

Sunset Circle Abutters
Milford NH 03055
April 9, 2023

Dear Planning Board Members, Town Administrator and Community Development Staff,

This letter contains Issues related to proposed Site plan changes at SVBGC, 50 Mont Vernon Street, Milford NH (Map 21, Lots 23 and 23-1)

Though the pedestrian pathway under consideration may not look like much, in the scheme of our properties and the pedestrian connectivity of the town, it plays a significant role. We purchased our homes knowing that a permanent Water Main Easement and Trail Easement abutted our properties. All the undersigned abutters intend to spend the rest of their lives in these residences—so it was no small decision. We researched the easements with Town Hall staff. The Milford Land Files* (excerpted below) are extremely clear about what can and cannot be done on this easement. Since easements are rarely amended in NH at this level of proposed change, we believed the permanence of the easement would be upheld by the Town in perpetuity. Permanent Easements are intended to stay the course even when staff oversight and development pressures change. The Federal government granted \$500,000 for a “Downtown Pedestrian Enhancements” project and this pathway is a piece of that project.

1. The Permanent Trail Easement and Water Main Easement and all conditions are missing in the Notes of the site plan.
2. The purpose of the federally funded Downtown Pedestrian Enhancement project was:

“To create a public pedestrian trail, the purpose of which is provide public access, to the greatest possible extent, to the lands on both sides of the Souhegan River ... as well as the access to the same for purposes of recreation and preservation and to enhance the ability of the public to enjoy the natural beauty of the same and it is the intent of the parties that the easement created herein be connected by a pedestrian walkway to Mont Vernon Street as well as to a pedestrian bridge which will cross the Souhegan River to Keyes Memorial Park on the southside of the river”.

How can the town justify breaking a permanent land use easement, especially after accepting federal funding for it and entitling it a 'Permanent Trail Easement'?"

3. The strip of land that constitutes the current pedestrian walking trail is a 20' wide water line easement* given to the Town of Milford by the Souhegan Theater Council in 1978.
See Hillsborough County Registry of Deeds Book 2684 Pg 783, November 10, 1978 and Town of Milford NH Souhegan River Trail Land File 10 pages.

This easement grants the Town perpetual right to enter, construct, maintain and repair underground pipe lines or mains for the purpose of conveying water over, across, through and under the lands hereinafter described, with the right to excavate and refill ditches and or trenches at the location of said pipe lines and or mains and the further right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction and maintenance of said pipe lines or mains.

Has the DPW Director and the Town Atty reviewed the water main easement? Water Utilities should be added to the Interdepartmental review.

4. Details of each piece of property upon which the Souhegan River Trail lies are filed in the Town of Milford's Souhegan River Trail Land File** by map and lot numbers, per the list below. **The section regarding this property is very specific as to the obligations and responsibilities of the grantor and grantee. Has this been carefully reviewed by all relevant offices of the Town?**

It reads:

***"This trail system commences on Map 4 Lot 39, land of the Milford Fish Hatchery and extends along the north bank of the Souhegan River easterly to terminate on Map 25, Lot 28, location of Emerson Park at the Col. John Shepard Bridge in downtown Milford.

Note: There are separate land files on some of the above lots because of conservation easements existing, as opposed to trail conservation easements that exist on those properties, Where such a land file exists, it is so indicated below For details referring to these conservation easements see the land files so indicated. Details regarding the trail easement are included in this land file.

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Map 21 Lot 23

Name of this Section of Trail: Souhegan Boys and Girls Club Section

Size: Approximately 12 feet wide trail easement running mainly along the north bank of the Souhegan River to the boundary line between Map 21 Lot 23 and Map 39 Lot 79 at which point it follows a drainage easement along the west boundary line of Map 21 Lot 23-1, and continues on the drainage easement as it lies between Map 21 Lot 23-1 and Lot 24, which drainage easement is part of Map 21 Lot 23.

Permanent Trail Right of Way:

Vol 7735 Pg 63, May 20, 2004

Souhegan Valley Boys and Girls Club Inc to Town of Milford

See Plan #34990, Pedestrian Easement A.

Tract 1 of the above deed covers the Pedestrian Easement A as on Plan #34990.
Tract 2 of the above deed covers Pedestrian Bridge Easement connecting to Keyes Field.

Note: On Page 4 of above deed, Appendix A, it states that the grantee is entitled to enter upon the premises to construct, repair and maintain permanent monuments intended to support the pedestrian bridge.

Rights of the Grantee:

- **To administer the trail as a non-commercial public trail for the benefit of the general public.**
- To manage, maintain etc. the trail including the right to enter the premises of the grantor with construction supplies and equipment for this purpose and including construction of a pedestrian bridge across the Souhegan River to connect to Keyes Field.
- To mark etc. the trail
- To cut trees etc for the trail maintenance.

Obligations of the Grantee:

- **Assume responsibility for maintaining the general passability of the trail for pedestrian and non-motorized vehicles such as bicycles, wheel chairs, motorized wheelchairs and Segways.**

- **Secure the permission of the grantor before entering into maintenance agreements with third parties.**
- **Discourage the use of motorized vehicles (subject to limitations in #1 above).**
- The Town of Milford has the right to pave the trail but only subject to the following conditions:
 - May not be paved without prior written consent of the grantor.
 - The portion of the trail easement on the west of the grantor's property connecting Mont Vernon Street with the pedestrian bridge may be paved but shall only be done in a manner approved by the grantor.
 - The balance of the trail easement connecting the pedestrian bridge and which runs along the Souhegan River, may be paved but shall only be done in a manner approved by the grantor
- Discourage littering etc.
- Secure the grantor's permission before placing any structure in the right of way and cutting trees etc. other than normal maintenance. ANY valuable timber shall be the property of the grantor. Notify the grantor prior to any trail maintenance activities.
- Provide the grantor all documents necessary to extinguish the easement and other rights in the event the grantee abandons or relocates the trail to another location on the grantor's property.

Restrictions and Obligations of the Grantor:

- **No buildings etc. shall be placed in the easement except the grantor may place picnic tables, benches or lights in the easement without the consent of the grantee.**
- **The grantor shall not alter the easement premises which would interfere with right of way.**
- **The grantor shall notify the grantee should any portion the grantor's land be offered for sale.**
- **There shall be no right of way access etc into, on or over the easement premises.**
- **No permanent signs etc shall be displayed within sight of the easement premises.**
- **No trash etc. shall be stored on the easement premises.**
- **No disturbance of the surface shall occur within the easement premises**
- **No motorized equipment etc. shall be used in the easement premises.**

Additional Provision:

- Should any part of the easement be extinguished by eminent domain etc., the grantee shall be entitled to any proceeds which pertain to the extinguishment of the grantee's rights.
- The grantee is prohibited from transferring this easement except to a qualified non-profit corporation or government body whose purposes include conservation of land and water areas.

The portion of this trail as it runs along the river bank on Map 21 Lot 23 has existed for many years, created through public use.

When the Souhegan Theater Council owned this property it also owned Lots 23-2 and 23-3. See Vol 2386 Pg 374, December 16, 1974. During this time the Council conveyed a 20 ft wide water line easement to the Town of Milford. See Vol 2684 Pg 783, November 10, 1978. This easement shows on Plan #34990

Map 32 Lot 23 was later subdivided into Lots 23, 23-2 and 23-3. See Plan #18105. The drainage easement between Lot 23-1 and Lot 24 is part of lot 23.

When the trail through the Club's property on Map 21 Lot 23 was officially created it extended northerly along the drainage easement which lies on the west side of Lot 23-1, to bring users onto Mont Vernon Street. This was necessary because from the west line of Map 21 Lot 23 westerly for some distance, the trail does not exist, this area falling into a subdivision of small house lots. See Plan #23647 in Mont Vernon Road file. It commences again on Map 8 Lot 11-1, and extends westerly to the Fish Hatchery. The trail portion lying on the drainage easement also serves as an easy access from Mont Vernon Street to the Pedestrian Bridge leading to Keyes Field."

To administer the trail as a non-commercial public trail for the benefit of the general public is a clear statement and restriction.

5. There has been no demonstrated need shown for the Site Plan to be altered or for an additional commercial driveway to be created.

- In 2016 when over 14 school buses per school day delivered students to the SVBGC, the SAU40 Business office confirmed that the parking lot was sufficient for buses to circulate and turn. They stated the problem is how the Club is utilizes the parking lot such as staff parking, children playing in parking lot and snow storage (See Attachment A)
- March 20, 2023 the SAU40 Business office confirms that they send one bus with students from Jacques School to the SVBGC. The same bus leaves and then goes to Heron Pond School for another load of students.

A 3rd trip may deliver students from MMS. Bus traffic is now largely reduced. (Attachment B)

- When asked during a public hearing 3/21/23, SVBGC Board Member and project presenter Paul Amato stated that the SVBGC has no plans for event or facility rental expansion.

6. I proposed site plan refers to the new driveway as a “**Limited Access one way Bus Lane**”. There is a problem with this nomenclature because during the 3/21 presentation to Planning Board, the project proponent stated verbally:

- a. The driveway would not in fact be limited to buses. Has the term ‘bus driveway’ been changed?
- b. No clear plan for ‘Limited Access’ was stated. Inconclusive comments about using sandwich board signs and gates with no gatekeepers were made. Please clarify this.
- c. Verbally during the meeting but not on the plans or in the original proposal, proponent stated they would like to be able to reverse vehicular travel on the one way commercial driveway to be shared with pedestrians. They would switch one-way traffic flow when they wanted to do this. How will pedestrian safety be preserved when that was the entire focus of the HUD Funded Grant to Milford for Downtown Pedestrian walkways and enhancements?

7. **Traffic Safety**

The purpose of the Federal HUD Grant that funded the pedestrian Bridge, the pedestrian pathway under consideration here, and the adjoining River Trail and Sidewalks is stated as:

“This EDI-Special Project Grant will be utilized for the continued implementation of planned downtown revitalization improvements begun in 1995. Included in this phase will be enhanced pedestrian transportation and safety improvements, a pedestrian bridge crossing the Souhegan River designed to link the Towns two primary existing community recreation facilities [Keyes and MCAA]; additional sidewalk linkages; modification to downtown pedestrian safe-zone traffic island; and street/sidewalk entryway improvements necessary for safe pedestrian and vehicular access for a new Town Recreational facility. These projects are intended to further strengthen Milford revitalization efforts by providing universally-accessible pedestrian facilities to meet the needs of all Milford residents and visitors.” **The pedestrian walkway from the pedestrian bridge**

to Mont Vernon street is listed as a key component of the project”
February 2002.

- Because this pedestrian walkway was created as part of the HUD Grant it must comply with Federal regulations including Section 504 of the Rehabilitation Act regulations 24 CFR Part 8 specifically R202.3.3 Reduction in Access Prohibited and Rulemaking on Trails, Sidewalks and Shared Use Paths. (Attachment D).
- It is still unclear how snow will be plowed or removed between the 2 fences while maintaining a one-way driveway and an adjacent public walkway. Would this be plowed onto Route 13 or into the SVBGC property and the trail easement which will drain to the river? (see KV Partners Engineering review. Also Attachment F snow plowing damages Town’s fence.)
- The turning radius is very tight for buses on both ends of the proposed driveway (as reviewed by Town’s Engineering Consultants KV Partners.) Power company pole guy wires will be problematic at the north end of the driveway for turning vehicles and plowing. How has this been calculated?
- Milford Lumber is proposed to become a shared entrance/exit with the SVBGC. Tractor Trailers take both lanes of Mont Vernon Street to exit the facility currently, with extended wait times. The trucks often require backing up once in the roadway. This is a problematic spot without introducing additional buses, cars and trucks to a pedestrian walkway. (and potentially changing the one way direction of travel). There are pre-existing traffic safety issues on Mont Vernon Street that have been raised before the Traffic Safety Committee.. The one-way truck exit at Milford . (See Attachment C) Has the Traffic Safety Committee commented on this proposal?
- Has a NHDOT Driveway permit or a driveway permit from the Town of Milford been obtained?
- Why has the existing Emergency Access Road been discounted for bus/other vehicular circulation at the site?. If turning radius is approved for fire engines, it is likely adequate for school buses. This could easily be paved if there are concerns about bus flow at drop off and pick up times.

8. Drainage

- The east edge of the proposed alterations (Milford Lumber Co.land) is higher than the existing pathway. If paved, storm and meltwater will flow off the west edge of the paved commercial driveway and onto abutters’

properties. What is the plan for drainage along the west edge of the proposed paved driveway and sidewalk? No clear answers were given at the 3/21/23 hearing.

- The grade of the land for 180' of the 530' pathway is nearly flat [elevation 254'] except for a depressed section behind #2 and #6 Sunset Circle where the elevation is lower. This section will only drain onto the residential abutters' properties. A 180' length of pavement should have ~2 feet of decrease in grade to drain. If the trail elevation is built up to drain toward the river, it will further compound stormwater runoff and drainage to residences. Has a site visit been made to check the grade and drainage at these properties? Drainage plan is incomplete and does not include these measurements.
- Paving 19' out of the 20' width of the easement property leaves no room for fanning gravel out on the edges of the pavement. This will likely cause pavement deterioration. How will an effective paving job be accomplished?
 - The proposed driveway crosses the existing northern drainage swale adjacent to the SVBGC parking lot. What is the plan for continuance of flow from this swale with a new driveway crossing it?
 - No catch basin in the NW corner of BGC parking lot is visible/installed, yet it is indicated on site plan. Can you please explain the drainage plan more fully?
 - Most of the existing parking lot drains through swales overland into the river. More impervious surface will add to the frequent flooding in the parking lot and discharge to the river. How will this be mitigated?
(Attachment E)

9. Interdepartmental Review.

The proposed Site Plan changes presented verbally at the Planning Board meeting on March 21, 2023 differ from those submitted in January 2023 (and previous attempts in 2016 and 2021) so full interdepartmental review should be undertaken, including water utilities because of the Water Main Easement.

All of these issues have serious negative consequences for public safety, traffic safety, stormwater runoff, the general public that benefits from this trail connection plus the abutter's property values and quality of life. The problems caused will far outweigh the benefits of creating a paved commercial roadway where no need exists or has been demonstrated.

Hoping for your thoughtful consideration,

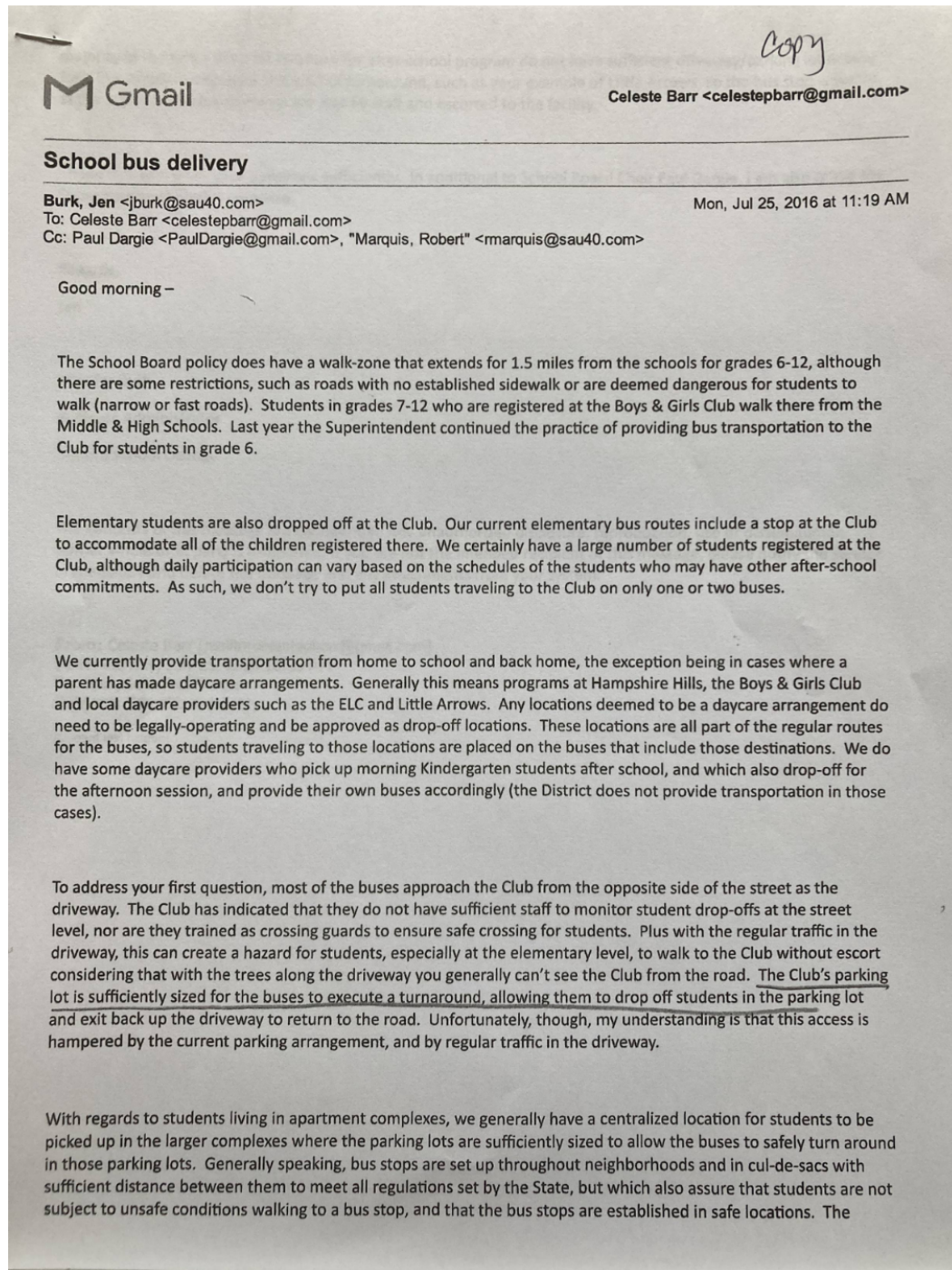
Erica & Kevin Latour

Vesta Philbrick

Celeste & Tim Barr

Cheri Monnell and Dorothy Logue

Attachment A School bus circulation at site



majority of the other drop-off locations for after-school program do not have sufficient driveway/parking lot access for a bus to safely negotiate this kind of turnaround, such as your example of Little Arrows, so the bus stop is set up at the street and those students are met by staff and escorted to the facility.

I hope this addresses your questions sufficiently. In addition to School Board Chair Paul Dargie, I am also cc'ing the Superintendent on this response.

Regards,

Jen

Jennifer Burk

Business Administrator

Milford School District

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From: Celeste Barr [mailto:celestebarr@gmail.com]

Sent: Monday, July 25, 2016 10:03 AM

To: Burk, Jen; Paul Dargie

Subject: School bus delivery

[Quoted text hidden]

Jane.Fortson@milfordk12.org

Monday Mar 20 4:47 pm

For the afternoons we have a bus that picks up Jacques students and drops them off at the club. That bus then goes to Heron Pond and picks up a full bus load and drops off the students. I believe the middle/high school has a route that drops off there. So we pay for a bus that is composed entirely of boys and girls club attendees.

Jane

Jane E. Fortson, CPA
Business Administrator
Milford School District - SAU #40
100 West Street
Milford, NH 03055 ph: 603-673-2202 x3408

From: Celeste Barr <celestebarr@gmail.com>

To: Jane Fortson

Subject: Update on bus count going to the SV Boys & Girls Club

Hello Jane,

I am attending a planning board meeting tomorrow proposing a new bus roadway at the SVBG Club. The last time this was discussed, I received a nice communication from Jen Burke who was Business Administrator at the time. At that time, she said all the SAU40 Elementary school buses were driving to the Club. I wanted to check how many buses are coming from our SAU currently. I was told that a reduced # of buses are delivering students each day to the Club and I wanted to confirm that with you.

Thank you.
Celeste Barr
Sunset Circle
Milford NH 03055
603-769-7560

Hi Jane,

Thank you so much for the quick response. That is a big drop in the # of buses. Thank you so much.

Appreciatively,

Celeste Barr

Mon, Mar 20, 4:54 PM

It is because we have one full bus making two drop offs instead of all or many buses stopping there,

Jane
Jane E. Fortson, CPA
Business Administrator
Milford School District - SAU #40
100 West Street
Milford, NH 03055
ph: 603-673-2202 x3408
jane.fortson@milfordk12.org

Attachment C Tractor Trailer blocking rt 13 Mont Vernon Street Milford Lumber near trail exit.



Attachment D Runners and baby stroller on Trail





April 8, 2023 3 pm

A variety of pedestrians going in both directions on the pedestrian trail. Milford School teams run this path to get to MCAA afterschool.

Attachment E Standing water from the existing parking lot and surrounding area can last for days after weather events.



Attachment F Snow plowing and snow storage blocking trail and damaging fence 2017



Attachment G Representation of school bus height behind fence in the backyard at 2 Sunset Circle. Average bus = 10.5' tall. Town fence = 6'

