

Return:

Johnson & Borenstein, LLC  
12 Chestnut Street  
Andover, MA 01810

E Doc # 230007442      06/27/2023 01:53:23 PM  
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Catherine A. Berube  
Register of Deeds, Strafford County

(Space Above this Line Reserved for Registry of Deeds)

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### DECLARATION OF THE BENDING BROOK HOMEOWNERS' ASSOCIATION

WHEREAS, WNRV, LLC, a New Hampshire Limited Liability Company of 7B Emery Lane, Stratham, NH 03885 ("Declarant") is the owner of that certain real property located in Barrington, Strafford County, New Hampshire, shown as Lots 1 through 15 inclusive, on plan of land entitled "Subdivision Plan of Land for Guptill Properties Tax Map 239, Lot 35 -- Mallego Road, Barrington, New Hampshire" prepared by Doucette Survey LLC dated November 15, 2022, Scale: 1" = 100' to be recorded in the Strafford County Registry of Deeds; and

WHEREAS, the Declarant desires to establish a Homeowners' Association and By-Laws all in connection with the land and the development shown on the Plans.

NOW, THEREFORE, the following is hereby declared.

1. The Declarant hereby submits to this Declaration the land shown on the Plan as Lots 1 through 15 inclusive (individually a "Lot" and collectively the "Lots"); together with the Open Space land shown on the Plan as "PROPOSED OPEN SPACE Map 239, Lot 35" containing 26.7+/- Acres (interchangeably herein called the "Open Space" or the "Common Land") and the land shown on the Plan as the Roadway serving the Lots.
2. There is hereby established the Bending Brook Homeowners' Association (referred to herein and in the By-Laws as the "Association"). Declarant shall have certain rights to control the Association as provided for in the By-Laws referred to herein.

3. (A) Until the Town of Barrington takes acceptance of the Roadway as a Town Road, WNRV LLC as Declarant is responsible for maintenance of both the Roadway and infrastructure. The Association shall enforce the terms and provisions of this Declaration as it may be amended, and take all other actions that are set forth in the Declaration.  
  
(B) For stormwater management purposes, the Drainage Pond will be located on the Open Space, all as shown on the Plans. The Association will be responsible to maintain the Drainage Pond and the drainage structures.  
  
(C) The Association specifically acknowledges that (1) the Open Space will be protected in perpetuity from any further development for the benefit of soils loading of the 15 Lots and (2) the well radii is allowed over the Open Space.  
  
(D) The Association further acknowledges that these restrictions on the Open Space cannot be changed or amended by either the Association or the Town (once the Open Space is deeded to the Town, which transfer shall occur prior to the issuance of the first Occupancy Certificate for dwellings built on the 15 Lots).
4. The Association shall hereby have non-exclusive easements and rights-of-ways across all land shown on the Plan necessary to accomplish its purpose as described herein and shown on the Plans, and may hold and convey title to interests in real estate consistent with the purpose of the Association.
5. The Association may take any and all other actions necessary or expedient to effectuate the purpose of this Declaration
6. The Association shall have the right to make assessments against the owner or owners of each Lot (the "Lot Owners") for any costs incurred by the Association in enforcing the Declaration, or any of the Association purposes. Any costs or expenses incurred as a result of a Lot Owner's failure to pay assessments shall be assessed only against said Lot and Lot Owner.
7. The Association shall establish By-Laws for the conduct of the affairs of the Association, as the Association shall, from time to time, determine. The initial form of the By-Laws are attached hereto as Exhibit "A" and made a part hereof.

END OF TEXT

**SIGNATURE PAGE FOLLOWS**

IN WITNESS whereof WNRV, LLC has caused this document to be executed as a sealed instrument and in these presents to be signed, acknowledged and delivered in its name and behalf by Joseph Falzone, it's Manager, this day, June 27, 2023.

WNRV, LLC

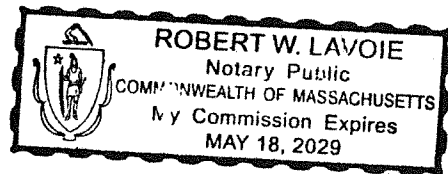
Joseph Falzone  
By: Joseph Falzone, Its Manager

~~NEW HAMPSHIRE~~  
MASSACHUSETTS  
STATE OF

Essex, ss

On this 27<sup>th</sup> day of June, 2023, before me, the undersigned notary public, personally appeared Joseph Falzone, Manager of WNRV, LLC, who proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in the capacity indicated, and that he has the authority to sign in that capacity.

Robert W. Lavoie  
Notary Public/~~Justice of the Peace~~  
My Commission Expires: 5-18-2029



(Exhibit "A")

**BY-LAWS OF BENDING BROOK  
HOMEOWNERS' ASSOCIATION**

**ARTICLE I**  
**GENERAL PROVISIONS**

1. PURPOSE:

The administration of the Bending Brook Homeowners' Association shall be governed by these By-Laws which are annexed to the Declaration of the Bending Brook Homeowners' Association and made a part thereof, and all present and future owners of any lots within the subdivision ("Lot Owners") shall be subject to these By-Laws, as well as to the Declaration and the Rules promulgated hereunder.

2. BY-LAWS APPLICABILITY:

The provisions of these By-Laws are applicable to the land described on the Plan and shall be binding on all Lot Owners. The acceptance of a deed of conveyance of a Lot shall constitute an acknowledgment that such Lot Owner has accepted and ratified the Declaration, these By-Laws and any Rules promulgated hereunder, and will comply with them.

3. OFFICE:

The office of the Association and of the Board of Directors shall be located at the subdivision or at such other place as may be designated from time to time by the Board of Directors.

**ARTICLE II**  
**LOT OWNERS' ASSOCIATION**

1. COMPOSITION:

All of the Lot Owners shall constitute the "Association" which shall have the responsibility of administering the Declaration, establishing the means and methods of collecting assessments, and performing all of the acts that may be required to be performed by the Association. The administration of the Declaration shall be performed by the Board of Directors (as more particularly set forth in Article III).

2. VOTING:

Each Lot shall be entitled to one vote in the Association. Since a Lot Owner may be more than one person, if only one person is present at a meeting of the Association, that

person shall be entitled to cast the vote appertaining to that Lot. But if more than one of the persons is present, the vote appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Lot without protests being made forthwith by the others to the person presiding over the meeting. As applied to a person which is not a natural person, the word "person" shall be deemed for the purposes of this section to include, without limitation, any one natural person having authority to execute deeds on behalf of such person which is not a natural person and which is, either alone or in conjunction with another person or persons, a Lot Owner. Except where a greater number is required by the Declaration or these By-Laws, a simple majority of votes of the Lot Owners present and in good standing and entitled vote shall be decisive. Notwithstanding the foregoing, while the Declarant owns at least one Lot in the subdivision, the Declarant shall be the Association and may take all actions as if the Declarant owned all of the Lots, as set forth in Article II, 4. Declarant may, but is not obligated to, transfer control of the Association to the Lot Owners at any time prior to the time Declarant no longer holds a fee ownership or mortgage interest in any lot in the Subdivision.

3. PLACE OF MEETING:

Meetings of the Association shall be held at the subdivision or at such other suitable place as may be designated by the Board of Directors and stated in the notice of the meeting.

4. DECLARANT SHALL BE THE ASSOCIATION UNTIL ALL LOTS HAVE BEEN SOLD:

Until such time as Declarant no longer holds a fee ownership or mortgage interest in any lot in the Subdivision, the Declarant shall be the Association and may take all actions as if the Declarant owned all of the Lots but shall take no action which will impose on a lot owner, other than the Declarant, a burden greater than the owner's pro rata share of the Association charges or expenses. Within six (6) months after the date on which Declarant no longer holds a fee ownership or mortgage interest in any lot in the Subdivision, the Declarant shall call the first meeting of the Association for the purpose of transfer of control of the Association to the Lot Owners and election of the Board of Directors. Thereafter, each annual meeting shall be held within three (3) months of the anniversary date of the first annual meeting. The Board of Directors shall consist of three (3) members, each of whom shall serve one (1) year terms. The Board of Directors shall be elected by a vote of the lot owners. Notwithstanding the foregoing, Declarant may, but is not obligated to, transfer control of the Association to the Lot Owners at any time prior to the time at which Declarant no longer holds a fee ownership or mortgage interest in any lot in the Subdivision.

5. SPECIAL MEETINGS:

It shall be the duty of the President to call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Lot Owners having not less than (30) percent of the votes of all owners. The notice of any special meeting shall set forth the purpose thereof and business shall be transacted at a special meeting as stated in the notice.

6. NOTICE OF MEETING:

It shall be the duty of the Secretary to mail, by certified mail return receipt requested, a notice of each annual meeting or special meeting, at least twenty-one (21) days in advance of such meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Lot Owner of record, at the address of their respective Lots and at such other address as each Lot Owner may have designated by notice in writing to the Secretary; provided, however, such notice may be hand delivered by the Secretary or Manager, if the Secretary or Manager obtains a receipt of acceptance of such notice from the Lot Owner.

7. VOTING REQUIREMENTS:

A Lot Owner shall be deemed to be in good standing and entitled to vote at any annual meeting or any special meeting of the Association if, and only if, he shall have fully paid all assessments made or levied and due against him or his Lot by the Board of Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Lot, at least three (3) days prior to the date fixed for such annual or special meeting.

8. PROXIES:

The vote appertaining to any Lot may be cast pursuant to a proxy executed by or on behalf of the Lot Owner or, where the Lot Owner is more than one person, by or on behalf of all such persons.

9. QUORUM:

A quorum shall be deemed to be present throughout any meeting of the Lot Owners, until adjourned; if persons entitled to cast more than thirty-three and one-third (33 1/3%) percent of the total votes are present at the beginning of such meeting.

10. ORDER OF BUSINESS:

The order of business at all meetings of the Association may be as follows: (a) roll call; (b) recitation of proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) reports of committees; (g)

election of directors, if applicable; (h) unfinished business; and (i) new business, any of which may be waived.

11. CONDUCT OF MEETING:

The President, or his designated alternative, shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and shall record all transactions occurring and all resolutions adopted at the meeting.

**ARTICLE III**  
**BOARD OF DIRECTORS**

1. POWERS AND DUTIES:

The affairs and business of the Association shall be managed by a Board of Directors (sometimes hereinafter referred to as the "Board") which shall have all of the powers and duties necessary for the administration of the affairs of the Association and of all such acts and things as are specified in the Declaration. The Board of Directors shall have the power, from time to time, to adopt any Rules deemed necessary for the enforcement of the Declaration. In addition to the general duties imposed by these By-Laws, the Board of Directors shall have the power to, and be responsible for, the following:

- (a) Preparation of an annual budget, in which there may be established the assessment of each Lot Owner:
- (b) Making assessments against Lot Owners to defray the common expenses, establishing the means and methods of collecting such assessments, depositing the proceeds thereof in a bank depository which the Board shall approve, and using the proceeds to carry out the purpose of the Declaration. Unless otherwise determined by the Board of Directors, the annual assessments against each Lot Owner for their proportionate share of the common expenses shall be payable in equal monthly installments to be due and payable in advance of the first day of each month for said month. The term common expenses, shall include, but not be limited to the following:
  - (i) All costs incurred in performing the maintenance in Paragraph # 3 of the Declaration; and
  - (ii) Any other actions authorized or taken pursuant to the Declaration or these By-Laws.
- (c) designating, hiring and dismissing the personnel necessary for the performance of the maintenance set forth in Paragraph # 3 of the Declaration, and where appropriate, providing compensation of such personnel and for the purchase or use of equipment, supplies and material to be used by such personnel in the

performance of their duties, which supplies and equipment, if purchased, shall be deemed the common property of the owners;

- (d) Making and amending Rules respecting the provisions of the Declaration, these By-Laws and bringing any legal process which may be authorized and instituted on behalf of the owners;
- (e) Maintaining the books of account showing the receipt and expenditures of the Association. The said books shall be available for examination by the Lot Owners, their duly authorized agents or attorney, during general business hours on business days; and
- (f) To do such other things and acts not inconsistent with the Declaration which it may be authorized to do by a resolution of the Association.

#### **ARTICLE IV** **OFFICERS**

1. DESIGNATION:

The principal officers of the Association shall be a President, a Secretary-Clerk and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistants or such other officers as in its judgment may be necessary. With the exception of the President, no officer need be a member of the Board. The offices of the Treasurer and Secretary-Clerk may be held by the same person.

2. ELECTION OF OFFICERS:

The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board, and shall hold office at the pleasure of the Board. Any vacancy in an office shall be filled by the Board at a regular meeting or a special meeting called for such purpose.

3. REMOVAL OF OFFICERS:

The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole board, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purposes.

4. PRESIDENT:

The President shall be the chief executive officer; he or his designate alternate, shall preside at meetings of the Association and if present at meetings of the Board of



Directors, and shall be an ex officio member of all committees; he shall have general and active management of the business of the Association and shall see that all order and resolutions of the Board are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the office of the President of a stock corporation organized under the laws of the State of New Hampshire.

5. SECRETARY:

The Secretary, or his designated alternate, shall attend all meetings of the Board of Directors and all meetings of the Association, shall record the minutes of all proceedings in the Record Book of the Association shall perform like duties for committees when required. The Secretary shall keep the record book current and in his custody. He shall give, or cause to be given, notice of all meetings of the Association the Board and committees and shall perform such other duties as may be prescribed by the Board or President. The Secretary shall compile and keep current at the principal office of the Association a complete list of the owners and their last known post office address. This list shall be open to inspection by all Lot Owners and other persons lawfully entitled to inspect the same at reasonable hours during regular business days.

6. TREASURER:

The Treasurer shall have the custody of all funds and securities and shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable personal property in such depositories as may be designated by the Board, where possible, taking proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meeting of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial conditions of the Association.

7. AGREEMENTS, CONTRACTS, DEEDS, CHECK, ETC:

All agreements, contracts, deeds, leases, checks, and other instruments of the Association for expenditures or obligations may be executed by any officer of the Association or by such other person or persons as may be designated by the Board of Directors.

8. COMPENSATION OF OFFICERS:

No officer shall receive any compensation from the Association for acting as such.

**ARTICLE V**  
**OPERATION OF THE PROPERTY**

1. DETERMINATION OF COMMON EXPENSES AND ASSESSMENTS AGAINST OWNERS:

- (a) Fiscal Year. The fiscal year of the Association shall be the twelve month period commencing on January 1st of each year and terminating on December 31st. The fiscal year herein established shall be subject to change by the Board of Directors.
  - (b) Preparation and Approval of Budget. Each year the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount which it considers necessary to pay the costs associated with the obligations of and purposes for which the Association is formed. Such budget shall also include such reasonable reserves the Board of Directors considers necessary to provide general operating reserves and reserves for contingencies and replacements, if any. The Board of Directors shall make reasonable efforts to send to each Lot Owner a copy of the budget, in a reasonably itemized form which sets forth the amount of the common expenses payable by each Lot Owner, at least fifteen (15) days in advance of the fiscal year to which the budget applies.
- 2. All Lot Owners shall be obligated to pay the common expenses assessed by the Board of Directors pursuant to the provisions of the Declaration and these By-Laws. No Lot Owner may exempt himself from liability for his contribution of the Maintenance Responsibility by abandonment of his Lot. No Lot Owner shall be liable for the payment of any part of the common expenses assessed against his Lot subsequent to a sale, transfer or other conveyance by him of such Lot. The purchaser of a Lot or successor, owner by virtue of such transfer or other conveyance shall be jointly and severally liable with the selling owner for all unpaid assessments against the Lot expenses up to the time of conveyance, without prejudice to the purchasers right to recover from the selling owner the amounts paid by the purchaser therefore; provided, however, that any such selling owner or purchaser shall be entitled to a recordable statement from the Board setting forth the amount of unpaid assessments against the Lot conveyed, subject to a lien for any unpaid assessments in excess of the amount therein set forth; failure to furnish or make available such a statement within twenty-one (21) days from receipt of such request shall extinguish the lien for any unpaid assessments. Payment of a fee of not more than twenty-five dollars (\$25.00) shall be required as a prerequisite for issuance of such statement. If a mortgagee of a first mortgage of record or purchaser of a Lot obtains title to the Lot as a result of foreclosure of first mortgage, or through the enforcement of any other remedies provided for in the mortgage, or by virtue of successors and assigns shall not be subject to a lien for the payment of common expenses assessed prior to a lien for the payment of common expenses assessed prior to the acquisition of such Lot by such mortgagee or purchaser pursuant to the aforesaid remedies. Such unpaid share of common expenses assessed prior to the acquisition of title to such Lot by such mortgagee or purchaser pursuant to the aforesaid remedies shall be collectible from all owners, including, the purchaser or first mortgagee, in proportion to their respective votes in the Association.
- 3. Resale by Purchaser  
In the event of a resale of a lot, parcel, unit or interest in subdivided lands by any person other than the Declarant, the prospective purchaser shall have a right to obtain from the Association prior to the contract date of disposition, the following:

- (a) A statement of any capital expenditures and major maintenance expenditures anticipated by the Association within the current or succeeding two (2) fiscal years;
- (b) A statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the Board of Directors;
- (c) A copy of the income statement and balance sheet of the Association for the last fiscal year for which such statement is available;
- (d) A statement of the status of any pending suits or judgments in which the Association is a party defendant;
- (e) A statement setting forth what insurance coverage is provided for all property owners by the Association and what additional insurance coverage would normally be secured by each individual property owner; and
- (f) A statement that any improvements or alterations made to the lot, parcel, unit or interest by the prior property owner are not known to be in violation of any restrictions and covenants imposed upon the subdivided lands.

The President of the Association shall furnish the statements prescribed herein upon the written request of any prospective purchaser within ten (10) days of the receipt of such request.

**ARTICLE VI**  
**AMENDMENT TO BY-LAWS**

1. **AMENDMENTS:**

The Declaration and these By-Laws may be modified or amended either (a) by vote of at least seventy-five (75%) percent of the Lot Owners cast in person or by proxy at a meeting duly held in accordance with the provisions hereof, provided that notice of the proposed amendment shall have been given each Lot Owner simultaneously with the notice of such meeting; or (b) pursuant to a written instrument duly executed by at least seventy-five (75%) percent of the Owners; provided, however, that until the control of the Association has been turned over to the lot Owners, as provided in Article II, 4, the Declarant shall have the sole right to make such amendments.

**ARTICLE VII**  
**LIABILITY OF OFFICERS AND DIRECTORS**

The directors and officers of the Association shall not personally be liable to the Association for monetary damages for breach of any duties to the Association except to the extent that such liability arises: (a) for any breach of the directors' or officers loyalty to the Association; (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or (c) for any transaction from which a director or officer derive improper personal economic benefit.

END OF TEXT

SIGNATURE PAGE FOLLOWS

IN WITNESS whereof WNRV, LLC has caused this document to be executed as a sealed instrument and in these presents to be signed, acknowledged and delivered in its name and behalf by Joseph Falzone, it's Manager, this 27<sup>th</sup> day of JUNE, 2023.

WNRV, LLC

By: Joseph Falzone  
Joseph Falzone  
Its Manager

~~MASSACHUSETTS~~  
STATE OF ~~NEW HAMPSHIRE~~

Essex, ss

On this 27<sup>th</sup> day of JUNE, 2023, before me, the undersigned notary public, personally appeared Joseph Falzone, Manager of WNRV, LLC, who proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness,  personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in the capacity indicated, and that he has the authority to sign in that capacity.

Robert W. Lavoie  
Notary Public/Justice of the Peace:  
My Commission Expires: ~~2029~~  
May 18, 2029

