

2 **Master Plan (3 Lot Minor – no road creation), Piney Woods II, Plat 9 – Lot 1F, Woodville-
Alton Road and Dormar Road. Ramrod Farms, applicant.**

4 C. J. Doyle, an Engineer with Cherenzia and Associates and Roy Dubs of Ramrod Farms were
6 present.

8 Ms. Doyle said again they are dividing a single lot to three lots. There are wetlands to the west.
Wetlands edge verification is in the package. There will be a fifty foot no-clear zone in the
10 front. Existing stone walls are to remain. Driveways will be as shown before.

12 MR. HOLBERTON MOVED TO HOLD OPEN THE MASTER PLAN AND HOLD THE
PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING AT A DATE SET BY
THE TOWN PLANNER WHEN SHE HAS AN OPENING IN THE NEXT AGENDA.

14 MR. WALKER SECONDED THE MOTION. ALL APPROVE.

16 Ms. Hahn requests that the applicant keep Lots 1E and 1F separate on site conditions sheet.

18 **Pre-application (8 Lot Major with road), Hidden Ridge, Plat 21 – Lot 3C, Skunk Hill Road.
Picerne Real Estate Group, applicant.**

20 Attorney William Landry of Blish and Cavanagh represented Picerne Real Estate Group. Also
22 present were Chris Duhamel of DiPrete Engineering and Michael Hennessey of Picerne Real
Estate Group.

24 Mr. Landry said the last time this issue was before the Board was in 2003. There are twenty-one
26 acres near Arcadia Park with an existing house. They are proposing to keep the existing house and
add seven two acre lots in a conventional layout. There is fifty feet of frontage on Skunk Hill
28 Road. In 1998 the existing house was built with a dimensional variance that allowed the owner at
that time to construct the house without having the required frontage and without building the
30 road. In 1998, the Zoning Board granted the dimensional variance conditional on no more
houses on the lot. In 2003, this Board took the position that there could be no subdivision of more
32 than one house there. They argued that that was just a condition to a dimensional variance for a
frontage waiver and that if they built a road and supplied the required frontage for every lot,
34 including the one that was there, they don't need the old variance; that was not a restrictive
covenant against any further development on the property. Mr. Landry said the Board disagreed,
36 did not conduct a Pre-application hearing, and shut it down as a legal matter. They appealed to the
Subdivision Board of Review [the Zoning Board] who agreed with the Planning Board. They then
38 went to Superior Court. In September of this year, the court reversed the decision of the Zoning
Board and the Planning Board and accepted the applicant's position that that was a condition to a
40 variance that was only relevant to that variance. The Zoning Board was saying you can have one
house here without having the required frontage; you can't have more than one house. Mr. Landry
42 continued, if you supply the required frontage, you don't need a variance and there is no reason
why you can't develop your property. They are now back with the same Pre-application
44 submission that they presented in 2003. They believe a conventional layout is the best layout for
this site. This is an interior parcel. There are substantial lots in the area. It does not look like an
46 area that lends itself to one acre zones. A portion of the site is now clear. The applicant wants to
put most of the road and new development in the cleared area and preserve the potential for
48 substantially sized treed lots. The applicant believes there would be a lot of clear cutting in the
area with a cluster. There will be wells and septic systems. They still need time to complete the
50 Preliminary checklist.

52 Mr. Duhamel distributed reduced plans. He said the parcel is twenty and one-half acres located
south of Arcadia Park with fifty foot frontage on Skunk Hill Road. The site is flagged and
54 evaluated for wetlands; none have been found. There were previous soil tests on the site.
Groundwater is two to four feet. Aerial photographing and topographic mapping have been
56 completed. The site drains to the east. The proposed layout is a conventional design. A fifty foot
right-of-way, twenty-four foot of pavement, 1300 feet long, is proposed, allowing for frontage of

2 80,000 square foot minimum lots. There will be a five acre lot with the existing house. The plan
4 shows eight lots with a house, driveway, ISDS, and an alternative ISDS and well located on each
6 lot. Road drainage will be to two detention areas. Each lot will have infiltration for clean roof
8 runoff that will control surface water on the site. They will treat road runoff with water quality
improvement through retention and infiltration on site. They will incorporate DEM best
management practices and new low impact development standards. He believes they are prepared
for Pre-application but need to do some work for Master Plan; at minimum, wetland and perimeter
survey.

10 Mr. Walker asked what the dotted blue line is in the aerial photo and Mr. Duhamel responded that
12 it is the limit of the state park.

14 Mr. Walker asked if the abutting property is privately owned and Mr. Duhamel responded yes.

16 Mr. Walker said he is not yet convinced a conventional subdivision on this site is superior to a
18 cluster. It is not apparent to him that this site could not be redesigned as a cluster with treed
land preserved as open space and with houses concentrated in what appears to be a cleared
20 area, benefiting the project and the town by preserving the natural habitat while reducing
the length of road.

22 Mr. Duhamel said they would submit a cluster plan and have it reviewed with Ms. Hahn.

24 Mr. DiOrio said he would like to see their best effort and concurs with Mr. Walker. He sees
nothing that convinces him that a conventional subdivision is worthy of consideration

26 Mr. Walker added that he sees no reason why this project, which will be screened by the frontage
28 lots, has to look the same as they do.

30 Mr. Landry said most developers welcome cluster rather than conventional. When they originally
32 showed their design, many abutters showed up and were upset about density on this site. There
was also concern about clear-cutting. They felt there would be more trees left on each lot if they
34 used the conventional design with no-cut areas. If they could move to a Master Plan, they would
present an alternate design and at that point would have the benefit of what the abutters thought.
They need a perimeter survey and will return at Master Plan with alternate schemes. The Board
can then decide the concept and they will engineer it.

36 Mr. DiOrio asked, returning to the courts overturning the Zoning Board decision, was the key
38 element here that if you put one additional dwelling on that lot, that that condition would have
held.

40 Mr. Landry responded, yes.

42 Mr. DiOrio asked, had you taken that to the courts, would that have been overturned.

44 Mr. Landry said he didn't think so because they would try to have two houses without the required
46 frontage. The Board was saying you could have one house without the required frontage.

48 Mr. DiOrio asked, was the issue of you providing legitimate access for the other lots the pivotal
50 issue in overturning that decision.

52 Mr. Walker said the Zoning Board had no jurisdiction over subdivisions and therefore could not
54 adopt a condition that respectively prevented them from subdividing their land. They could
impose a condition on the dimensional variance that they granted. They did not have any
authority to act on a subdivision application.

56 Ms. Buck said the Planning Board was not bound by the Zoning Board decision on the

2 dimensional variance. When the applicant came before the Board with a subdivision plan, the Board wasn't bound by the Zoning Board decision to grant the variance for one house.

4 Mr. DiOrio said he would like to make sure that every time we put a condition on a plan, the applicant or subsequent owner just can't go to the courts and ask for it to be overturned.

6 Ms. Buck said you can have conditions attached to the granting of an application.

8 Mr. Holberton said it is clear that the Zoning Board's intent was to prevent this from being further subdivided, but didn't have the authority to do that.

10 Mr. Landry said there was a different owner at that time. Both this Board and the Zoning Board seemed sure about their positions a couple of years ago.

12 Mr. Buford said this application is governed by subdivision regulations that were in effect from when they were here the last time and asked if they were at a vested stage.

14 Mr. Landry said the Board has to apply the law that is in effect at the time the application comes forward. When you get the Master Plan, that decision is vested for one year. They filed an application in 2003 and designed their project in accordance with the law at the time. They came before the Board at Pre-application. The court has decided, three years later, that the Board should have taken in our project at that time. He feels it would be very unusual for the applicant to be penalized because the Boards made an honest mistake. At the Master Plan level they will take some consideration of how the cluster and the conventional will look if we were applying the current subdivision regulations.

16 Mr. Buford sees the application surrounded by total non-development with houses only on one side. He believes the property is within five hundred feet of Arcadia and is concerned about hunting rights.

18 Mr. Landry said he thinks the house distance from Arcadia mitigates in their favor. The design allows for one house for every 2.6 acres.

20 Mr. Buford was curious as to the time frame stating that the town may soon have conservation development which might give the applicant a nicer alternative than standard or cluster.

22 Mr. Landry said they have been sitting on this site for three years. It is not a typical Piceme site; eight houses on twenty acres. Through some combination of a conventional or cluster design with no cut areas, they could probably accomplish everybody's interests without having to wait for the law to catch up. It doesn't seem to be a big enough site to need special legislation. The present house is occupied and owned by Piceme.

24 Mr. Buford said although it is a small project, because it is near Arcadia, he would be interested in seeing the site. Mr. Landry suggested a call in advance to Mike Hennessey at Piceme to schedule a site visit.

26 Mr. Duhamel said they could flag the center line of the road through the site.

28 Mr. DiOrio and Mr. Walker would also like to walk the site.

30 Mr. Mott noticed that on the overhead photo, the driveway they are using as an access is not within the boundary of red lines.

32 Mr. Duhamel said the photo needs adjusting.

2 MR WALKER MOVED TO MOVE THE APPLICATION TO MASTER PLAN.
MR. HOLBERTON SECONDED THE MOTION. ALL APPROVE.

4 *Board takes a ten minute break at 8:35 P.M.*

6 **Preliminary (3 Lot Minor with road creation), St. Joseph's Way, Plat 27 – Lot 18, Gabriel
and Patricia Decastro, applicants.**

8 Attorney John S. Payne, Eugene Spring, Gabriel and Patricia Decastro were present.

10 Mr. Payne said this is a minor subdivision with three lots on the river off Arcadia Road. Two lots
12 are approximately two acres with the third lot approximately five acres. The Board addressed
concerns with the road at Pre-application. The road has been moved off the property line so there
14 is no longer the issue of creating a subdivision off of this road. Mr. Spring, who did the drainage
report, was also present.

16 Mr. DiOrio said he appreciates them relocating the road to the south of the northerly boundary line
and asked if they were going to deed that property to the northerly abutting property owner.

18 Mr. Payne said the property owner to the north was encroaching on the property. Subject to the
20 final approval report, they will deed a sliver of the land that he has been encroaching to Mr. Petit.
However, there will still be a portion that is away from their property so Mr. Petit's property will
22 not abut the right-of-way.

24 Mr. DiOrio said there is obviously a two hundred foot protected area along the river bank and
asked the applicant to give thought to a conservation easement along the Wood River. He also
26 asked if the owners of lots one and two have access to the river.

28 Mr. Decastro said they were planning to give the owners of lots one and two access to the river.

30 Mr. Buford said the state does not do a good job of enforcing the two hundred foot river setbacks
required by the state. He would like to see local enforcement if no-cut.

32 Mr. DiOrio said even incremental destruction of the riverbank wetlands hurts the river. With a
34 conservation easement, another party is in the easement structure so there is some enforceability.
DEM is very good at enforcing the two hundred foot riverbank wetland setback.

36 Mr. Payne said he will handle the paperwork for a conservation easement.

38 Mr. Mott asked if there was a trail to the existing cottage.

40 Mr. Decastro said there is a rough path. The building is useless the way it now is with no
42 electricity or plumbing.

44 Ms. Hahn recommended that if the Decastros are comfortable granting an easement for Lots 1
and 2 off the end of the cul de sac, the Board can make that a condition of Final approval.

46 Mr. Payne said his understanding is that Preliminary with Final will be done with the condition
48 that a path to the river is created for Lots 1 and 2.

50 Mr. DiOrio added, and a conservation easement.

52 Ms. Hahn said that would be a condition if the applicant is asking for the Final to be done
administratively.

54 Mr. Payne said they are.
56