

Planning Board
October 14, 2021
7:30pm

Members present: Barry Hantman, Chip Current, Roger Whitehouse, Charles Underhill

Others present: Charlie Zilch, James Boraczek, Gail Turilli

The minutes from 9/23/21 were reviewed. Roger **made** and Chip 2nd a **motion to accept** the minutes as written. All in favor, **motion passes**.

Correspondence:

A letter was received from Tim Lavelle requesting a continuance for Stage Coach Estates. Since the 45 day mark is approaching, Chip **made** and Roger 2nd a **motion to grant an extension** until December 9th. All in favor, **motion passes**. Letters were also received by Conservation and the Town Engineer regarding this project but, will be discussed when the project comes back before the board. Town Engineer's Site Inspection Report was received for Life Storage, 220 Kingston Road. Main issue was when digging the hole for the cistern, the water table was higher than originally thought. The cistern would float when empty and will need to be weighted down. Charles had one comment from looking at the photos as the plan is to rebuild the area around one of the drainpipes. His suggestion is to add crushed stone underneath the outlet. Barry stated that is in the original plan. A letter was also received from RPC thanking Danville for continued support and membership, asking for dues for next year in the amount of \$4,408.00. The membership was cancelled about 6 years ago, budget proposal has already been submitted and RPC was not a part of that. The board was asked if they want to amend the budget to include the RPC. All are in agreement, not to amend the budget.

Minor Lot Line Adjustment for 599 Main St/Tuckertown Rd & Heron Dr., Map and Lot's 1-43 & 1-52:

Barry addressed the public and stated that most of the questions they have may not get answered at tonight's meeting because the Planning Board is just discussing the lot line adjustment. Long term use of the property will not be conveyed.

Chip reviewed the application and confirmed that all of the abutters have been notified. Barry explained that this is a 2 part process. Review of the application making sure the abutters have been noticed and all information required to consider the application has been received. The board will then vote on accepting the application and once accepted, details will be discussed.

Overview:

Charlie Zilch of S.E.C. & Associates representing the Town of Danville, addresses the board. The proposal involves 2 town parcels, map and lot 1-43, which is 599 Main Street. This is an 85 acre lot, has an existing 5 bedroom dwelling, old farm house with a semi-circular driveway. The

other parcel involved is well to the south, map and lot 1-52, known as the town forest, Tuckertown Road. Where the 2 properties meet is the very westerly end of the property by Sandown/Danville town line to have a common lot line between them. The town and IRS had an agreement. The property 1-43 was taken as a tax lien. The agreement was that the town is going to sell off the existing dwelling and out buildings creating a lot line adjustment taking the 85 acre parcel, 1-43, retain 10 acres around the house and will be offered for sale. The 75 acres of backland will be combined with 1-52, which is part of town owned property. Barry stated that this property is not currently for sale and both parcels are owned by the town. Chip **made** and Roger 2nd a **motion to accept** the application. All in favor, **motion passes. Application accepted 10/14/2021.**

Barry noted that there is a waiver request for subdivision regulations, section III.D.3.b.2, 3, 9, 11 & 12. These include boundary survey, surveyed topography and all wetlands for entire property. Charlie explained that sheet 2 on the top left shows the lot line to be eliminated. Sheet 3 shows where the lot line is going to be with a very large scale of the area around the existing dwelling right at Main Street. Sheet 2 on the upper right, shows a box around parcel 1-43 which is detailed. Sheets 3 & 4 show high level details of the 10 acre adjusted boundary line. The left side of sheet 3 shows where the proposed lot line will be relocated to. It captures 10.3 acres around the existing house, all out buildings, farm field, etc., giving 75 acres to parcel 1-52 going from 140 acres to 215 acres and parcel 1-43 going from 85 acres down to 10.3 acres. The new lot line will be 900ft off of Main Street, moving the line the long way. Barry asked about trails, existing and new easements.

Charlie explained that parcel 1-43 and the southerly abutter owned by the Water's family, both of which were previously owned by the Sanborn family. At that time, decided themselves on a 33ft wide ROW from Main Street to the Water's property, 1-44. Several plans on record were found that clouded the southerly boundary line of lot 1-43. Before proceeding, met with the Water's family for a boundary line agreement, which has been resolved and recorded at the registry. A 33ft ROW ran between some of the out buildings adjacent to the house. Part of the agreement was to relocate a portion to one of the curb cuts at Main Street and join up with the existing ROW which goes to the back of the property line, then cuts over to the Water's property. The remaining land of 1-43 will join with 1-52. One stipulation that Lois Water's, owner of the property, asked is that there be no direct public access through the ROW up until the time of her death or she vacates the property, 1-44, plus one year to allow for family to address issues with selling off the property. For that time, the 33ft ROW serves only for town officials and agents working on behalf of town officials that can access the trails. Part of the agreement with the IRS is that they asked for a 50ft wide access to the back of the property. 17ft was added onto the existing 33ft wide ROW. The town has a 60ft ROW requirement but, Barry stated it is just a ROW and no road is being built, therefore 50ft is sufficient. The same restriction holds for the additional 17ft for Lois Waters.

The circular driveway on the existing dwelling remains on a single lot and acts as an easement across the property. Charlie explained the easement is on the reduced land of 1-43 to benefit the expanded lot 1-52 as well as lot 1-44 so that the town and Water's properties have rights of access. Chip stated that the 33ft ROW has always been present for use of lot 1-44 across lot 1-43 since the Sanborns owned it all. This is moving the ROW, going through the 2 southerly

existing buildings. The lot line is right hard against Sudbury Road, and an easement will be added for the Water's driveway. Charlie stated that there is a note on all easements. Some are carry over's from the boundary agreement on file, updated to be coordinated with the current plan set. A note has been added for the Sudbury Road easement benefitting lot 1-44, Water's property. It is intended to acknowledge and allow for current encroachments, which is Sudbury Road and the utility pole there. This does not allow for expansion or use of said encroachment. Barry asked how wide the Sudbury Road encroachment is. Charlie stated about 10ft wide right at the property line and widens out to capture the utility pole. It is only wide enough to capture the encroachment to avoid any issues in the future. Roger asked if the back of the property is all woodlands. Charlie confirmed, mostly all woodlands. Chip stated there is some field, but mostly woodlands.

Barry checked the subdivision regulations regarding the waiver request for section III.D.3.b.2,3,9,11&12. Chip explained this section to the board. Existing lots of record, acreage, shown on the plan. #3. All existing lots included in the proposal to subdivide shall include a current boundary survey and shall be shown labeled on the plan in its entirety. #2. Existing lot lines and pertinent boundary extensions with bearings and distances. Barry questioned if this is noted on the plan. Charlie explained up to a certain point, only lacking a portion of the property shown on sheet 2. 85 acre parcel, 1-43 has been surveyed and tied into plans for the Waters family. Also tied in plans that were done on the northerly side. A detailed survey was done around the 10 acres adjusting the lots to. That portion is surveyed. The existing town forest parcel, 1-52, has been surveyed before. Open space around Danville/Sandown subdivision has been surveyed. Upper left on sheet 2 has not been surveyed. There is no need to go back into a detailed survey at this point. The focus is creating the 10 acre parcel and focus of the waiver is on sheet 2 in the upper left of the property. Chip stated in regards to the waiver request, #9 reads – surveyed topography with minimum 2ft contour interval and spot elevations at critical locations where relief is less than 2 ft. Barry stated since not building anything, this would not apply. Chip read #11 – all existing water courses, ponds or standing water, and wetlands within 100ft of all property lines. Barry noted this is not applicable to this plan. Chip read #12 – class 5&6 soil delineations. Barry again noted that this is not applicable to this plan.

Charlie explained that there is about 4 acres of topography around the house that were provided. Test pits were done to show a viable septic area and potential well replacement area. Meets all town standards. The soil type is 42b which is a well drained soil. The area meets and exceeds the 2 acre requirement. There is more than 1 acre of upland even though reducing lot to 10 acres. The adjusted lot area meets all town standards. All information has been given going back to about 700ft. State approval is not required as the lot is not under 5 acres. Barry asked the board if they had any questions regarding the waiver request. No questions. Barry then asked the public if they had any questions or comments to which the public had none. Chip **made** and Charles 2nd a **motion to grant the waiver request** for section III.D.3.b.2,3,9,11&12. All in favor, **motion carries. Waiver granted** 10/14/2021. The first 3 sheets are to be recorded at the registry.

Before opening the hearing to the public, Barry asked if the board had any concerns. No concerns from the board. The hearing then opened to the public and Barry asked that when speaking to state name and address. Paul Distefano of 2 Beach Plain Road asked if this plan will

eventually need to be approved by the voters. Barry explained that minor lot line adjustments do not need voter approval. Dave Boyd, also of 2 Beach Plain Road asked for an explanation of the rectangular space on the last map to the right of the potential well showing a 4000 sq ft area. Charlie explained, when creating a new lot or to prove a lot meets town standards, you need to have a 4000 sq ft area for a septic within it. There is already an existing septic. Should the need to replace it, now have test pits in an area that a septic/leach field can be put in that meets town standards. It is 4 times the size of the standard. Chip stated we require 4000 sq ft but, the average stone pipe leach field is about 900ft. This allows for replacement 3 times before having to dig more test pits. Barry stated proof needs to be shown that a septic can be put in. There were no other questions and the public hearing was closed. Barry asked if a site walk is needed. The consensus of the board was that it is not necessary. Barry asked if the plans need to be sent to the town engineer. The consensus of the board was that it is not needed. Charles asked if the elimination of the lot line on the west between lots 43 and 52 there to create a single lot and allow lot 52 to carry frontage for lot 43. Barry stated that lot 43 would still have 200ft of frontage. Chip stated that lot 52 has frontage on Heron Drive. Charles stated he was looking at Tuckertown Road. Chip stated that is not an official way, it's a trail. Barry stated this would actually be adding frontage to lot 1-52 via easement and ROW. Lot 1-52 is a non-conforming lot of record, 50ft of frontage with some sort of access through Tuckertown Road. There is better access from GH Carter Drive. This improves the access to lot 1-52.

Chip stated lot 1-52 has a conservation easement and is more than $\frac{1}{4}$ of the town forest and is not possible to be developed. The intent is to add this to Conservation land and add some taxable land back on to the piece that is already developed. Barry noted that the new land that is being added to lot 1-52 doesn't automatically become part of the town forest or Conservation. Charles asked if the town land will remain as open space. Chip stated, as part of a sub-committee that helped put this together, they wanted to be very careful not to make it look like a road could be put in or subdivide the property. That is not ever the intent. There is expectation at some point that some action will happen to this property but is not a part of this proposal. Perhaps to add this to the town forest and put those further restrictions on it officially. This is one of the reasons we didn't want to widen the ROW but the federal government wanted it widened.

Michelle Boyd of 2 Beach Plain Road questioned if the IRS will go away once this happens and will the ROW go back to the original width or remain with the additional 17ft. Chip stated this is part of the plan and it will go on the deed. It will be a deeded ROW for the use of 1-52 and 1-44. Barry stated there are methods for removing easements but, a lot of paperwork and expense is involved in doing so. Chip explained that the intent is to be able to get to that property in case we need to do things like forest fire suppression. Access right now is a problem, barns are inside of the easement. We wanted the big barn in the back to go with the property and make it only 3 acres so the new owners can't subdivide. Paul Distefano of 2 Beach Plain Road asked if surface dirt or crushed stone will be added to the 50ft ROW. Chip stated it is not improved currently. Barry explained that on this plan it's just lines on paper and there is no intention on the plan to do anything with it. Chip stated if it were to be improved it would not be hot top. Improvement is expected at some point. Part of the agreement with the Water's family is that it won't be improved for the use of the public. Right now it's blueberry bushes which is problematic if there were a need for a fire truck to get back there. Improvement is anticipated just to gain access to the back of the town forest.

Roger made and Chip 2nd a **motion to grant approval**. All in favor, **motion carries. Approval granted** 10/14/2021. Barry stated mylars and plans need to signed. Charlie stated that there are a couple of monuments that need to be set and he will bring mylars and monument certification when completed. Fee's associated with this application will be taken out of the Planning Board budget.

Discussion on Letter Received RE: Frye Road and 111, Map and Lot 4-242:

Charlie Zilch is in attendance representing James Boraczek, owner of the property. Barry stated that many years ago and application came before the board to develop this parcel and the parcel on the other side of the ROW. As part of that development, access to those parcels was needed off 111. The state was required to provided the town of Danville with permission to open up that access. Originally Frye Road went all the way across and connected with street across 111. When 111 was improved and put in many years ago, the state cut those 2 roads in half and put 111 in between them. It is always an unwritten agreement that the town eventually could make that a connection off 111. Chris Giordano, who is a former Selectmen and Planning Board member, took this project on and eventually got permission from the state to open up that access so that Frye Road could connect with 111. There were some caviats and should be in our files somewhere. A recent request was made to DOT to use that access and was denied. Barry stated he is not surprised as 1. The people involved may have changed and no one remembers the agreement that was made a few years ago and 2. The request to access this off 111 needs to be made by the town and not by the lot owner or developer because the town is going to take ownership of that piece of road and the piece of road in the ROW. Barry advised that the wording used in the letter is standard and not to read much into it. After Barry saw the letter he gave Chris Giordano a call and spoke at length about this. Chris has agreed to come back to the Planning Board as an alternate, if this board requests that, specifically to work with this access. He is the person in town that has the knowledge and had connections. He knows about the documents needed that the town needs to find. Even if Chris is not requested back to the board, he would be willing to help with this issue. Barry would like for this access to be for this lot and the lot across the street.

Charlie stated the property owner, Jim Boraczek has now joined the meeting. This process has been frustrating as the DOT does not involve you whatsoever. A request was submitted back in December of 2020 and he was only allowed to speak with front desk personnel then passed to numerous departments with no answer and then the denial letter was received. The project that was started by Ozzir back in 2010/2011 was substantial, a big retirement community, restaurant, and retail. These are important parcels for Jim and the town in the commercial industrial zone. Jim's biggest issue is that he doesn't want to be running his vehicles in and out of Frye Road and Johnson Road as they are tough, windy and in the residential zone. Access to 111, however structured, even if it's only just for emergency access for commercial properties, should have access to 111. Jim came before the board about a year ago and asked if there was consideration for the other parcel on the top right of the plan which is also commercial industrial. He is willing to make that part of his plan and leave some sort of access over that one as well so they could join in with the access to 111. The parcel at the top right of the plan, which has no access currently, would be freed up, Jim's parcel and the parcel owned by Anderson at the bottom left

of the plan would all have access. Chip mentioned there's a parcel owned by Collins that is currently land locked. Charlie wants to go back to DOT for reconsideration and asked the board what needs to be done. Barry noted before reconsideration, the town may already have some permission that whoever was considering this may not be aware of. He advised to get in touch with Chris and have him be the advocate here. He lives on Frye Road and has a vested interest in getting this approved in addition to having the background and knowledge. The commercial industrial zone was created in that area. The intent originally was not to have all trucking go down Johnson Road. Nothing with the state is quick but, Chris will work this.

Barry asked if the board wants to appoint Chris as an alternate. Charles questioned if being an alternate would give him enough leverage for this process or would he be better off as a full member. Chip stated that Chris would not want to be a full Planning Board member. Charles was going to offer to take a leave of absence. Chip stated this is not necessary as there are open positions on the board. Chip **made** and Roger 2nd a **motion to appoint** Chris Giordano as an alternate Planning Board member. All in favor, **motion passes**. Chip **made** and Roger 2nd a **motion to appoint** Chris Giordano as the point person with the power to negotiate with the state for the purpose of opening 111 to Frye Road. All in favor, **motion passes**. Chip noted that the Selectmen could also appoint Chris if need be. Charlie mentioned that he has met with the Selectmen and they are willing to help facilitate this as well. Chris Giordano has authorized Barry to give his phone number to Charlie. Any correspondence regarding this, will be forwarded to Gail through email, letters, etc. Chip stated the gentlemen who owns the other lot is very interested in this access and to reach out to him as well.

Barry noticed that the road layout is similar to the one from the plans 10 years ago. Those plans were in depth, all wetlands denoted, grading, wall, fence, etc. Advised to consult with engineer regarding those previous plans. Mr. Boraczek has purchased the release of those CAD files. Barry asked since the plans are up, what Mr. Boraczek is thinking. Charlie stated he has a septic and sewer business that is active over in Hampstead but, has outgrown his site. This site is 11 acres, has one wetland pocket in the middle that bisects the lot. He would like to establish his business up front there and potentially do either contract or trades units in the back of the lot that he could rent or lease. Mr. Boraczek stated his business would be in the back of the lot. Barry noted that he has the option to make part of it in the area closer to the access point a retail or restaurant. Mr. Boraczek stated he is interested in more small commercial rental. Barry noted it has 111 visibility and access there and other options are available if he chooses. Charlie noted there is a lot of diverse uses in that area. Barry believes the original proposal had that area as a gas station. Chip added it also included a strip mall with a restaurant anchor. Barry stated since he would have 2 separate sections, he could choose to make one of those sections more retail.

Other Business:

Barry noted that there is an open position on the Planning Board. One of our members, Jennifer, has resigned. There is one regular position and one alternate position open.

Barry mentioned potential zoning updates. The goal is to hold the first public hearing at our meeting in December. Given that there is only one meeting in November and one in December, will hold 2nd hearing in January, would like to discuss one of the potential zoning ordinance

changes tonight to see if the board wants to put it forward to the first public hearing in December. The next meeting and the first meeting in November are the last chances to discuss things and put forward to public hearing. Barry stated he is trying to resolve some of the issues that are seen in neighboring towns. Although this hasn't been seen as an issue in Danville yet, it could become one. Water systems in parts of their towns that were being connected to other towns and other subdivisions, ground water in any place where it was being tapped were going down. Specifically, Hampstead and Sandown. What the proposed article states is, before anyone interconnects with anything that's outside the subdivision or lot they are working with, will need to come to the Planning Board. The board needs to review it and make sure the ground water is adequate to support what they are planning to do. Roger questioned if this falls under the state water project that is coming up on 111. There is a water line going down Rte 28 that will eventually come up 111. Barry stated his guess is that utilities along the state highway probably cannot be regulated by the town. It would be the same as phone lines.

There has been one case in town where a water system was connected to a different subdivision and was done by this Planning Board. Ward Way, which was approved. The board looked at the water usage, units on it, and determined that the system could handle it. This went through this board as part of an approval. Chip questioned if the proposed language actually gives us the authority to deny. All it's saying is that we're going to review it but, no criteria to use to deny. Barry noted that it states, "unless approved by the Planning Board." Chip noted that if it's not approved and say we go to court. Roger interjected by saying we have no grounds to deny. Barry stated that for any denial, the Planning Board would have to give a valid reason for denying, i.e. looked at it, and the water supply can't handle the proposal as drawn. Charles questioned why wouldn't it be an integral part of any permit or approval that's given so that it wouldn't fall through the permit process. If we're reviewing it and they have a connection, we say no, they have to take it off the application, then it's not permitted. Barry explained that if building something now, the answer is yes as it would be part of a site plan review. What happened in Hampstead is that they had existing wells and decided to connect those wells together with the rest of their system without permission from the town. The town of Hampstead didn't have anything that would allow them to review it. Chip stated we have at least 3 water systems in town, Rock Rimmon, Cotton Farm, and Hampstead Area Water Company operating Colby Pond. It makes sense to try to put in some review, especially given the trouble that has been happening at Angle Pond and other places. This is worthy of going forward to see if the town wants to do it. Charles stated if trying to connect 2 systems that are geographically separate, you're going through someone's easement to do it. Easements probably don't grant permission for water lines. Barry stated someone might be coming in anyway for some kind of review, i.e. site plan. In some cases, if you own the land or the state owns the land, may not come to the Planning Board.

Charles asked if we note on any of our Planning or Zoning documents when a piece of land goes into Conservation, that it is marked as Conservation land no matter what zone it is in. Barry stated no. Charles stated this came up tonight and may be something to consider. Barry stated the town forest we know about. The town and state maintain a list of land under Conservation easements. The issue is that lots of them are private, an owner may put their own land under a conservation easement and we may not even know this was done. Chip thinks we need to be informed. If you look at town maps there is a special designation on the layers. Charles

mentioned that there are agreements out there that are not publicly documented and putting them on planning maps as projects come in, we would see immediately whether part of the land was restricted. Barry noted that he has never seen a town map that shows all conservation easements. Charles mentioned adding this as a layer on Planning maps. Barry stated this wouldn't be a bad idea. Chip believes this layer is already there. Charles stated he has a 5 ½ acre parcel but 2 acres is wetlands. It should be noted somewhere that he doesn't have 5 ½ acres of buildable land and has surrendered easement on that. Chip stated that conservation land and current use are layers shown on town maps, not the conservation easements. This is something to look at. Barry asked the board about putting the potential zoning ordinance change forward to the public hearing or amend it. Chip **made** and Roger 2nd a **motion to put forward to the first public hearing for proposed warrant articles in December**. All in favor, **motion passes**. Barry advised if anyone has any others to discuss at the next meeting. Chip mentioned a few he is looking at: expanding village district down Kingston Road and potentially Beach Plain Road, also to revise customary home occupation permits.

Roger **made** and Charles 2nd a **motion to adjourn**. All in favor, meeting adjourned at 9:00pm.

Agenda for next meeting:

1. Possible signing of mylars for 599 Main Street Lot Line Adjustment
2. Possible continuance of Stage Coach Estates, Map and Lot 1-19-B

Respectfully

Gail Turilli