

Planning Board
August 26, 2021
7:30pm

Members present: Barry Hantman, Chip Current, Chris Smith, Charles Underhill, Roger Whitehouse, Steve Woitkun

Others present: James Seaver, Tim Lavelle, John Jalbert, Dottie Billbrough, Rick Atkins, Holly Bright, George Nelson, David Laplume, Gail Turilli

The Minutes from 7/22/21 were reviewed. Chip stated there is a change to line 34 which should state, “expiration dates have been absent from the Highway Department.” Charles stated line 44 has a typographical error where it says up to the stated, should say “state”. Chip **made** and Charles 2nd a **motion to accept** the minutes as amended. All in favor with Roger abstaining, **motion passes.**

Planning Board Business:

Barry mentioned the NH DES Supply Lines Newsletter came in the mail which discusses proposing enforceable limits for manganese in water. He was not aware of a manganese problem in Danville. Chip stated that he has had this issue in the past where his dishwasher would turn bright orange when it heats up. The newsletter was passed around for interested parties.

10 Cote Drive, Map and Lot 4-2-1 Subdivision:

Tim Lavelle, representing David Laplume, addressed the board. The proposal is to convert to condos to an existing duplex creating units 10A and 10B. The property will not change but, will have two different owners. Limited common space has been created, the septic was designed for a duplex, and the driveway is already existing. There will be no change to the lot, no construction, just simply converting existing building into two ownerships with 50% interest in the parcel. Barry stated the application states number of lots proposed is two but, should be one lot with a two unit building. Correction was made on the application and Mr. LaPlume initialed the change. Barry stated that there are no waivers being requested. Mr. Lavelle stated that is not correct. The previous plan had topography and soils being shown on the plan for the entire parcel and now there is a request to not show that on the plan. The lot is just shy of 6 acres, showing topography, etc. on over 2 acres and there are not wetlands near the homes. Mr. LaPlume initialed waiver request on the application. Chip asked if the engineering fee's have been collected and Gail confirmed. Steve **made a motion** to accept the application, 2nd by Chip. All in favor, **motion passes. Application accepted by the Planning Board 8/26/2021.**

Details of the plan: The line type for utilities and easement has been inadvertently turned off. There is an easement across the front, existing utility pole and overhead electric running across the property to feed lot to the east, 2-2. Barry asked about the old plans for the existing duplex which was done by Josh Manning. Nothing was found in the files, will need to locate prior to the next Planning Board Meeting.

47 Charles asked if there will be a condo association with this project. Mr. Lavelle stated there are
48 condo documents which the Town Attorney is reviewing. Barry noted that Town Counsel has
49 reviewed the documents and a letter was received stating that there were no issues with the
50 documents. Charles questioned having a single septic system and a single well for both units.
51 Mr. Lavelle confirmed that there will be a single septic and well which will be 75ft away from
52 the leach field. Chip noted that the well is missing from the plans. Grading, erosion plans,
53 service water and drainage are requirements for subdivisions. Mr. Lavelle stated not proposing
54 to change anything and this is not applicable to this plan. Charles asked if the requirements are
55 the same as construction of a duplex. Chip noted that construction of a duplex, if a lot of record
56 big enough to handle a duplex would go through the Building Inspector and not the Planning
57 Board. Condominium conveyance is considered a subdivision and therefore under subdivision
58 regulations which talks about this in definitions but not design standards. Mr. Lavelle states the
59 property is not changing, the drainage system has been there and is working.

60
61 Barry stated this type of plan is not something that is seen often and does not recall seeing
62 something like this previously. Roger recalls one other similar plan and states he would discuss
63 off record. Town counsel advised a subdivision review was needed. Barry asked what is stated
64 in the subdivision regulations. Chip stated design standards state minimum requirements.
65 Certain requirements can be waived for good cause. Minimum standard to creating a
66 subdivision. Barry questioned needing a waiver but, the consensus is that it doesn't apply to this
67 application which Chip agrees. The well radius is missing and needs to be on the plan. Chris
68 asked about the states interest in the plan. Mr. Lavelle explained that state approval is needed
69 and they will look at the condo documents and the test pits for the septic. The septic design was
70 approved as a duplex. Barry questioned the paragraph regarding a survey/closure of lot. Mr.
71 Lavelle stated it is standard for condo conversions. The survey will need to be added to the plan.
72 Lot lines are not certified. Mr. Lavelle noted that a survey was done. Chip looked through the
73 design standards and nothing is applicable except water, sewer, erosion which should be covered
74 on sheet 4 once the well is shown on the plan. Easements are in place.

75
76 Barry asked if there were any questions from the public. Wanda and Charles Cote sent in a letter
77 with concerns as they could not make the meeting tonight. The concerns are as follows:
78 insufficient acreage, back taxes, and one occupancy permit issued as a single family home.
79 Barry stated that if only one occupancy permit has been obtained, another will be needed from
80 the building inspector. Back taxes are not a Planning Board issue. In regards to the acreage, and
81 understanding that a 2 unit building in Danville requires 4 continuous acres of upland soil, this
82 has already been approved as a 2 unit building. The lot total is 5.72 acres. The board has no
83 issues. Chris asked about proof of the duplex approval. Mr. LaPlume stated he does have the
84 documents at home. Nothing was found in the town records and will need to be located prior to
85 the next meeting. There is a waiver request for topography and soils mapping for a portion of
86 the plan. Per the Planning Board's subdivision regulations, section III.D.3.b.9 which states,
87 surveyed topography with a minimum two feet contour interval and spot elevations at critical
88 locations where relief is less than two feet. Roger **made a motion** to accept the waiver request,
89 2nd by Chip. All in favor, **motion carries**. **Waiver accepted 8/26/21**. A note will need to be
90 put on the plan with the section added.

Barry recommends having the town engineer review the plans. Chip stated there is no change to the property, it is a legal conveyance. The consensus of the board is that this is not necessary. Charles asked if the condo documents will be attached and recorded as part of the plan where this is considered a subdivision. Sheets 1-4 and the condo documents will be recorded.

Barry noted there are 7 items that need to be addressed on the plan and are as follows:

1. Well/Well Radius
2. Survey Certification
3. Existing duplex approval
4. Update to note 8- waiver granted
5. Signature block on sheet 3
6. Sheet 3 should denote 2nd floor
7. State/DES approval

Chip **made a motion** to grant conditional approval for Map and Lot 4-2-1 for condex conversion subdivision with the above listed restrictions, 2nd by Roger. All in favor, **motion carries**. **Conditional approval granted on 8/26/21.** This will be on the agenda for the Planning Board Meeting on 9/9/2021.

Stage Coach Estates Subdivision, Map and Lot 1-19-B:

Barry stated that this is a new application for a subdivision that has one existing lot and creating 10 new lots. The previous application was denied for various reasons. Mr. Jalbert believed the previous application had been approved but that time had run out. Barry noted that comments from the town engineer were received previously and may have been addressed but, the Planning Board was not made aware. State approval also had not been obtained previously. No waivers had been requested.

Tim Lavelle, representing Lake Realty Trust, addressed the board. They are proposing a roadway, Emily Lane, to access the 11 lots. Previously, the town engineer had some drainage issues that needed to be addressed. The subdivision did not come back before the board due to an extensive review with the state for new rules for the AOT. AOT permit has now been obtained which required changes to the drainage. Town engineer will need to review the permit and drainage changes. Most items have been addressed. The drainage issues may have been taken care of in a different manner than suggested because of the AOT. There was a change made to the retention pond at the end of the road. The storm water basin has 2 areas referred to as four bay, which is a 3 chambered pond. Water goes into an area where it can settle out, get cleaned, then goes into the next area where it leaches out. Water gets released at a slower rate and makes sure it is treated before released, also holding back and released at the same rate.

Chip confirmed that all the abutters have been noticed. Barry asked if there are any questions regarding the application. Charles recused himself from the meeting as he is an abutter to this property. Roger **made a motion to accept the application**. Chip 2nd the motion. All in favor, **motion carries**. **Application is accepted 8/26/2021.**

Chip asked if there are any significant changes from the previous plan. Mr. Lavelle noted that the size of the storm water management basin at the end of the road is the only change. There is an easement in place on lot 19-14. Lot 1-19-7 is not part of this subdivision. There should be an easement added to lot 15. Chip noted that it looks as though the proposed house lot in the easement on the plan and questioned a new test pit and moving the septic on lot 15. Mr. Lavelle explained that the test pit is close to the lot line on the opposite side of the lot and a new test pit/moving the septic is not needed. There will be no change to the road. Chip requested a 25MPH speed limit sign 200ft in on lot 8 as you turn into the road. Barry stated there are some notes that need to be added to the plan which are as follow:

1. Note 9 – remove or request a waiver
2. Add easement to lot 15
3. Soil Scientist signature missing from sheets 9 & 10
4. Speed limit sign
5. Fire suppression

Mr. Lavelle explained that the plan is to have sprinklers. He has previously met with the fire wards and the Chief. An updated note will need to be added to the plans. Barry also stated that the Highway Department will need to be consulted for driveway permits and because a this is a new plan, Conservation will also need to be met with for their input. The town engineer will need to review. Mr. Lavelle questioned if it is ok to reach out to the town engineer directly via email as that is what he prefers. Barry confirmed that this is ok to do. Engineer fee's have been received and added to the previous funds submitted. The remaining funds will be returned once the final bills for the project have been received. There were no questions from the board and Barry opened up the discussion to the public.

Richard Atkins, who is an abutter, asked if this application is approved and what is the process for approval. He is concerned that this is a dangerous spot with vehicles going over the speed limit coming over the hill. Barry explained that the requirements are that the road agent will look at the plan, driveways for the proposed lots, and the new road. He will check for appropriate site distance and safety will be taken into account. Slight modifications may be needed at that intersection. The road has to be built to town standards, 60ft ROW, and inspected by the town engineer during and after construction. The town accepts the road upon completion via the Board of Selectmen.

Mr. Atkins stated that during the initial site walk, Mr. Jalbert had cleared some of the trees, opened up the property for tractors, stumps, etc. It was recommended at that time that some trees be put in. He questioned if that still stands and should be on the plan. Barry recalls that he did request a tree barrier previously against the abutting properties, specifically Mr. Atkins property. Mr. Lavelle states that they tried to work things out but could not come to an agreement. Mr. Atkins stated that an agreement was made for a fence to be put in. Barry stated that this is a new plan and advised the two parties to meet and come to an agreement. Mr. Jalbert stated the first request from Mr. Atkins was to have a 4ft pile of dirt and run an 8ft fence going 500ft along the side of the road. No agreement was made. A request for a fence from the house going down a little bit to the front of the property was also made, with no agreement. About a year ago, trees were cut and the property stumped. At this time, the chair that Mr. Jalbert was sitting in gave way and he fell backwards and scraped his left elbow. He was able to get up and stated he was

184 ok. An incident report will be filed with the town hall. Mr. Jalbert then continued stating that
185 the property was stumped and grubbed and that Ms. Bright asked him to clean out her land. Mr.
186 Jalbert sent over an excavator , graded, cleaned and took out the stumps. He then heard that Mr.
187 Atkins property was sold and went over to introduce himself to the new owner. He states that he
188 was threatened with bodily harm if he went onto that property. He said he would gladly put up a
189 fence but who would pay for the cops to protect him while putting up the fence. Barry stated we
190 are not looking for legal action and would like an agreement between the abutters and developer
191 about a fence or tree barrier. If no agreement can be made, the board will then look at this to
192 determine if anything is warranted. Barry then asked if the two parties are willing to make one
193 more attempt at an agreement or have the board resolve it. Mr. Jalbert stated he would gladly
194 discuss with abutters. He has an approved, buildable lot and as he is building, equipment will be
195 on site. He is willing to work with them but he is not allowed on their property. Mr. Atkins
196 stated he is not willing to work with Mr. Jalbert other than going through attorneys. Barry stated
197 that the board will have to look at this and determine whether or not any specific tree barrier or
198 fence is required.

199
200 The area of concern is along the front edge of Mr. Atkins property. Mr. Lavelle stated that they
201 had cut the trees all the way to the property line. On sheet 9 of the plans, along the side of the
202 road, tress will be planted. Barry questioned the topography of the land. Mr. Lavelle stated it
203 goes up towards the abutting property, the home is about 8-12ft up from the proposed road. A
204 formal site walk is recommended by the board and is scheduled for Monday, August 30, 2021 at
205 6:30pm. Conservation and the public are invited to attend.

206
207 Charles asked if the abutters list will be part of the permanent record. The cover sheet on the
208 plans shows the abutters list. A request was made to change the name on lot 2-4-1 with the new
209 owner's name.

210
211 Barry questioned if a member of the board is unable to make the site walk on Monday and
212 wishes to walk it on their own time, are they allowed on the property and permitted to do so. Mr.
213 Lavelle confirmed that this will be permitted. Barry then asked if there are any other questions
214 from the public. George Nelson of 70 Sandown Road, Map and Lot 1-18-1 questioned
215 addressing the corner of 111A and Sandown Road. Barry stated this is not part of this
216 subdivision. Mr. Nelson's concern is that if 11 more families go in, that will be the most
217 dangerous corner in Danville. He is requesting that the town engineer take a look at it due to
218 more traffic flow. Barry stated that is considered an offsite improvement which this board
219 cannot require but, the Board of Selectmen and the Highway Department looked at it and some
220 work was done. Mr. Nelson stated the big issue was a tree. Barry explained again that this is not
221 related to this plan. This is something that the town/state should address. The Board of
222 Selectmen could request that the town engineer take a look at it. Mr. Jalbert stated that 111A is a
223 state road. Mr. Lavelle stated that an easement was provided and is not as restricted as before.
224 Barry explained that he understood the residents concern, but this would need to be addressed by
225 the Board of Selectmen. A traffic survey could also be requested.

226
227 Charles questioned the "finger" on lot 13 & 111A currently being used as an access and egress
228 driveway to lot 19-4 & 19-3, also questioned an easement. Mr. Lavelle confirmed there is an
229 easement, unsure of the metes and bounds but, this can be added to the plan. Lots 19-3 & 19-4

have the rights to cross it and shows on sheet 3 to the far left. Mr. Lavelle is requesting a continuance to the next Planning Board meeting. Mr. Lavelle will get the plans to the town engineer who will be alerted that this is a new plan.

Barry noted he has 17 comments that need to be addressed and are as follows:

1. Note 9 needs to be addressed
2. Easement added to lot 15
3. Adjust house on lot 15 so not in the easement
4. Soil Scientist signature on sheets 1,9,10 and potentially others
5. Speed Limit sign
6. Fire Suppression plan
7. Driveway permits and review from Road Agent
8. Conservation input
9. Missing one tree on sheet 9
10. Input from site walk
11. Update to abutter on lot 2-4-1
12. Town engineer's report and comments
13. Easement on lot 19-13 specific to finger
14. Note about construction vehicles on the finger at lot 19-13
15. Need finger shown on existing conditions plan
16. Surveyors signature on some of the sheets
17. State subdivision approval

This will be continued to the next Planning Board meeting on 9/9/2021. Site walk scheduled for 8/30/2021 at 6:30pm.

Election of Officers:

Chip **made a motion** to nominate Barry as the Chairman with a 2nd by Charles. Barry accepts the nomination. All in favor, **motion carries**. Roger **made a motion** to nominate Chip as the Vice Chair, 2nd by Charles. Chip accepts the nomination. All in favor, **motion carries**.

Other Business:

Charles questioned an incident report regarding Mr. Jalbert. Barry noted this will be brought to the attention of the Board of Selectmen.

Jim Seaver and Steve Woitkun mentioned some issues for discussion. Jim questioned how many feet from an intersection should a driveway be as there is an issue with a non-permitted driveway in town. Barry noted that there is nothing stated in the town ordinance. If a permit is granted and there is no safety issue per the road agent, a driveway can extend to the intersection. If it is a T-type intersection and the driveway goes across, per the ordinance, it is at the road agent's discretion whether or not there is a safety issue. If safe, it's allowable, but if not the permit should be denied. If it becomes a problem that there is no minimal distance requirement, notify the Planning Board and the subdivision ordinance can be updated to add one. This will make it tougher to deny. Highways are 100ft per Chip.

Steve questioned road acceptance. His understanding is that the Board of Selectmen accepts roads with a positive report from the town engineer. Barry explained that the town engineer inspects the road before acceptance, during and after construction, to certify that the road is built to town standards and built to plan. Jim stated he has as built plans for Ward Way along with Dennis Quintal's report. 5 trees will be added, most other items have been addressed and questioned how long before the road is accepted by the town. Chip noted we still keep some assurity bond to warrant the tree growth, etc. Inspections are for paving. Mr. Quintal's recommendation is to hold \$27,000 to make sure the trees don't die in a year and if they do the funds will be there to replant.

Jim questioned how to find town ROW on older roads and if he would have to look at each individual lot for boundary lines. Barry explained that roads fall into different categories depending on how old they are. Oldest roads are not actually owned by the town but by the landowner and own to the center of the road. Other roads, the ROW goes to the edge of the pavement and nothing on the sides. On the newer roads, 1980's and beyond, the town owns between 12 – 20ft on each side of the pavement. The only way to know this is to pull the deeds. Roger believe there is only an easement for swales. Chip stated structures can be in the roadway. Engineers will do it that way if possible, gives responsibility to the town and is almost always in the ROW. Barry stated the town ordinance requires a 60ft ROW with 24ft of pavement which is plenty of space for grading, swales, culverts, etc. in the town land. Older roads didn't leave space on the sides as it was not required. The developer's deed the road to the town, which is now required. Steve questioned in regards to tonight's discussion on Stage Coach Estates, how far from the edge of the road is town going to own. There is a 60ft ROW shown on the plan and the 24ft road will be roughly in the middle of that. Chip explained that the 60ft ROW is to account for a sidewalk. Granite bounds are required for modern subdivisions on all inflexions of the lot lines. Older lots will need to be researched if a problem arises. Barry noted there have been some instances where on some roads the developer found a rock and the road shifted to the edge of the ROW. There were no questions regarding Ward Way. Chris mentioned Tempo Drive. Jim mentioned that there was a sink hole issue. Barry commented that there are probably more roads in town that need work than budget needed to address. In older days, the road was built and done. Now, within the last 15 years, the town engineer inspects the roads.

Roger brought up Kingston Road having a lot of heavy equipment and big trucks. The ZBA just denied a resident to be able to store trucks on the property. In looking at the property and abutting properties, there are tri-axle trucks all over the neighborhood. He would like to look at some kind of change to Zoning to make Kingston Road part of light industrial. Chris asked Roger to be more specific. Roger stated he is referring to 122 Kingston Road, owned by Mr. Taylor. Barry stated he had come in to the Planning Board for a preliminary discussion and was sent to ZBA. Chris questioned where 122 Kingston is located. Steve stated down to the left of Moose Hollow and that is where the equipment is stored. Roger stated that there are many others on Kingston Road with back hoe's, front end loaders, tri-axle trucks, trailers, and a shed company. He feels that this resident is being denied his livelihood. Steve agrees with Roger but, if going by the home occupation is supposed to justified it states "one truck" with weight limits. He has 3 trucks and trailers on site. To be fair with Mr. Taylor, across Moose Hollow there are 5 oil trucks and 2 large container trucks a little further down. He believes that the residents on Kingston Road should determine what is allowed not this board. Chip stated that what Roger

would like to do isn't going to solve the problem. Residential is not allowed in the Industrial Zone. Mixed use is not allowed. Some lots are considered light industrial but those are the ones with storage facilities on site. Others used to be light industrial but over the years they were petitioned to pull them out and to build residences. This caused a problem and now there is less land for those types of uses, mixed use not allowed. That type of business is determined by the town and doesn't fit with residential unless it is a single truck and needs an exception for customary home occupation. Barry stated that it comes down to a decision of what type of large vehicles allowed in a Residential Zone. Kingston Road is a little different than other town roads, considered a major town artery along with Colby Road, Sandown Road and Main Street. With the exception of Main Street, they are all in the Residential Zone in which the town decides what is allowed. Existing uses are exempt. Chris asked if this is an enforcement issue. Roger stated the resident at 122 Kingston Road has been in town for many years, bought the property from another gentleman who also kept trucks and equipment on that same property and now has trucks on his current property. Questioned if grandfathered in. Barry stated that there are people in town that are grandfathered or property permitted, others that may have been approved, and others that did not get approval. Steve questioned who would enforce this. Barry stated usually the Board of Selectmen do through the code enforcement officer. This will be difficult to enforce as this has been going on for many years. Steve agrees that numerous people on Kingston Road are in violation.

Roger understands this situation but, feels as though this particular resident is having his livelihood shut down while he is trying to do the right thing by coming before the ZBA. His feeling is that this resident has two choices, sell his home, or spend more money for storage of the vehicles and equipment elsewhere which he can't afford. Barry explained that if the board chose to address this, there are multiple ways to do so: change what's allowed in Residential, or change Zone that Kingston Road is in. Chip noted that in looking at the Village District, Commercial/Light Industrial is not appropriate for this Road. Barry stated a new Zone could be created and could be put forward to Town Meeting. The town would have to approve depending on how many lots would be affected. May need a special vote of the people on those lots affected. If it is a small number of lots, state law is that it is close to spot zoning. If it is a large number of lots this doesn't apply. Barry recalls the business on Olde Road, with the presence of a few trucks, caused a lot of noise from the town. Given the feedback from that, advised the board to think hard before adding large trucks to other areas of town. Jim stated Kingston Road is unique having quite a few businesses. Chip noted that it used to be 111. Charles explained that there are 3 issues when looking at Roadway's: esthetics, safety and infrastructure. Questioned how long before the road deteriorates given excessive use, also questioned incidental use of an in and out traffic situation and how to regulate that. Roger stated it is regulated through Zoning. Charles understood this as the area is transitioning. Over time, what was light industrial re-zoned to residential, becomes mixed use with spots of light industrial. When those turn over, will be converted to residential. There seems to be an appearance of unfairness. Barry also mentioned this has to do with economics. Businesses over the last year have been looking for ways to cut costs and parking vehicles/equipment at their residence instead of paying to keep them elsewhere. Jim noted that a lot of people are now working from home so this would be of convenience. Charles asked if the town has a vacant lot, owned by the town, for possible public parking. Roger stated that the town would be liable for any damage done, or if any vehicles are

367 stolen. Barry mentioned that there are people in town who use the lower lot at the Community
368 Center but, unsure if approval was obtained. The Selectmen could look into this issue further.

369
370 Roger **made a motion to adjourn.** Chip 2nd the motion. All in favor, **motion carries.** Meeting
371 adjourned at 10:00pm

372
373 **Agenda for next PB Meeting:**

374 **1. Continuation of 10 Cote Drive Condo Conversion Subdivision, Map and Lot 4-**
375 **2-1**

376 **2. Continuation of Stage Coach Estates Subdivision, Map and Lot 1-19-B**

377
378 Respectfully,

379
380 Gail Turilli