

Planning Board
Dec. 12, 2019

Members present: Barry Hantman, Chip Current, Roger Whitehouse, Jennifer Heywood, Scott Borucki, Jim Castine

Others present: Dave Knight, Carsten Springer, Richard Atkins, Holly Bright

Roger made and Chip seconded a **motion to accept the November 12, 2019 minutes as written**. Jim abstained. The motion **passed**.

Correspondence

- State driveway application for the Macomber property along Main Street and Olde Road
- A request for a continuance for the Stagecoach Estates subdivision. Chip made and Roger seconded a **motion to grant a 90-day continuance, to March 12, 2020, to extend the application period for Lake Realty Trust**. The motion **passed** unanimously.
- Cell tower hearing notifications for Pelham and Rye
- A letter of interest from Richard Atkins to be an alternate on the Planning Board. Richard explained his interest in the growth in the town and that he's attended several meetings. He explained his work background with AT&T as a software engineer. Chip made and Roger seconded a **motion to accept Richard Atkins as an alternate to a term of indefinite length**. The motion **passed** unanimously. Barry asked Janet Denison if she would be an alternate also. She eloquently explained the respect she has for the Planning Board members past and present. Chip made and Jim seconded a **motion to appoint Janet Denison as an alternate for an indeterminate time or until she doesn't want us anymore**. The motion **passed** unanimously.

Public hearing for proposed Zoning Ordinance (ZO) warrant articles:

The proposed article regarding MS4 was distributed.

1. To see if the Town of Danville will vote to amend the Danville Zoning Ordinance to address the Municipal Separate Storm Sewer Systems (MS4) regulations mandated by the United States Environmental Protection Agency (EPA) and the New Hampshire Department of Environmental Services (NHDES). Specifically, this would modify Section VII.E (General Provisions - Water, Health and Safety Provisions) of the Zoning Ordinance to add the following:

For construction activities (including, but not limited to, development & redevelopment) in the Town of Danville, New Hampshire which:

- 1. result in a land disturbance of greater than one (1) acre (including disturbance of less than one acre if part of a larger common or phased plan that would disturb more than one acre); and*
- 2. is currently in a portion of the Town designated as a Regulated MS4 area by the United States Environmental Protection Agency and subject to the New Hampshire Small MS4 General Permit; and*
- 3. is not associated with an agricultural use (e.g., plowing of fields), typical roadway maintenance, emergency projects, nor tree trimming/harvesting*

the following requirements shall apply:

- *The applicant shall apply to the Planning Board for a Subdivision or Site Plan review, as applicable*

- *The Applicant shall submit to the Planning Board, as part of a Subdivision or Site Plan Review, a Construction Stormwater Management Plan (CSWMP) which includes the following sections:*
 - *Sediment and erosion control practices at the construction site, including controls for demolition debris, litter and sanitary waste*
 - *Method for minimizing the amount of disturbed area and protection of natural resources during construction*
 - *Method for stabilization of the site when the project is complete or when operations have temporarily ceased*
 - *Protection of slopes on the construction site*
 - *Protection of storm drain inlets (or similar drainage structures) during construction, if any*
 - *Perimeter controls at the construction site*
 - *Stabilization of construction site entrances & exits to prevent offsite tracking*
 - *Control of construction wastes including, but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes*
 - *Schedule for inspection and enforcement of all items contained in the CSWMP by the Town Engineer (or other person or persons designated by the Planning Board) during and at the completion of construction; Inspections shall be conducted quarterly at a minimum and shall be at the developer's expense*
- *The Applicant shall include a note on the application stating: "All or part of this development is currently in an area designated as an EPA MS4 Regulated Area and subject to the New Hampshire Small MS4 General Permit."*

The town attorney had suggested some edits. Barry said he disagreed with those edits since the ballot doesn't typically have the entire text on it if it is lengthy. The suggestions seem to be editorial rather than substantive. Chip said he agreed with Barry's assessment. There were no comments from the Board and Barry opened the public hearing.

Dave Knight said he agreed with what Barry had originally proposed. It was mentioned that the attorney's suggestions are simply that. If they had noted any illegalities, those would have Carsten asked about posting the map so the residents can understand the areas proposed as urban. The map has been posted with the proposed amendment.

Jennifer said that the attorney's amendment seems to be asking a more specific question: is the town in favor of the amendment rather than will the town vote to make the amendment. The Board agreed that the first sentence could be changed to read, "Are you in favor of an amendment to the Danville Zoning Ordinance...." Mr. Knight said if that change is made, the other articles should be changed also to avoid any concern someone may have over the different text preceding each article. Barry explained the boiler-plate format was given to the town years ago by the town attorney. Typically, everything before the word "specifically" goes on the ballot, this includes the explanatory sentence, otherwise the ballots would be very lengthy.

Chip made and Roger seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chip made and Scott seconded a motion to put this amendment forward to town warrant. The motion **passed** unanimously.

Chip made and Roger seconded a motion to add the words "recommended by the Planning Board" with a tally of 6-0. The motion **passed** unanimously.

The Board reviewed updates to the Master Plan, specifically the Capital Improvement Plan. Chip said he fixed some typographical errors. He explained the top shows proposed rather than actual because the numbers change occasionally. The number for the police station was amended to \$2.6 million. Mr. Knight said he'd like that number to be spread out over time and Chip said we show the entire amount in one year. There was a short discussion about bonds.

The library had said they wanted to add to this spreadsheet but did not get back to Chip. He said he does not have accurate numbers for the library's leach field replacement or the Goldthwaite or cemetery expansion capital reserve funds. The leach field was updated to show \$10k each year. There was a short discussion about road upgrades and that this Board has not received any updates from the road agent for five years. It was agreed to list \$300k under the highway department for each year rather than list individual roads and list it as "road paving."

Barry explained the purpose of this is input to the Selectmen and other town boards. Mr. Atkins asked about the easement for the corner of Sandown Road and Route 111A. This has been recorded. The road agent has said he does not want to do the work and no cost estimates are known at this time. The Selectmen have not gotten bids for this work. Scott advised him to speak to the Selectmen soon about this and advised him that poorly written citizen's petitions can do more harm than good. A well written warrant article that has been vetted through the town's legal council is the preferred method of putting something on the ballot.

Chip made and Roger seconded a **motion to close the public hearing**. The motion **passed** unanimously. There were no further comments from the Board. Chip made and Jennifer seconded a **motion to include the CIP as amended this evening with the actual balance numbers we get from the town and amend the associated other portions of the Master Plan that refer to the CIP and the update**. The motion **passed** unanimously.

The Board discussed proposed amendments to the ZO. Chip explained the purpose of the first proposal. When a property transfers, the new owners are required to speak with the Zoning Board of Adjustment (ZBA) to get a new special exception before they can use the previously approved accessory dwelling unit (ADU). This proposal will allow the use of the ADU to continue unchanged from one owner to the next.

1.) Accessory Dwelling Unit

To see if the Town of Danville will vote to amend the Danville Zoning Ordinance to allow for approved Accessory Dwelling Units continued use after the property passes to a new owner. Specifically, this will replace Article IV.A.4.b.6 with the following:

In the event the property is sold, the purchaser may continue the use of an approved Accessory Dwelling Unit provided all previously granted conditions are adhered to, including any current building and life safety codes. Any change to the prior conditions will require granting a new Special Exception.

Mr. Knight said he strongly supports this change. Roger made and Jennifer seconded a **motion to put this proposal to a public hearing on January 9, 2020**. The motion **passed** unanimously.

2.) Danville Village District usage

To see if the Town of Danville will vote to amend the Danville Zoning Ordinance to allow for additional uses within the Village District subject to Planning Board review and approval. Specifically, this will add Article IV.B.2.k to read:

- k. *Other uses not specifically noted in this Section may be permitted subject to Site Plan review and approval by the Planning Board*

Chip explained that if allowed uses in a zone are listed, anything not specifically on the list is not allowed. Last year it was voted to add “and similar uses” to what was listed in the ZO. This proposal will grant the Planning Board more latitude to review proposals rather than sending someone to the ZBA first. It requires this Board more responsibility. With advances in technology and other changes in industries, there are more grey areas in what may or may not be allowed. This allows some flexibility in the ZO. Carsten Springer said the number of businesses in town has diminished over the last few decades due to the ZO being more restrictive. Mr. Knight said he supports this amendment because this Board has been the most consistency yet most diverse opinions. This Board is still subject to voters every three years. Since this Board authors the revisions to the ZO, this Board knows best what it meant. Mr. Springer said he spoke with a real estate agent recently who has noticed an increase in commercial sales in town. Mr. Springer said this is something that the town should build on and encourage. Scott pointed out that none of these warrant articles can be changes at the deliberative session.

Roger made and Scott seconded a **motion to put this forward to a public hearing on January 9, 2020**. The motion **passed** unanimously.

The following proposal was discussed, including a map indicating each parcel as listed in the table.

3.) Boundaries of the Danville Village District

To see if the Town of Danville will vote to amend the Danville Zoning Ordinance to include in the Danville Village District additional properties along Main Street (from Pine Street to the Fremont town line excluding lots in the Historic District or Mobile Home/Manufactured Home Zone) as well as on the State maintained portion of Colby Road by amending the official zoning map, Town of Danville, to reflect the following parcels, as they exist at the time of passage of this ordinance, as being included in the Danville Village District:

Parcels to be included in the Danville Village District:

Map	Lot	Sub	Map	Lot	Sub	Map	Lot	Sub
1	6	0	2	5	0	3	27	0
1	6	1	2	6	0	3	29	0
1	6	2	2	6	1	3	35	0
1	6	3	2	18	0	3	36	0
1	6	4	2	24	0	3	37	0
1	19	1	2	24	1-1	3	38	1

1	19	2	2	25	0	3	38	2
1	19	3	2	27	0	3	79	0
1	19	4	2	28	0	3	81	0
1	19	5	2	30	0	3	81	1
1	19	6	2	54	1	3	83	1
1	19	A	2	54	11	3	83	2
1	19	B	2	54	2	3	83	3
1	37	2	2	72	0	3	83	4
1	38	0	2	72	1	3	84	0
1	43	0	2	75	1	3	90	11
1	44	0	2	75	2	3	96	0
1	48	1	2	75	3	3	96	1
1	48	2	2	75	4	3	97	0
1	50	0	2	75	5	3	97	1
1	55	0	2	75	6	3	99	0
1	62	1	2	76	0	3	100	0
1	64	0	2	85	0	4	1	0
1	64	1	2	86	0	4	12	0
1	70	0	2	87	0	4	12	1
1	71	0	3	8	1A	4	12	2
1	72	0	3	8	1B	4	13	0
1	73	0	3	8	2-1	4	27	0
1	74	0	3	8	2-2	4	30	0
2	1	2	3	11	0	4	31	0
2	3	1	3	12	0	4	32	0
2	4	1	3	13	0	4	33	0
2	4	2	3	21	0	4	34	0
2	4	3	3	24	1	4	35	0
2	4	4	3	24	2	4	36	0
2	4	5	3	26	0	4	37	0
						4	38	0

Chip explained this proposal would capture several properties that have businesses and bring them into compliance with the ZO. Barry said the purpose of the Danville Village District (DVD) was to have businesses that were compatible with residential uses. Chip explained that when the DVD was first proposed, the idea was to have it all the way to the Fremont town line. That was voted down due to the idea that it was a radical change and some thought Main Street would look like Route 125 in Plaistow. Chip pointed out that Main Street in Plaistow is not Route 125.

Carsten pointed that a lot of our zoning was influenced by the Rockingham Planning Commission. Having the tax base rely almost solely on residential is destroying our tax base.

Roger made and Jim seconded a **motion to put this to a public hearing on January 9, 2020**. The motion **passed** unanimously.

4.) Designation of the Danville Village District

If article 2020-XX fails, to see if the town of Danville will vote to amend the Danville Zoning Ordinance to allow owners of property along Main Street to apply to the Planning Board to designate their parcels to be included in the Danville Village District, conditional upon approval through town vote.

To add Article IV.B.5, to read:

5. *Village District parcels designation by town vote*

- a. *Landowners may apply to the Planning Board to designate their property with frontage on main Street, in accordance with Danville Village District objectives and Planning Board review requirements, to be included in the Danville Village District.*
- b. *Following approval by the Planning Board, a noticed public hearing in accordance with RSA 675:3; the following shall appear on the next Danville Town Warrant:*

Article <YEAR-NUMBER> Boundaries of the Danville Village District

To see if the Town of Danville will vote to amend the Danville Zoning Ordinance to include in the Danville Village District the following additional properties by amending the official zoning map, Town of Danville, to reflect the following parcels, as they exist at the time of passage of this ordinance, as being included in the Danville Village District:

Parcels to be included in the Danville Village District

Map	Lot	Sub
X	X	X

Chip explained the previous proposal is a big change which may be too big of a change. This second one allows landowners to have a hearing, notifying abutters, to have their property be included in that district. The process would take over a year. Jim asked if this proposal has been vetted by the town attorney. He said he had been told previously that any district in town must have all parcels abutting each other. Barry said the parcels don't have to be contiguous, but they need to be connected by intent. If it is shown that certain lots need the same zoning protection, it meets the zoning intent.

Barry said he believes if the Board wants the DVD to extend all the way to Fremont, then that should be put to the voters. A "plan B" warrant article often weakens the first article. Dave said he agrees. Barry said his second issue is that the Board has been successful with Warrant Articles and the first article has a good chance of passing. He doesn't believe people are too concerned with their own lot being in the district but may be more concerned with what their neighbor is doing. This could create a patchwork of some lots in and some out of the district and may be considered spot zoning.

It was agreed the first article is preferred by the Board. This will be given to town council to review. It was pointed out that the town must vote on changing the official map. Both options

require the landowner to opt-in to having a DVD use on their property. These two options offer two ways to do this.

Carsten said he prefers the first option, but the two-pronged approach is valid. He said some opportunities have been missed due to not addressing zoning when there's a chance. He said it seems the intent is to keep the Planning Board in the driver's seat with site plan review.

Mr. Atkins said it looks like the intent for these warrant articles is the betterment of the town. If the first fails, at least there's a chance for some restructuring of the DVD. Dave said the town needs to have expanded and increased commercial uses. He said if we don't do something to bring in more commercial, seniors may not be able to afford living here.

Barry suggested that this article should be sent to the town attorney and depending on what we hear before the first hearing, if there is strong support for the first article, the second one will not be put on the ballot.

There was a short discussion about the second one passing and the procedure that would be lengthy for a landowner to have their commercial venture approved. While it could make the property more valuable with more options, but the time frame may compel someone to build a business in another community.

Roger asked if it is appropriate to put something on Facebook to advertise the public hearing. He was told that as a citizen anyone can post something on social media, but he was cautioned about this.

Roger made and Jim seconded a **motion to put this forward to a public hearing on January 9, 2020**. The motion **passed** unanimously.

At 9:15pm, Roger made and Scott seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Janet S. Denison

Upcoming agenda:

January 9, 2020

7:30pm Public Hearing for warrant articles

8:30pm lot line adjustment for Caleb Commons: lots 51-9, 45-15-20, 45-15

9:00pm continued discussion of Stage Coach Stop Estates