

Planning Board
March 9, 2023
7:30pm

Members present: Barry Hantman, Leo Traverse, Steve Woitkun, Chris Smith, Charles Underhill

Others present: Gail Turilli, Charlie Zilch, Carsten Springer, Paul DiStefano, John Marzec, Bruce Dovidio, Dave Cirella, William Blaney, Donna Blaney, James Hardy, Thomas Coe, Michelle Dowd

The minutes of 2/23/23 were reviewed and there were no comments from the Board. Barry **made** and Steve 2nd a **motion to accept the minutes as written**. All in favor, **motion carries with Chris abstaining**.

Barry will be acting Chairman for tonight's meeting as Chip is unavailable.

Correspondence:

A Dredge and Fill Wetlands permit was received for 29 Olde Road. This will be put aside until the project comes before the Planning Board. Information was sent out to the Board regarding House Bill 44. Barry noted that the Board will wait to see where this goes before any discussion.

Blaney's Auto LLC – Minor Site Plan Review:

Mr. Blaney addresses the Board. He states that this is an existing business owned by his father who has since passed. He plans to continue the same type of business (inspection station), and because this is a transfer of ownership, he had to apply for an LLC and come before the Planning Board for a minor site plan review. Barry noted that this is an existing non-conforming use that pre-dates current zoning. The owner currently rents the property.

Charles **made** and Chris 2nd a **motion to accept the application**. All in favor, **motion carries**. **Application accepted 3/9/2023**.

Barry explained that the Board would normally go through the existing plans but, there are none as this business pre-dated zoning. The Board discussed and documented the current state of the business in order to protect the applicant in the future. Barry noted that if someone were to come back 10-20 years from now and state that this business wasn't approved, we can look back on tonight's meeting minutes. The road going in to the building is 12 – 14ft wide consisting of gravel. There is exterior lighting on the building and parking in front and behind for 5-10 vehicles on site. There is also some parking facing the street. Currently there is no signage and the hours of operation are 7am – 5pm, six days a week. One employee will be operating the business where previously there were two. There are no commercial vehicles on site but, some equipment (loader, excavator) for maintenance to plow the driveway. There is a residence on the property. Deliveries are typically FedEx or UPS. Mr. Blaney takes care of the snow removal. Utilities are above ground. The two-story wood structured building is 50ft from the street.

There is a private well for water supply. Trash & recycling pick up is at the curb. Mail is also delivered at curbside. This is a fairly quiet business with a low noise level. Work is done mostly indoors with minimal work done outside. There is some oil and fuel but, no large quantities of hazardous materials kept on site, no bulk oil tanks. Charles mentioned that the last time Mr. Blaney came in to the Planning Board that he was looking for a signature from the Board of Selectmen that had to go back to the State. Barry stated that the Board of Selectmen were waiting for this meeting prior to signing the form needed for the State. Donna Blaney mentioned that there was some confusion regarding the signature that was needed and the town attorney had been contacted who reported back that the Board of Selectmen would need to sign the form. Chris asked Mr. Blaney if he plans on doing anything different in future that he would like to discuss now. Mr. Blaney stated that his plans are to leave the business as it is. Barry mentioned if any changes are made in the future, he may need to come back in for a site plan review. This meeting is basically giving Mr. Blaney permission to continue the business as is.

Paul DiStefano of 2 Beach Plain Road addresses the Board. He states that he has been a resident of Danville for the past 13 years, has been unaware that this business existed and further states that there has been no impact on himself or his family. Charles asked if there is anything that needs to be addressed given that this a pre-existing use that wouldn't otherwise be permitted in that zoning area. Barry notes that as long as the business is continuing as it currently is, there is nothing that the Planning Board needs to address. Donna Blaney mentions that there was signage taken down for repair that was out at the corner of the driveway and there was also a sign at the top of the street. She asks if the signs can be replaced once repaired. Barry explains that the sign at the top of the street would need to be discussed with whoever owns that property. The sign on the business property that was existing since the beginning, would be permitted if reconstructed of the same size and type. He suggests that this be done relatively soon because once a certain number of years has passed, the grandfathering disappears. A question arose regarding waste insurance. If doing oil changes, you have to accept waste oil from outside sources. Mr. Blaney responded that he currently does not have waste insurance as he was unaware of that. He does have a waste oil generator but, no waste oil heater. When doing oil changes, the oil goes into a drum that is picked up. There is approximately 20 gallons maximum on site. Barry noted that the State issues the permit and that he must comply with all state laws which is separate from the Planning Board.

Charles **made** and Steve 2nd a **motion to grant the Site Plan**. All in favor, **motion carries**. **Site Plan approved 3/9/2023**.

21 Beach Plain Road – Lot Line Adjustment:

Charlie Zilch of S.E.C. & Associates addresses the Board on behalf of Richard Russack and the Town of Danville with a brief overview of the project. This is a proposal that involves two parcels of land, Map & Lot 2-24-1, owned by Richard D. Russack Revocable Trust and Map & Lot 2-24-1-1, owned by the Town of Danville. Lot 2-24-1 is located at 21 Beach Plain Road and contains 10.99 acres and has 423.12' of frontage on the north side of the roadway. Situated upon the lot is Mr. Russacks 3 bedroom, single family residential dwelling. This dwelling was constructed in the 1760's and has been expanded on over the years. The dwelling is accessed by a circular drive and is sited close to the roadway. The building is served by its own individual

onsite septic system and water supply. There are several out buildings close to the main dwelling and there is a large barn west of the structure. The area around the house and barn is a mix of lawn, field and woods. There is a 50' wide right of way that benefits this property located on the west side of Sawmill Road. This right of way runs west from Sawmill Road to a point located on the northeast corner of the property near the large farm field. Lot 2-24-1-1 is located with frontage on Main Street and abuts the Russack land along its southeast boundary. This property contains 10.58 acres and has 393' of frontage on the east side of the roadway. The property is an undeveloped, town owned parcel consisting of open field and woods. Both lots are within the Residential/Agricultural zone and only the Town owned parcel is within the Danville Village District zone.

There are no questions from the Board or the public. Charles **made** and Steve 2nd a **motion to accept the application**. All in favor, **motion carries**. **Application accepted 3/9/20/23**.

Current Proposal:

This is a simple lot line adjustment in which a 7.89 acre portion (Parcel "A") of the easterly end of lot 2-24-1 (Russack) will be conveyed to lot 2-24-1-1 (Town of Danville). This parcel contains the majority of the land east of the dwelling along with 103.93' of roadway frontage. The expanded Town land will now contain a total of 18.47 acres and the reduced Russack land will contain 3.10 acres with 319.19' of frontage. Whereas the Russack land is being reduced to less than 5 acres, NHDES subdivision is required. To ensure that the reduced lot meets and exceeds all local and state siting and lot sizing requirements we have provided wetland delineation, topography and SCS soils for that lot. Additionally, we performed a test pit to ensure that the lot has a suitable 4,000 sf receiving area for septic and we show a potential, replacement well location, should the current system fail, that meets all setbacks. It should be noted that a note has been added to the plans stating that the previously mentioned right of way from Sawmill Road will no longer benefit the remaining land of Russack, but will now benefit the expanded Town owned property. All of Russacks land has been surveyed but, a full boundary of the Town land has not been provided as there are several plans already on record. A waiver has been submitted as part of this application for consideration.

Barry questioned if there is an easement for the well radius. Charlie stated that one hadn't been prepared as the proposed option for the well, should the current system fail, is within the lot and a test pit was done, but one could be created if needed. Barry believes it is a requirement per town ordinance. Charlie explains, per his recollection, that for any newly created lot the well radius has to be maintained entirely on the lot. This situation is a bit different as the plan shows that the well could be replaced in an area where the entire radius is on the lot. It has an old well that is pre-'89' and has certain rights. The town couldn't put in a septic system within 75ft as it stands now. This could possibly be achieved if it was built after 1989 without a well radius being done. Chris mentions that in the subdivision regulations, it states that the requirement is more on the waste disposal system and it needs to be 75ft from a well. The proposed option is within the lot. Charles Underhill asked any part of the existing town lot is part of the town forest to which Carsten explained that it is not. Barry noted that a portion of the lot is in the Village District and that adding this property to it doesn't automatically make the new portion part of the Village District as it does not change the zone line. Chris noted that the point is that

the owner (the Town), could have a use consistent with the Village District on the portion of the lot that was originally part of the Village District but, the rest of the lot couldn't extend that use to. Barry stated not unless something is done separately to change that. Use within the Danville Village District was discussed briefly. Barry explained that there are certain types of businesses allowed in the Danville Village District for example, a small café, Dr.'s office, and because this is town owned land, unless the town sold it, he can't imagine ever seeing those types of business on town owned land. Examples of allowed businesses would be a small café or a Dr.'s office. Barry noted that by adding this additional land doesn't automatically make this new piece of land open to that. A question was asked about the intentions of the use of the land and if the Town is acquiring it or if it is being donated. Barry responded stating at this point, nothing has been proposed for development of the property and there is no current plan. Carsten mentioned that the property that this is being combined with is Conservation land which was purchased 10-12 years ago with the intent of keeping it open. The Conservation Commission has re-established the apple orchard and the property will be consistent with those types of things. A question was asked as to why someone would want their land smaller and give away or sell it and also asked if it would be less of tax burden. Charlie explained that the gentleman who currently owns the land is no longer interested in maintaining all of the property anymore and would be happy to see it go to the Town. Barry noted that this lot line adjustment is irrespective of how he and the Town agreed to transfer the land.

Donna Blaney (29 Beach Plain Road) who lives next to Mr. Russack, asks why a lot line adjustment if the Town is purchasing the land. Why not sell to the Town and have the Town do their own lot line adjustment. Barry explained that the lot line adjustment needs to be done, otherwise Mr. Russack would have to do a subdivision because it's not a separate parcel at the moment and then a lot line adjustment. He has chosen to do just the minor lot line adjustment. Ms. Blaney stated that Mr. Russack indicated to her that the Town would not be doing anything with the land until after he was gone for 2 years and asked what that means. Barry noted that there is nothing on the plan that puts any restrictions on it of that type. Carsten mentioned the 23 acres that run out to Back Road would have been 11 lots if it had gone to the Planning Board 10-12 years ago. It has all kinds of frontage and there is not a lot of agricultural area left. This has the potential for agricultural/recreational use. Regarding Ms. Blaney's comment, it is consistent with the way it was approached and Mr. Russack will be able to enjoy his property for the maximum amount of time as long as he lives there. Barry noted that the Town typically does not build houses on Town owned land. Carsten mentioned a 20 acre parcel on Happy Hollow Road that was set aside by King George before the Town was formed as part of the Parsonage land which was completely out of the Town's ability to access for the last 100 years due to the wet area in front. 3 years ago it was brought to the Planning Board, subdivided by a developer and the Town bought a 3.3 acre lot. The Town bought this lot not to develop but to amplify what we have. There are no more questions from the Board or the public.

Requested waivers for this proposal are: Subdivision Regulation section III, D,3,b,2,3,9,11 & 12, for Plan requirements, Surveyed Boundary (entire parcel), Surveyed Topography (entire parcel), Wetlands Delineation (entire parcel). The Board then discussed the waiver criteria which are as follows:

A. Granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.

The proposal is to adjust the lot lines between the Town owned property, tax lot 2-24-1-1 and abutting land owned by Russack, tax lot 2-24-1. The proposal is to convey a 7.89 acre portion (parcel "A") from the Russack land to the Town owned land. All of tax lot 2-24-1-1 has previously been subject to a boundary survey and the area of tax lot 2-24-1 has been surveyed as part of this application. Whereas this is a proposal to add acreage to an existing parcel, there is no need to show the record boundary or topography, soils, etc. within that large tract area. Only the reduced area of tax lot 2-24-1 is this necessary to ensure that the area remaining to support the existing single family home meets all local siting and lot sizing requirements. As provided, the 3.1 acre lot supporting the existing dwelling easily meets all required zoning and subdivision requirements. Topography and soil types have been provided. Within that area, a test pit has been performed that ensure a septic system can be constructed that also meets all applicable siting and sizing requirements. In all, the area supports the requirements for a residential single family dwelling as required and granting of the waiver will not be detrimental to the public safety, health and welfare.

B. The waiver will not in any manner, vary the provision of the Danville Zoning Ordinance.

The area provided exceeds the minimum requirements to support a single family residential lot. Within that area, a building envelope exists that supports the location of a dwelling, driveway, septic system, and well and as such, meet the provisions of the ordinance as intended.

C. Such waiver will substantially secure the objectives, standards and requirements of these regulations.

As noted, the area provided is sufficient to prove that the requirements for a single family residential building lot is met. As such, the objectives, standards and requirements of the regulations are met.

D. A particular and identifiable hardship exists or a specific circumstance warrants the granting of the waiver.

Requiring additional topographic and wetland locations beyond what is necessary to prove the lot as a viable lot meeting all siting and sizing requirements is unnecessary. The hardship is inherent in the regulation that does not recognize situations such as this one. Denial of the waiver would result in unnecessary expenses to obtain the data where it is clearly not needed to support the proposal.

Charles **made** and Steve 2nd a **motion to grant the waiver requests**. Charles also mentioned that if combining the land with the existing parcel that has a conservation easement, it is detrimental to the Town to have an easement. All in favor, **motion carries**. **Waivers granted on 3/9/2023**.

There are 3 conditions that need to be met and are as follows:

1. State approval number
2. Monumentation (Carsten noted that there is an existing stone wall that follows the property line and suggests setting a pin or drill hole at the end. He also suggests flushed granite pins vs iron pins. Barry noted to check what is set currently)
3. Add dates for the waivers granted

Steve **made** and Charles 2nd a **motion to grant conditional approval with the above conditions**. All in favor, **motion carries**. **Conditional approval granted on 3/9/2023**.

Charles **made** and Steve 2nd a **motion to adjourn**. All in favor, **motion carries**. **Meeting adjourned at 8:45pm**.

Respectfully,

Gail Turilli