacent lot.
 4. Per Section 13.02(13) *Recording Fees*, the applicant is responsible for the recording fees required by the Merrimack County Registry of Deeds, or the State of New Hampshire, for all plans and documents to be recorded.
 5. Per Section 15.02(12) *Registry Requirements*, the applicant is responsible for ensuring that the plat to be recorded complies with the current standards of the Merrimack County Registry of Deeds.

6. Per Section 19.04 *Monuments*, a New Hampshire licensed land surveyor shall place permanent reference monuments in the subdivision, as required in the Subdivision Regulations and as approved by the City Engineer. All monuments shall be inspected by the City of Concord. All such monuments shall be set flush with the proposed grade and planted in such a manner that they will not be removed by frost. All monuments shall be properly set prior to the time of the release of the performance guarantee per the Subdivision Regulations. Recognizing that a performance guarantee will not be required for this two-lot subdivision, all monuments shall be set prior to the Clerk's signature on the plat for recording, and in accordance with Section 19.04(1) *Street Right-of-Way Monuments*, Section 19.04(2) *Lot Monuments*, and Section 19.04(3) *Boundaries and Blazing of Conservation Easements*, as applicable.
 7. Per Section 28.07 *Wetland Buffer Marking*, wetland buffers shall be clearly and permanent marked before construction. Recognizing that there will be no overall subdivision construction (i.e., public improvements, common private infrastructure), all wetland buffers shall be clearly marked prior to final approval.
 8. Upon notification from the Planning Division that the subdivision plat complies with Planning Board precedent conditions, the Zoning Ordinance, and Subdivision Regulations, the applicant shall deliver to the Planning Division one mylar of the subdivision plat for signature by the Planning Board Chair and Clerk of the Planning Board, and subsequent recording. In addition, a paper copy of the existing conditions plan shall be delivered for signature by the Planning Board Chair and Clerk of the Planning Board. Both the subdivision plat and existing conditions plan shall contain the signature and seal of the appropriate licensed professionals as outlined in Section 12.03 and Section 15.02(1) of the Subdivision Regulations.
- (b) **Subsequent Conditions** – to be fulfilled as specified:
1. The applicant is responsible for compliance with the City's municipal code, Subdivision Regulations, and Construction Standards and Details for the project, unless a variance, waiver, or conditional use permit is granted.
 2. Per Section 4.03, no building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and which is not in conformity with, the provisions of the Subdivision Regulations.
 3. Per Section 9.08(10) *Building Permits and Certificates of Occupancy*, no building permit shall be issued within a subdivision until the plat has been approved, the conditions of plat approval have been satisfactorily addressed, and the plat recorded in the Merrimack County Registry of Deeds.
 4. Per Section 19.01 *Conformance to Applicable Laws, Rules, and Regulations*, all subdivision applications shall comply with all applicable state statutes and federal law and all rules and regulations promulgated in accordance with such statutes and laws; the zoning and health ordinances, building and housing codes, and all other applicable ordinances and regulations of the City of Concord; and the Master Plan, Official Map, and CIP of the City of Concord.
 5. Per Section 20.09 *Residential Single-Family Driveways*, each lot shall have safe, independent, and direct access from a public street. The driveway serving a new house shall have a slope no greater than 10%; a landing area at the intersection of the driveway and public street with a minimum length of 20 feet and a slope not exceeding 2%; minimum width of 10 feet and maximum width of 24 feet; driveway separation of 40 feet from existing and proposed driveways and intersections; maximum length of 1,000; and conformance to sight distances set forth in the most recent edition of the AASHTO

Highway Safety Design and Operations Guide. As part of the driveway permit application for the new lot, a driveway plan shall be submitted showing compliance with the Zoning Ordinance, Section 20.09 Residential Single-Family Driveways, and the Concord Construction Standards and Details, noting that the strictest requirement holds in case of conflict between regulations.

6. Per Section 24.06 *State and Federal Permits* and Section 25.05 *State and Federal Permits*, the applicant shall conform to the requirements and conditions of all state and federal permits in addition to the requirements contained in the Subdivision Regulations and Concord Construction Standards and Details.
7. Per Section 26.01 *General Requirements*, all subdivisions shall make adequate provision for nonmunicipal utilities as may be necessary and appropriate for the subdivision. The applicant is responsible for all coordination with the utility companies to assure that nonmunicipal utilities are installed in accordance with plans approved by the Planning Board pursuant to the Subdivision Regulations. With the approved waiver from this section, administrative approval shall be required once the location of the nonmunicipal utilities is determined and shown on the plan. As applicable, approval from the Poles and Wires Committee may also be required prior to administrative approval
8. Per Section 28.03 *Land Clearing Restriction*, no trees shall be removed from any subdivision nor any change of grade of the land affected, until approval of the subdivision plat has been granted.
9. Per Section 28.07 *Wetland Buffer Marking*, wetland buffers shall be clearly and permanently marked during and after construction on the land proposed for subdivision. Building permits shall not be issued until the wetland buffers are marked.

Prepared by: KOB