

Planning Board
August 24, 2023
7:30pm

Members present: Chip Current, Barry Hantman, Leo Traverse, Charles Underhill, Joe Hester

Others present: Gail Turilli, Isaiah Cronin, Bredan Daly, Phoebe Elder, Patrick Wall, Josh Rabenius, Larry Weston, Jacob Marvelley, Eric Weinrieb, Rob King, David Smith, Cathy Smith, Phil Cote

The Board reviewed the minutes of July 27, 2023, with no additional comments. Charles **made** and Barry 2nd a **motion to accept the minutes as written**. All in favor, **motion carries**.
Minutes are accepted as written.

29 Olde Road Site Plan, Map & Lot 4-183:

Chip explains the process which starts with a review of the application, an overview of the plan, and the Board will then accept or deny the application. Leo Traverse recuses himself from the discussion as he is an abutter. Isaiah Cronin, owner of the property located at 29 Olde Road, addresses the Board. He states that his engineers have already done test pits, taken soil samples, determined placement for the septic, well and building, topography, drainage for the roadway and tension necessary. Mr. Cronin is looking to place a 60'X100' steel building with a 20'X25' utility room on the site for his general contracting business, consisting of residential masonry, carpentry, excavation, etc. He also stated that he plows for the State of NH. The building will be used for the storage of equipment and trucks. Mr. Cronin explains the reason for the utility room is due to the need for a sprinkler system. The hours of operation would be from 7:30am to 5:00pm Monday through Friday with occasional Saturdays and there will be no hours on standard holidays. Parking has been designated to the side of the building and will consist of gravel and/or recycled asphalt. There are 5 waivers being requested which are shown on sheet 2 of the plans and the Planning Board has received these in writing. Barry noted that there are areas in green on the plan that are marked "allowed to re-vegetate" and asked for elaboration. Mr. Cronin stated that has only been logged and nothing more is happening in those areas. Unitil has a proposed plan which is not shown on the current site plan and will need to be shown.

At this time, Chip mentions that a letter was received from an attorney's office representing Brendan Daly, who is an abutter to the property being discussed, and asks that the attorney keep comments relatively brief. Jake Marvelley, the attorney who is representing Brendan Daly, stated that he is prepared to speak about the application but will limit this to procedure. Barry mentions at this stage the Board is not into the details of the plan. Chip stated that the 45-day clock has started on needing to give Mr. Cronin a yes or no answer which can be extended by mutual agreement between the applicant and the Board as these types of applications take some time to work through. Once the application is accepted, the Board will gladly accept those comments.

Attorney Marvelley states that the applicant filed the site plans late which makes it too early to take jurisdiction of the application. It triggers a potential regional impact procedure because the

property is located within 1000ft of the Town of Danville's border. This was calculated using the GIS tool. All materials needed to be on file by August 4th and special notice given. Since the site plans were filed late, August 9th, and correct notice was not given, request that the Planning Board not yet take jurisdiction on the application until correct notice after adequate time of file being on record. The application is still incomplete. The existing condition plan is not signed or stamped, it is unknown how the wetlands were delineated, the public notice stated a construction business, but the plans submitted stated a self- storage facility, therefore the proposed use is unclear. The extent of the waivers or justification has not been provided, the survey is incomplete. The application is still missing material necessary for the Board to accept the application. Barry asked that the 1000ft requirement mentioned be pointed out. Attorney Marvelley references the letter that was submitted to the Board. Chip states that this is referring to Section 13 of the site plan regulations, which state that the Board may find a regional impact in the cases of these five things, one of which is 1000ft from the border. Chip also mentions that the Board has done a lot of site plans within 1000ft border that did not find a regional impact. Part of this process is determining whether or not there is a regional impact, and if there is, RPC will be brought in and a procedure will be followed. Mr. Daly asks the Board to explain what the criteria is for regional impact. Chip explains per site plan regulations, the Board may deem potential regional impact if the following things may be met:

1. Any portion of the property is located within 1000ft of the Town of Danville border
2. The proposal involves 10,000sq ft or more of new non-residential floor space
3. The proposal involves 50 or more multi-family units
4. The proposal involves property located on a great pond which crosses municipal boundaries or
5. Other as the Board may reasonably determine.

Barry stated that Hannafords at the corner of 111/121A and the CCRC project were the only 2 projects brought before the Board that were deemed of regional impact in this immediate area. Phoebe Elder, abutter, questioned if regional impact would not include changes to the character and nature of the neighborhood. Chip explains if something changes the nature of the surrounding towns it would be considered regional impact but, if it is something that changes just Danville, it would not be considered regional impact. Ms. Elder noted that Mr. Cronin has pursued all of his work in the absence of permits. Work was stopped only once the state got involved, which Mr. Daley was involved in. Crossing wetlands is disrespectful of the community and 1500ft of wetlands were affected. Ms. Elder feels this is important to the context.

Eric Wienberg, Altus Engineering, retained by Mr. Daly and is working with the attorneys, addresses the Board. He has had the opportunity to review the application and plans and has also walked Mr. Daly's property. He presented a handout with comments to the Board. Mr. Wienberg states he has been with Altus Engineering for 30yrs and provides peer reviews for multiple communities. He notes that every item on the application is incomplete. Septic approval from DES prior to site plan review has not been received. Traffic impact analysis not provided, driveway at entrance appears wider than 36ft, driveway exceeds the maximum slope of 5%, site design does not appear to meet ADA design requirements, fire lanes not provided, documentation has not been provided to ensure that the design fulfills the requirements of the Danville Fire Department, parking spaces and sidewalk not provided, pavement striping not provided, loading areas not provided. Chip stops Mr. Wienbers and states that those are things

that are generally discussed once the application is in front of the Board as part of the review process, which hasn't started yet. Mr. Wienberg requests that the Board have the town engineer/3rd party review the plans and encouraged a site walk. Chip notes that is something that the Board requires and further explains to the public that no one who comes before this Board has a plan, whether a subdivision, site plan, or minor lot line adjustment, that is ready for approval at the first meeting. This is part of a process that can take months. The purview of the Planning Board is to make sure that the site plan meets the zoning ordinance and Planning Board regulations. Things like previous wetland impacts or operating a business without permits is the purview of the Selectmen. Phoebe Elder asked for clarification on the zoning for the property as she believed it to be zoned as light industrial. Chip clarifies that the property is zoned for Highway Commercial/Light Industrial. Ms. Elder noted that the zone description on the town website was very broad and questioned what is being done would fall under that zoning. Chip notes that will be something that is determined by the Board. Ms. Elder stated that if there are 3 axle vehicles coming up and down the road before they are stored, it would be considered heavy construction and feels that it seems to be violating the spirit of the zoning. There were no more questions or comments from the public. Barry **made** and Joe 2nd a **motion to accept the application**. All in favor, **motion carries**. **Application accepted on 8/24/2023**.

Chip mentions the waivers that are being requested and are as follows:

1. Section 21.E - Driveways/Vehicular and Pedestrian Access. Driveways (two-way) shall be no wider than thirty-six feet (36'); one-way driveways shall not exceed eighteen feet (18') in width. The maximum grade of a commercial driveway shall not exceed five percent (5%) and shall maintain a negative grade until it is beyond the ditch line. Driveway intersecting with public streets shall be equipped with striping and signage consistent with recommendations contained in A Manual on Uniform Traffic Control Devices (MUTCD).
2. Section 22.A – Parking. Off-street parking spaces shall be provided in accordance with these specifications for any change of use, new use, or expansion of use. In no case shall on-street parking be credited for any site because its availability is subject to change over time based on the public need to use the right-of-way for other, possibly conflicting, uses. Number of Spaces. Each site shall provide at least the minimum number of parking spaces rounded up to the nearest integer, determined as follows: Industrial: Wholesale, Warehouse and Storage. One (1) space per employee; and one (1) space per company vehicle operating from the premises, and one (1) space per one thousand two hundred square feet (1200ft) of gross floor area.
3. Section 23.C - Parking Lot Design. Parking lots shall meet the following design requirements, in addition to any other applicable design requirements contained in this Chapter: Parking Space Dimensions. Handicapped accessible parking spaces and dimensions shall be in compliance with ADA regulations.
4. Section 27 – Lighting. All non-residential and multi-family residential site plans presented to the Planning Board for approval shall include a lighting plan, which provides for a method and level of lighting appropriate for the purposed use or uses as determined by the Planning Board. All such lighting plans shall, at a minimum, identify the location, number, height, type and intensity of all exterior lighting fixtures to be installed. An illumination design shall be included. Unless otherwise approved by the Planning Board, all pole mounted lighting

fixtures shall be fed electricity by the use of underground electrical lines installed in accordance with applicable electrical code. Proposed exterior lighting fixtures shall provide for a level of illumination appropriate for the proposed use or uses. Illumination patterns proposed shall be at least the minimum required to insure an adequate level of lighting is provided for use safety and security; a site, creating nuisance or glare at abutting properties, public street and the neighborhood in general. All lighting plans shall be subject to review and approval by the Planning Board. No changes or modifications of approved lighting plans may be proposed without the specific approval of the Board. Illumination levels and placement of light sources will be shown. Said levels shall be consistent with the provisions of the Illumination Engineering Society's (IES) Lighting Handbook and will present glare and spill over. IES 90 degree full cut-off luminaires shall be required to reduce lighting impacts and night sky light pollution. Indirect lighting shall be used on signs advertising goods or services offered on the premises. Moving, fluttering, blinking or flashing lights or signs are not permitted.

5. Section 30.A-5 – Landscaping/Buffer. Every lot shall comply with the following standards in order to: enhance site design; enhance privacy; separate, screen and shield potentially conflicting land uses or abutters from undue impact; reserve a portion of the lot to remain undeveloped, permeable, and vegetated; control excessive storm water runoff; prevent soil erosion and pollution of water bodies; reduce heat, glare and dust; not detract from the Town's aesthetic qualities; and help integrate the built environment with the natural environment. A buffer of at least fifty feet (50') shall be required for portions of the development abutting existing residential property.

Chip mentions another waiver that Mr. Cronin may need as the Planning Board requires a survey and existing conditions of the entire lot. The assessor's map is not a survey and is inaccurate. Barry notes that he has a list of things that will need to be addressed and are as follows:

1. Parking area (waiver request)
2. Lighting Plan(waiver request)
3. Snow removal
4. Utility poles not shown
5. "self storage facility" – needs clarification
6. Waiver rationale
7. Survey for entire site
8. Culvert details
9. State approvals
10. Fire suppression
11. ADA
12. Pedestrian access(waiver request)
13. Landscape plan(waiver request)
14. Architectural plans
15. Hour of operation
16. Required plat notes
17. Surveyors signature
18. Wetlands certification
19. Paved driveway(waiver)
20. Buffer area(waiver)
21. Signature block
22. Meeting with Conservation Commission

23. Meeting with the Road Agent

24. Meeting with the Fire Department

Mr. Cronin mentions that he has met with the Road Agent who recommended that he pave the entryway. Barry stated that the Board usually receives a letter from the Road Agent once a plan is reviewed and acceptable. Barry then asks about trips in and out of the site, size, and weight of vehicles. Mr. Cronin states that the vehicles vary in size from pick-up trucks to triaxles with a weight of up to 80,000 pounds. Barry noted that he would like to see a note on the plan stating the maximum vehicle size and weight. Barry then asks about the length and width of the vehicles. Mr. Cronin stated all vehicles are 102 inches wide, but the length varies. He also stated that he may make up to a dozen trips in a day but, this also varies. Charles stated that he would like to see the size and location of the storage area noted on the plan. His concern with the storage area is if there is a potential for petroleum discharge from the vehicles leaching into the watershed areas. Another request is that he would like the Road Agent and Town Engineer to sign off that Olde Road is able to manage the weight capacities of the vehicles or if there will be reinforcement on the road in the future. Chip notes, "at some point in the future" is not in purview of this Board. Olde Road is a town road of record today and has no restrictions. David Smith, abutter, mentions the width on Olde Road that is to the town is 18-20ft and asks how can a triaxle and another vehicle pass each other on that road. Chip notes that it is the same way Sandown Road, Beach Plain Road and parts of Main Street are today and that 2 vehicles can fit. Barry states that the Board can ask the Road Agent and Town Engineer for their input. Mr. Smith stated the Town R.O.W. is 18-20ft, not the pavement. Chip states that is also true of Sandown Road and is something that this Board will look at and is discussing now. He also agrees with obtaining input from the Road agent but, doesn't feel it is necessary on having the town engineer do a comprehensive study of Olde Road. Charles states he would like to understand the town's liability if over sized vehicles are allowed on that road. Chip notes that it is already allowed.

Mr. Wienberg requests having the town engineer or the Road Agent look at that intersection as there is a very steep grade change and vehicles are already bottoming out. Mr. Cronin coming in with flatbeds will cause deterioration. Barry asked what the minimal clearance is for the vehicles. Mr. Cronin stated on the lower end it's about 12 inches. He mentions that when he met with the Road Agent, the end of Olde Road was discussed and the grade may need to be changed in the future. Mr. Cronin also mentions that the gentleman on the corner does have flatbeds coming in and it probably would be pertinent to change the grade. Chip mentions that the Road Agent is currently working on repairing roads in town and has a list. Barry stated that he would like to see the detail for connection to Olde Road (paved vs. non-paved) and detail for the flared corner on the plan. Dave Roberts asks for clarification regarding storage units, building, etc. He would like to know what the plans are. Chip shows the plans and explains that this is a "pork chop" lot, points out proposed driveway entrance, wetlands, detention ponds, etc. The Conservation Commission will look at the plan and comment back to the Planning Board. He also points out the proposed building and states there is a tricky buildable envelope due to the wetlands which requires a 75ft setback. Barry asks about the use of the building. Mr. Cronin explained that it will be a steel building with work-related bays in order to bring in trucks to work on when needed. Currently the building is showing as open with a door on each side and depending on fire suppression, may be better to break it into 3 bays. As of now, it is an open space building with a bathroom. No storage of hazardous materials, just what is in the motor of the truck (note needed on the plan) and no mechanical work will be done except for minor things like tire changes. Chip mentions he would like to see a potential easement to the property off of Blake Road which would cut down the driveway for future use. Showing connections to neighboring sites is required in the Planning Board regulations. Mr. Wienberg asks why the applicant isn't looking at utilizing access to the State highway. Chip notes that the State wouldn't allow it as the town has been

trying to get access to the South for 15 years. The easement on 111 is significantly larger than the road itself. The infrastructure that would need to be built would be substantial. Attorney Marvellely mentions a concern about allowing industrial use on a residential road and refers to the letter that was sent to the Board which includes a photo taken of Mr. Cronin's vehicle occupying the entire road. He also states that now he is hearing that the truck may be moving up to 12 times a day on a road that is otherwise residential. It would seem to be a small request that the applicant seek out formal response from DOT that he cannot, in fact, cut into that NH road. Mr. Wienberg pointed out that it would be legal if the state would allow it. Many people have signed a petition that is ready to be handed in and some of those people are present tonight. This will fundamentally change their residential road into a commercial road. Mr. Cronin stated that he has contacted DOT and received no response. There are no more comments from the public. Chip mentions that this is the beginning of the process and abutter's will not be noticed again. The Board will let the public know during a meeting when applicants will be returning, and the agenda will be posted at the Town Hall. The proposal will meet with Conservation at their next meeting and continue with the Planning Board on September 28th. At this time, Leo Traverse joins the Board back at the table.

Minor Lot Line Adjustment for Cub Pond and Colby Road, Map & Lot's 3-81, 3-81-1, & 3-73-B:

Josh Rabenius, owner of lot 3-81-1 and Larry Weston, owner of lot's 3-81 & 3-73-B approach the table and address the Board. Mr. Rabenius notes that the lot lines were made to maintain 200ft of frontage on Colby Road and is looking to transfer the frontage to Cub Pond Road. He also stated that he has spoken with the Building Inspector and the ZBA. Chip notes that Parcel B is to go into lot 3-81, Parcel A from 3-81 is to go into lot 3-81-1, and frontage from 3-73B is to go into lot 3-81-1. Barry asked about the ZBA comments. Mr. Rabenius stated that they recommended to go back to the Planning Board. Chip stated that this is not in their jurisdiction and not a zoning concern. Mr. Rabenius noted that he came in for a preliminary discussion with the Planning Board and was advised to go to the ZBA who then advised that he come back to the Planning Board. Charles recalls the core issue was the status of Cub Pond Road. Chip stated that it is a private road. Barry accepts that it is not in the purview of the ZBA but mentions some issues. He states that this doesn't leave 200ft of frontage on a Class 1-5 highway. Mr. Rabenius stated that the Planning Board brought up the fact that going that route would potentially not allow a building permit on that piece of property. This was clarified with the Building Inspector who stated a permit would have to be issued and went back to ZBA with that. Down road, permit has already been issued, set a precedent and this property had a building permit therefore, would be no reason to not issue another permit. Chip points out that there was an approved minor lot line adjustment for Cub Pond Road after it crosses/touches Caramel Drive. Barry noted that the owner bought Cub Pond Road. Chip agrees and noted it was turned into a full lot with no frontage on a town road and this application is the same scenario. Mr. Rabenius noted that there is another stipulation when the easement was removed back in 2017 and that it came about that Cub Pond Road is not a private road. The town owns an easement that abuts it, which makes it legal for anyone in town to traverse it. Barry agrees but states it that doesn't make it a town road. Charles asks who maintains and plows the road. Chip and Mr. Weston both stated that the residents are responsible for that. Barry notes that eliminating 200ft of frontage and also shows that the lot is going to go halfway into Cub Pond Road. Mr. Rabenius stated that was a request of this Board. Barry mentions that he thought Cub Pond Road was owned by the gentleman who built the other house. Chip stated that he does not own the whole length of the road, only from Caramel Drive to Cub Pond Road. Mr. Rabenius stated that when the driveway was put in back in 2017, brought that piece of property to the current road and it was this Board's direction to do the same. Instead of abutting, bring to the current road. Charles asked how this is structured and if there is an easement on the properties. Chip explains that Cub Pond Road has the right to traverse. Mr.

Rabenius also stated that the address is 26 Cub Pond Road, trash, and fire trucks have accessed the road and there are utility poles on it. Chip stated it is a R.O.W. for the town and any resident in town has a right to traverse it. Barry understands the ZBA ruled the way that they did but, from a Planning Board perspective, he sees it as taking a conforming lot and making it a non-conforming lot. Mr. Rabenius again noted that the ZBA stated that this was not theirs to deal with and also stated that Charlie Zilch came to the Planning Board twice since then with plans, suggestions were given and minor changes have been made to the plan. Charles stated if the Planning Board determined that there is no objection to a permit being issued for development on a piece of property, treating the 200ft as compliant seems like a moot point. Chip understands that Barry is asking if this Board is legally capable of actually approving this. He also mentions that Zoning requires 200ft of frontage on a Class 1-5 road, which this isn't. There have been other private roads in town that have been used for development, not always existing but, being built, which the Board requires having built to town standards and doesn't see this as any different. Charles comments that in the prior issue when talking about granting a future easement and where to create access that didn't exist because there wasn't 200ft of frontage.

Barry stated he is concerned that the Board may not have permission to do this. It opens up the rest of Cub Pond Road to development on a road that is residential and the lot is an existing lot of record. Chip notes that if this was a subdivision, there would be a different outcome. Barry stated that taking a non-conforming lot and making it better is permitted by RSA and also mentions that the lot has no access but, technically conforms today. Chip stated that there is no way a subdivision would be approved today and also proposes that this plan brings the lot towards conformance and utility. Right now it is being utilized but, there is no way a driveway can be put in off of Colby Road and now the plan is making it so a driveway can be put in. Chip's point of view is to make the lot show that a house can be put on it. Charles questioned if the 200ft is not suitable for a curb cut. Mr. Weston stated no, but, there is some form of access. Charles agrees that this proposal is moving towards conformance and compliance. Barry noted that this can be done without the lot line adjustment and feels access can be obtained off Cub Pond Road without giving up the 200ft of frontage. Barry also stated that the plan is good and the applicant is doing the right thing but, he is trying to legally justify the proposal as a non-conforming lot is not supposed to be created. Mr. Rabenius stated that it has already been created and the driveway is already there. Barry stated he agrees but the lot as a whole is conforming. Chip disagrees because a driveway cannot be put there. The Planning Board requires that when a lot is created, it needs to show that a house can be put on it and it can't be done on this lot as it is today. By making this change, it would make it more conforming. Charles **made** and Barry 2nd a **motion to accept the application**. All in favor, **motion carries. Application accepted 8/24/2023.**

Barry asks about fire suppression, although not required. Mr. Weston stated there are no plans to build as of yet but, he does have old plans. Charles suggested to pose to the town attorney, to clarify the legal right/authority on how the Planning Board can act on some applications, possibly propose a language change for an unusual situation and how to solve some things between the Planning Board and the ZBA. Barry stated that the first step would be to review the ZBA meeting minutes. In this particular case, all surrounding landowners are in favor of the plan but, Barry would like to understand why the ZBA came to their conclusion. Charles mentions that a resolution to this may be a language change within the Town's regulations that accounts for unusual situations. Chip stated that he is not in favor of changing Zoning if at all possible. Charles **made** and Joe 2nd a **motion to approve the Lot Line Adjustment**. All in favor with Barry abstaining, **motion carries. Application approved 8/24/2023.** Barry **made** and Charles 2nd a **motion to assess an Impact Fee of \$6,639.00**. All in favor, **motion carries.**

Final Approval for Charbro LLC – 27 Main Street – Map & Lot 3-161-1-1:

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333 The Board reviews the updated plan and all outstanding conditions have been met.
334 Barry noted to request that a new set of paper plans will need to be submitted with the removal of the
335 existing lamp post shown on sheet 4. Barry **made** and Joe 2nd a **motion to grant final approval and sign**
336 **the mylars**. All in favor, **motion carries**. **Mylars signed and will be delivered to the registry next week.**
337 Barry **made** and Joe 2nd a **motion to assess Public Safety Impact Fees for Offices and General Services**
338 **in the amount of \$3,840.00**. All in favor, **motion carries**.
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340 Barry **made** and Joe 2nd a **motion to adjourn**. All in favor, **motion carries**. **Meeting**
341 **adjourned at 9:30 pm**.
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344 **Agenda for next meeting:**

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346 1. Eversource Project Checklist
347 2. Charles Underhill's Overview/Master Plan discussion
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350 Respectfully,
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353 Gail Turilli
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