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# CITY OF CONCORD

*New Hampshire's Main Street™*  
**Community Development Department**

## Planning Board

August 17, 2022

### **Project Summary – Amendment to Minor Subdivision Plan**

Project: Laura M. Jobin Family Trust of 2006 Minor Subdivision Amendment (2021-08)  
Address: 120 and 124 Horse Hill Road

The Applicant is requesting an amendment to the previously approved 3-lot Minor Subdivision at 120, 124, and 128 Horse Hill Road in the Open Space Residential District (RO).

#### **1. Project Background:**

- 1.1 At the March 17, 2021, meeting, the Planning Board approved a minor subdivision for the creation of two new single-family residential lots.
- 1.2 Construction of single-family residences at 120 and 124 Horse Hill Road was completed in January 2022. During the inspection for the Certificate of Occupancy, Planning and Engineering staff identified that two utility poles with overhead wires were installed on the private properties. Per Section 26.02(1) *Underground Utilities* (Subdivision Regulations), all utilities shall be buried underground for new subdivisions, and Section 26.02(2) *Location*, all utilities shall be located within street rights of way in accordance with the typical street cross-sections as noted in the Subdivision Regulations. Until reportedly installed these poles outside of the right-of-way based on a misunderstanding of the City requirements.
- 1.3 There was extensive discussion between staff and the developer, and the COs were issued with the City holding a financial surety from the developer until this issue could be resolved. The developer asserts that removing and relocating the utilities would pose a hardship to the developer and property owners; therefore, the developer on behalf of the current owners is requesting a waiver to the above-referenced sections of the Subdivision Regulations.
- 1.4 Currently, the majority of the surrounding properties in that neighborhood are serviced by overhead utilities. The presence of overhead utilities would not be out of character for that area.
- 1.5 Engineering Services Division staff reviewed the request, and have no comments.

#### **2. Recommendation**

- 2.1 Staff recommends that the Planning Board vote whether to grant the waiver to Section 26.02(1) *Underground Utilities*, and 26.02(2) *Location* of the Subdivision Regulations, to not require the relocation of the poles and overhead utilities at 120 and 124 Horse Hill Road. If the Board votes to grant the waiver, staff recommends the Board reference the criteria of RSA 674:44(1) which states that strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.

*Prepared by: Beth Fenstermacher, Assistant City Planner*

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