

1 Planning Board
2 March 9, 2023
3 7:30pm
4

5 Members present: Barry Hantman, Leo Traverse, Steve Woitkun, Chris Smith, Charles
6 Underhill
7

8 Others present: Gail Turilli, Charlie Zilch, Carsten Springer, Paul DiStefano, John Marzec,
9 Bruce Dovidio, Dave Cirella, William Blaney, Donna Blaney, James Hardy, Thomas Coe,
10 Michelle Dowd
11

12 The minutes of 2/23/23 were reviewed and there were no comments from the Board. Barry
13 **made** and Steve 2nd a **motion to accept the minutes as written**. All in favor, **motion carries**
14 **with Chris abstaining**.
15

16 Barry will be acting Chairman for tonight's meeting as Chip is unavailable.
17

18 **Correspondence:**
19

20 A Dredge and Fill Wetlands permit was received for 29 Olde Road. This will be put aside until
21 the project comes before the Planning Board. Information was sent out to the Board regarding
22 House Bill 44. Barry noted that the Board will wait to see where this goes before any discussion.
23

24 **Blaney's Auto LLC – Minor Site Plan Review:**
25

26 Mr. Blaney addresses the Board. He states that this is an existing business owned by his father
27 who has since passed. He plans to continue the same type of business (inspection station), and
28 because this is a transfer of ownership, he had to apply for an LLC and come before the Planning
29 Board for a minor site plan review. Barry noted that this is an existing non-conforming use that
30 pre-dates current zoning. The owner currently rents the property.
31

32 Charles **made** and Chris 2nd a **motion to accept the application**. All in favor, **motion carries**.
33 **Application accepted 3/9/2023**.
34

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

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

60
 61 Paul DiStefano of 2 Beach Plain Road addresses the Board. He states that he has been a resident
 62 of Danville for the past 13 years, has been unaware that this business existed and further states
 63 that there has been no impact on himself or his family. Charles asked if there is anything that
 64 needs to be addressed given that this a pre-existing use that wouldn't otherwise be permitted in
 65 that zoning area. Barry notes that as long as the business is continuing as it currently is, there is
 66 nothing that the Planning Board needs to address. Donna Blaney mentions that there was
 67 signage taken down for repair that was out at the corner of the driveway and there was also a
 68 sign at the top of the street. She asks if the signs can be replaced once repaired. Barry explains
 69 that the sign at the top of the street would need to be discussed with whoever owns that property.
 70 The sign on the business property that was existing since the beginning, would be permitted if
 71 reconstructed of the same size and type. He suggests that this be done relatively soon because
 72 once a certain number of years has passed, the grandfathering disappears. A question arose
 73 regarding waste insurance. If doing oil changes, you have to accept waste oil from outside
 74 sources. Mr. Blaney responded that he currently does not have waste insurance as he was
 75 unaware of that. He does have a waste oil generator but, no waste oil heater. When doing oil
 76 changes, the oil goes into a drum that is picked up. There is approximately 20 gallons maximum
 77 on site. Barry noted that the State issues the permit and that he must comply with all state laws
 78 which is separate from the Planning Board.

79
 80 Charles **made** and Steve 2nd a **motion to grant the Site Plan**. All in favor, **motion carries**. **Site**
 81 **Plan approved 3/9/2023**.

82
 83 **21 Beach Plain Road – Lot Line Adjustment:**

84
 85 Charlie Zilch of S.E.C. & Associates addresses the Board on behalf of Richard Russack and the
 86 Town of Danville with a brief overview of the project. This is a proposal that involves two
 87 parcels of land, Map & Lot 2-24-1, owned by Richard D. Russack Revocable Trust and Map &
 88 Lot 2-24-1-1, owned by the Town of Danville. Lot 2-24-1 is located at 21 Beach Plain Road and
 89 contains 10.99 acres and has 423.12' of frontage on the north side of the roadway. Situated upon
 90 the lot is Mr. Russacks 3 bedroom, single family residential dwelling. This dwelling was
 91 constructed in the 1760's and has been expanded on over the years. The dwelling is accessed by
 92 a circular drive and is sited close to the roadway. The building is served by its own individual

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

103

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

106

107 **Current Proposal:**

108

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

124

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

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

158
159 Donna Blaney (29 Beach Plain Road) who lives next to Mr. Russack, asks why a lot line
160 adjustment if the Town is purchasing the land. Why not sell to the Town and have the Town do
161 their own lot line adjustment. Barry explained that the lot line adjustment needs to be done,
162 otherwise Mr. Russack would have to do a subdivision because it's not a separate parcel at the
163 moment and then a lot line adjustment. He has chosen to do just the minor lot line adjustment.
164 Ms. Blaney stated that Mr. Russack indicated to her that the Town would not be doing anything
165 with the land until after he was gone for 2 years and asked what that means. Barry noted that
166 there is nothing on the plan that puts any restrictions on it of that type. Carsten mentioned the 23
167 acres that run out to Back Road would have been 11 lots if it had gone to the Planning Board 10-
168 12 years ago. It has all kinds of frontage and there is not a lot of agricultural area left. This has
169 the potential for agricultural/recreational use. Regarding Ms. Blaney's comment, it is consistent
170 with the way it was approached and Mr. Russack will be able to enjoy his property for the
171 maximum amount of time as long as he lives there. Barry noted that the Town typically does not
172 build houses on Town owned land. Carsten mentioned a 20 acre parcel on Happy Hollow Road
173 that was set aside by King George before the Town was formed as part of the Parsonage land
174 which was completely out of the Town's ability to access for the last 100 years due to the wet
175 area in front. 3 years ago it was brought to the Planning Board, subdivided by a developer and
176 the Town bought a 3.3 acre lot. The Town bought this lot not to develop but to amplify what we
177 have. There are no more questions from the Board or the public.

178
179 Requested waivers for this proposal are: Subdivision Regulation section III, D,3,b,2,3,9,11 & 12,
180 for Plan requirements, Surveyed Boundary (entire parcel), Surveyed Topography (entire parcel),
181 Wetlands Delineation (entire parcel). The Board then discussed the waiver criteria which are as
182 follows:

183

184 **A. Granting of the waiver will not be detrimental to the public safety, health or**
 185 **welfare or injurious to other property and will promote the public interest.**
 186

187 The proposal is to adjust the lot lines between the Town owned property, tax lot 2-24-
 188 1-1 and abutting land owned by Russack, tax lot 2-24-1. The proposal is to convey a
 189 7.89 acre portion (parcel "A") from the Russack land to the Town owned land. All of
 190 tax lot 2-24-1-1 has previously been subject to a boundary survey and the area of tax
 191 lot 2-24-1 has been surveyed as part of this application. Whereas this is a proposal to
 192 add acreage to an existing parcel, there is no need to show the record boundary or
 193 topography, soils, etc. within that large tract area. Only the reduced area of tax lot 2-
 194 24-1 is this necessary to ensure that the area remaining to support the existing single
 195 family home meets all local siting and lot sizing requirements. As provided, the 3.1
 196 acre lot supporting the existing dwelling easily meets all required zoning and
 197 subdivision requirements. Topography and soil types have been provided. Within
 198 that area, a test pit has been performed that ensure a septic system can be constructed
 199 that also meets all applicable siting and sizing requirements. In all, the area supports
 200 the requirements for a residential single family dwelling as required and granting of
 201 the waiver will not be detrimental to the public safety, health and welfare.
 202

203 **B. The waiver will not in any manner, vary the provision of the Danville Zoning**
 204 **Ordinance.**
 205

206
 207 The area provided exceeds the minimum requirements to support a single family
 208 residential lot. Within that area, a building envelope exists that supports the location
 209 of a dwelling, driveway, septic system, and well and as such, meet the provisions of
 210 the ordinance as intended.
 211

212
 213 **C. Such waiver will substantially secure the objectives, standards and requirements**
 214 **of these regulations.**
 215

216 As noted, the area provided is sufficient to prove that the requirements for a single
 217 family residential building lot is met. As such, the objectives, standards and
 218 requirements of the regulations are met.
 219

220 **D. A particular and identifiable hardship exists or a specific circumstance**
 221 **warrants the granting of the waiver.**
 222

223 Requiring additional topographic and wetland locations beyond what is necessary to
 224 prove the lot as a viable lot meeting all siting and sizing requirements is unnecessary.
 225 The hardship is inherent in the regulation that does not recognize situations such as
 226 this one. Denial of the waiver would result in unnecessary expenses to obtain the data
 227 where it is clearly not needed to support the proposal.
 228
 229

230
231 Charles **made** and Steve 2nd a **motion to grant the waiver requests**. Charles also mentioned that
232 if combining the land with the existing parcel that has a conservation easement, it is detrimental to
233 the Town to have an easement. All in favor, **motion carries**. **Waivers granted on 3/9/2023**.

234
235 There are 3 conditions that need to be met and are as follows:

- 236
237 1. State approval number
238 2. Monumentation (Carsten noted that there is an existing stone wall that follows the
239 property line and suggests setting a pin or drill hole at the end. He also suggests flushed
240 granite pins vs iron pins. Barry noted to check what is set currently)
241 3. Add dates for the waivers granted

242
243 Steve **made** and Charles 2nd a **motion to grant conditional approval with the above conditions**.
244 All in favor, **motion carries**. **Conditional approval granted on 3/9/2023**.

245
246 Charles **made** and Steve 2nd a **motion to adjourn**. All in favor, **motion carries**. **Meeting**
247 **adjourned at 8:45pm**.

248
249
250
251 Respectfully,

252
253 Gail Turilli

254