

Planning Board
Oct. 13, 2016
7:30 pm

Members Present: Barry Hantman, Chris Giordano, Jim Castine, Roger Whitehouse, Janet Denison-clerk

Excused Members: Chip Current, David Cogswell, Chris Smith

Others Present: Bruce Mayberry-CCMI, Steve Woitkun-Fire Chief, Rich Moussa, John and Bonnie Farr, Wayne Morrill-Eversource, John Casey-Eversource

Minutes:

Chris G. made and Roger seconded a **motion to accept the September 22, 2016 minutes as amended**. The motion **passed** unanimously.

Correspondence:

- a notice for the ZBA hearing, scheduled for Oct. 25th at 8:00pm. There was a short discussion about whether or not Roger would have to recuse himself. There is no requirement that he do so. The ZBA has different criteria that they consider during their hearing process. Barry will not be able to attend the hearing. Chip will be asked if he can do so to represent the PB.
- A notice from the Heritage Commission regarding Tucker Town Road, to be discussed later in this meeting

Public Hearing regarding Public Safety Impact Fees

Barry pointed out that this new fee schedule applies to new development. Bruce Mayberry introduced himself and explained that he had spoken with Kim Farah of the Board of Selectmen. She and Steve Woitkun, the fire chief, had some comments regarding the draft. Mr. Mayberry explained that impact fees are contingent on something happening in the near future, such as a new police station. He had visited with both chiefs and visited their facilities. He stated that if the PD moves to a new facility, this frees up space for the FD. Both facilities are dependent on the PD moving to a new facility.

Mr. Mayberry used a build-out scenario, and split it between residential and non-residential development assumptions. An allowance is made for future vehicles

He said that he watched a video of a meeting in which the impact fee was discussed and feels everyone has a good idea of how everything works. He said the idea was brought up that if a PD station is not built, then that portion of the fee must be refunded. He said more may have to be refunded because the expansion of the FD is dependent on the PD moving. Barry said that any fees must be expended for its intended purpose. Partial refunds may have to be given.

Mr. Mayberry reviewed the comments he received from Kim Farah. He ascribed a site value to a new property that may have to be removed if a parcel is not purchased. He also said that different replacement values may be used for the fire department vehicles. The PD vehicle replacement value was not based on each officer having their own vehicle. Floor area standards used to calculate the new PD station were based on 350 square feet per officer. He said that the IACP, or International Association of Chiefs of

Police, uses a standard of 260-300 square feet per officer, but has a caveat that each department needs to ascertain its own needs and come up with their own number. Mr. Mayberry said a larger area is commonly needed in smaller communities, such as Danville, thus he used 350.

Mr. Mayberry used a facility value based on future service base. There are currently 1734 housing units in town, and 2500 is the build out estimate, leaving 766 units that may be built in the future. He explained that if we looked at the net unit increase, Danville averages 17 units per year. A buildout timeline isn't necessary except to ensure that we aren't over assessing a fee.

Barry said that the funds can be used first for a conceptual design.

Jim asked about warrant articles used to purchase fire department vehicles. It was explained that often a warrant article is voted on by the town for purchasing vehicles and the impact fees can be drawn upon for part of those purchases. There are also capital reserves for this purpose.

Chief Woitkun was asked about the figures used to replace FD vehicles. Chief said the figures are conservative. He said there's a national recommendation on the values for vehicles. If the figures are to be changed, it would be good to have documentation to corroborate the fees. Chief said a stock model could be purchased, but each vehicle has to be customized for the community it serves. Chief gets estimates for each purchase he makes.

The funds have to be appropriated within six years of collection. Chief said he reviews replacement vehicles every 20 years. He asked about using the funds for equipment other than vehicles. He was told that it could be used for improvement to the building or other capital improvement. Barry said that some years the PD could get a bigger share, and the next year the FD gets a bigger share. The fees are based on public safety, the method for getting those numbers is explained in the study.

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

Chris made and Roger seconded a **motion to ask Mr. Mayberry to update the numbers based on an estimate of our FD vehicles and adopt these public safety impact fees effective January 1, 2017**. The motion **passed** unanimously.

Preliminary discussion with John Farr regarding the Village District

John Farr introduced himself and explained he is interested in a property in the Village District. He would like to purchase it and build his home there and relocate his business, Farr's Auto Repair, to that same location, but the Zoning Ordinance will not allow that type of business. His shop is currently on Gigante Drive. Business has grown via word-of-mouth, with no advertising. He said he wants to relocate closer to his current customers and wants acreage for his own home.

It was explained that a warrant article could be written to revise the Zoning Ordinance, either through the Planning Board or with a citizen's petition. He could also see the Zoning Board and request a variance. There was a short discussion about buying lots in the highway, commercial, industrial zone but this would not allow him to live where he works. It was suggested that he could purchase this property and subdivide it, selling the parcels to other businesses.

Discussion with Richard Moussa regarding turning a duplex into a condo

Mr. Moussa explained that he is building a duplex at 150 Emerald Drive and would like to turn this into a condo. He was told that typically when a condo is being planned, this Board reviews the condo documents to see that the town's interests are protected. There are many ways in which to build a condo, but this particular plan was not reviewed by the Planning Board before construction started.

Mr. Moussa explained the land would be owned in common and there will be an association. He is not changing the building. He agreed to keep this however the town sees fit. He said that keeping it as a condo is limiting the number of potential buyers.

Mr. Moussa was told that this Board will need to review the documents and send them to Peter Loughlin for review also. The cost of the legal review will be charged to Mr. Moussa. It is unknown if the subdivision plan will need to be amended and recorded along with condo docs. The original subdivision plan was recorded in 1998 and a line adjustment was recorded in 2002. This will be confirmed with legal counsel. Mr. Moussa was told that any development will need to conform to zoning. He was told to forward the Articles of Association and any other legal documents to this Board for review, including something showing membership is mandatory for all property owners, and an explanation of their voting and use rights. A copy of the Zoning Ordinance was copies for Mr. Moussa.

Terra Realty/Tucker Town Road

The letter dated October 3, 2016 from the Heritage Commission was mentioned. It discusses a letter dated September 23, 2016 from Dennis Quintal.

Barry stated that after all of the time that has passed, there may be other ways to access the property that were not available many years ago. A right-of-way has been left off of Heron Drive that is a much shorter route to the property. The powerline corridor may offer an access that was not available previously. Each of these routes, including Tucker Town Road, has different costs and different impacts to the town and to Terra Realty.

Wayne Morrill and John Casey explained that a site walk was conducted with Dennis Quintal in order to familiarize him with the area. Feedback was provided on the roadway maintenance in order to provide a safe access for emergency vehicles. It was mentioned that the number of trees to be removed or trimmed can be revisited since so much time has passed. It was questioned whether or not a tree with a circumference of over 15" needs approval from the Board of Selectmen before it is cut.

The two letters from Heritage Commission and Dennis Quintal's eleven comments were reviewed and commented on as follows:

1. The pull off area will be located on the south side of Tucker Town Road to avoid interference with the Sanborn Tavern foundation. A note will be added to sheet C1.
2. The stone culvert was discussed briefly. It has been agreed that new rocks will be installed on the north side and that some maintenance will be needed on the south side of the culvert to maintain water flow. A note will be added stating the existing stone culvert will be preserved.
3. A note will be added that the scenic road statute will be followed when deciding on trees to be trimmed or removed. The trees will be marked.

4. The detail of the gravel to be placed on the road is marked on sheet D1. Gravel will be applied as required and not to the entire road. The agreement states that the road will be returned to its former state when the project is finished. Erosion control measures will be used. Additional notes will need to be added to C10 regarding Tuckertown Road.
5. Silt socks will be used to control erosion. Wildlife can more easily climb over these than other control devices. A note will be added that these will be removed when the project is finished.
6. Sheet C2 and C3 indicate where it is recommended that the road be straightened. It was noted that the Heritage Commission is opposed to straightening the road. This is a request from the town engineer for safety purposes. Mr. Morrill said that Terra would like to straighten the road and will return the path of the road to its original position after the project is finished. It was noted that straightening the road is not in conformance with the original agreement but the Planning Board recommends this in the three locations indicated. It would be difficult to point out every location that will be shimmed.
7. A note will be added that the road will be stabilized; other areas will be shimmed to keep the water where it should be. It was noted that the road is not more than 10' wide and in some areas there are dead trees holding up the road. If these are removed, the road will erode to the point that it is unpassable. A note will be added that the road will be maintained at a width of 10'. It was also noted that this is not in compliance with the original agreement but the Planning Board recommends this for safety reasons.
8. It was noted that crushed stone will allow water to flow through without spreading the stones into the wetlands.
9. It was noted the gates need to be repaired.
10. Silt socks will be used for all erosion control areas.
11. Mr. Morrill agreed to help with an application to the state for a wetland crossing. The town will have to sign it as the property owner. Chris said that the town may want to consider a permanent crossing rather than temporary. The timeframe for a permanent crossing permit is 3-4 months, whereas a temporary crossing permit takes about 45 days. Mr. Morrill said a temporary crossing can be designed with a more permanent nature. This can be left in place when the project is done.

New plans will be drawn and submitted to the Board and to Dennis Quintal. Barry said that each paragraph of the permit will need to be reviewed. Mr. Morrill offered a rough draft of a conditions precedent index listing, listed A-L. This will help anyone go directly to important points of the agreement. An escrow account will need to be established. The amount was set in the agreement. The Selectmen will work with Terra to establish a conditional use permit for any wetland crossings. A note on the plan can be added regarding ground water monitoring. The town is supposed to determine where three wells will be installed, at the expense of the town, to be reimbursed by Terra. A draft notice of restrictions to be recorded at the Registry is included in the packet. This will be sent to town counsel for review. The issue date will need to be changed to May 3rd and state that it was approved on May 5th. When this is reviewed by the Board again, a recommendation can be offered to the Board of Selectmen.

Jim pointed out that accessing the right-of-way off of the Colby Pond development. If this is used, it is 12 houses from Main Street to the access road. The same number of houses will be passed from Main Street to the access point of Tuckertown Road when that development is done. Using that access will also

eliminate the need to do the engineer recommendations 1-9 as discussed tonight. Barry pointed out there are other routes out of Hersey Road also.

Other Business

The mylar for the Meetinghouse Subdivision was signed. Kevin Hatch had submitted a note stating this was preapproved at the registry and should be acceptable.

Zoning Amendment Warrant Articles

The Board discussed the following:

1. To see if the Town will vote to amend the Danville Zoning Ordinance to provide consistency in the number of parking spaces required for multiple unit dwellings between the Site Plan Regulations and the Zoning Ordinance. Specifically this would replace Article IV.A.1.d.1).d) with the following:

d) Off-street parking shall be provided for each dwelling unit at the minimum rate of two (2) parking spaces per unit. The area shall be paved and provide adequate back-up radius (22 feet wide for 90 degree angle parking; 18 feet wide for 60 degree angle parking and 12 feet wide for 45 degree angle parking).

Chris made and Roger seconded a **motion to put this to a public hearing**. The motion **passed** unanimously.

2. To see if the Town will vote to amend the Danville Zoning Ordinance to modify the setback requirements for signs within the roadway setback. Specifically this would amend Article II.AA to add the following sentence:

For the purposes of determining what is allowed within the roadway and lot line setbacks, signs under ten (10) square feet shall not be considered permanent structures.

Chris made and Jim seconded a **motion to put this to a public hearing**. The motion **passed** unanimously.

3. To see if the Town will vote to amend the Danville Zoning Ordinance to change the board that issues conditional use permits from the Board of Selectmen to the Planning Board. Specifically this would amend Article IV.F (and the subordinate articles) to change all occurrences of the word "Selectmen" with "Planning Board" and to eliminate Article IV.F.4

Chris made and Jim seconded a **motion to put this to a public hearing**. The motion **passed** unanimously.

4. To see if the Town will vote to amend the Town of Danville Zoning Ordinance to update the section related to Extended Family Accessory Living Units to bring it into conformance with recent changes to New Hampshire State Law. Specifically, this would make the following changes to the ordinance:

Add a new Article II.C as follows and renumber existing paragraphs II.C through II.II:

II.C Accessory Dwelling Unit - A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Replace Article IV.A.4 with the following:

4. Accessory Uses: Accessory Dwelling Unit (also known as Extended Family Accessory Living Unit)

a. The objectives of this ordinance are to:

- 1) Empower families with a tool to provide housing opportunities to extended family members, caregivers, and others while affording all parties the necessary privacy and living arrangement conducive to harmonious habitation in a single residential structure.
- 2) Preserve the aesthetics of single-family housing. This ordinance places strict physical limitations on size and access to the accessory living unit.
- 3) Protect the residential character of a neighborhood.
- 4) Provide for Accessory Dwelling Units in accordance with RSA 674:72.

b. The following restrictions shall apply to all Accessory Dwelling Units (formerly known as Extended Family Accessory Living Units).

- 1) An Accessory Dwelling Unit shall be allowed in residential zones only by Special Exception from the Zoning Board of Adjustment as permitted by RSA 674:72. The specific Special Exception criteria that must be met are listed below in section c.
- 2) Only one Accessory Dwelling Unit shall be permitted per lot.
- 3) The accessory living unit shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling.
- 4) Any and all construction shall be in accordance with the building standards of the Town of Danville in effect at the time of construction and a permanent internal access between the two units shall be maintained per RSA 674:72-III.
- 5) In accordance with the standards of the Town and the standards of the New Hampshire Water Supply and Pollution Control Division, the septic facilities shall be adequate to service both the main dwelling unit and the accessory dwelling unit. If the existing septic design is inadequate, a new or upgraded septic system conforming to the most recent state and local standards shall be required.
- 6) In the event the property is sold, the Special Exception shall expire.
- 7) Detached Accessory Dwelling Units are not permitted.

c. To grant the Special Exception, the Zoning Board of Adjustment (ZBA) must find that:

- 1) The proposal meets the objectives outlined in ARTICLE IV.A.4.a, the restrictions as specified in ARTICLE IV.A.4.b, and is in conformance with RSA 674:72.

- 2) The applicant shall have presented to the ZBA a construction plan approved by the Building Inspector of the proposed accessory use with sufficient detail to enable the ZBA to determine adherence to the Special Exception criteria.
- 3) No more than one (1) accessory dwelling unit shall be allowed per main dwelling. The accessory living unit shall be included in said main dwelling and shall not be permitted within detached accessory structures located on the same lot as the single-family dwelling.
- 4) The main/principle dwelling or the attached accessory dwelling unit shall be owner-occupied. The owner shall demonstrate that one of the units is his or her principal place of residence and the special exception shall expire if the property is no longer the principal residence of the owner.
- 5) The accessory dwelling unit and any related changes to the property shall be designed so that the appearance remains that of a single family residence and is consistent with the single family character of other residences in the neighborhood. Any new entrances shall be located on the side or in the rear of the building.
- 6) The accessory living unit shall have a convenient and direct permanent, internal access to the principal dwelling unit without the necessity of going outside of the principal structure or through a garage in accordance with RSA 674:72-III.
- 7) The accessory living unit shall be no more than seven hundred fifty square feet (750 ft²) in size and shall be clearly an accessory living unit to the principal dwelling.
- 8) Appropriate off-street parking is provided for the Accessory Dwelling Unit.
- 9) No more than two (2) persons unrelated to the owner may occupy the Accessory Dwelling Unit.

d. Failure To Comply

If an owner fails to comply with the requirements of this section, the use of the accessory dwelling unit shall be terminated within 6 months of the date of notice from the Town of Danville. The owner shall be subject to penalty under RSA 676:17 for each day the accessory dwelling unit fails to comply with the requirements of this section after March 31, 2017

e. Existing Non-Conforming Accessory Dwelling Units

Accessory dwelling units (formerly known as Extended Family Accessory Living Units) previously constructed which do not have either a building permit, certificate of occupancy, or special exception previously granted by the Zoning Board of Adjustment (ZBA) shall apply to the ZBA for a special exception within 60 days of passage of this ordinance.

- 1) The Zoning Board of Adjustment shall have the authority to grant a temporary exception, not to exceed 180 days, during the period in which the special exception is under review.
- 2) In granting a special exception for a previously existing non-approved accessory dwelling unit, the ZBA may require that the existing primary and accessory dwelling units be brought into compliance with this ordinance within specific timeframes established by the ZBA.
- 3) In granting a special exception for a previously existing non-approved accessory dwelling unit, the ZBA may consider the requirements that were in place when the accessory dwelling unit (formerly known as Extended Family Living Unit) was established when determining conditions of approval. The ZBA, however, is under no obligation to grant the special exception based on prior requirements.

Barry explained that this was rewritten to comply with the new state law. He tried to keep as much of the intent of the old ordinance as possible and added a section on failure to comply. This section is noted as the nonconforming uses. The size of the ADU was kept at 750' to keep it as small as possible. Chris made and Jim seconded a **motion to put this to a public hearing**. The motion **passed** unanimously.

It was agreed that the public hearing will be held December 8th. There can be a meeting on December 22nd if necessary.

At 10:30pm Chris made and Roger seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Janet Denison
Land Use/Assessing