

PLANNING BOARD MEETING MINUTES
MARCH 2, 2022, 7:00 PM AT DUNBARTON TOWN OFFICE MEETING ROOM

Attendance

Ex-Officio Dave Nault, Alternate Ron Slocum, Vice-Chair George Holt, Chair Chuck Frost, Secretary Ken Swayze, Alison Vallieres, Ex-Officio Alternate Mike Kaminski
Ron Slocum was appointed to be a voting member in the absence of Jeff Crosby.

Old Business

Application #2021-PB-004 – Michael Guiney – Six-lot Subdivision, Lot B6-01-05 on Kelsea Road in the Low-Density Residential District. Michael Guiney, Attorney Pat Panciocco, and Engineer/Surveyor Ed Rogers were present. Dave Nault recused himself from this matter; Mike Kaminski took his place at the table.

The chair explained that the purpose of this continued hearing is to discuss exaction fees for the project and hear testimony on Kelsea Road from town officials. Donna read the following testimonies for the record in the absence of the town officials:

Police Chief Chris Remillard: *I won't be at the meeting on Wednesday, March 2nd. Please accept this e-mail in lieu of my attendance. I took a ride out to Kelsea Road yesterday to survey the area. In summary, the Dunbarton Police Department has no concerns regarding the proposed subdivision. The only potential impact on our agency is an increase in calls for police service, but that's to be expected with any new building and/or developments and as our community continues to grow. I also noted that there is sufficient line-of-sight to the north and south for vehicles turning onto Montalona Road from Kelsea Road. I will defer to Road Agent Jeff Crosby and Fire Chief Jon Wiggin for their thoughts on Kelsea Road.*

Fire Chief Jon Wiggin: *It is my opinion that Kelsea Road is the worst Class V dirt road in the Town of Dunbarton in regard to the width of the road, out crops of ledge and rocks and mud in the spring. The road gets even narrower in the winter because there are not any shoulders to push the snow back onto. Fire apparatus are big, wide, and heavy vehicles that need to be able to pass oncoming vehicles that they might meet when responding to an emergency incident. Currently it is not possible for a truck and another vehicle to pass each other except for the far end of the road that had some road improvements done a few years ago. Mud is the other issue with this road during certain days in the spring. I have witnessed mud conditions on the road many times which would have prohibited a fire truck or ambulance to get up the road and being a dead-end road with only one way in makes the situation even worse. My suggestion would be to make road improvements so two vehicles could safely pass and to fix the mud issue before more traffic uses the road.*

Dunbarton Conservation Commission: (attached at end of minutes)

Road Agent Jeff Crosby: *Before any future building lots are created on Kelsea Road, some road improvement issues need to be addressed. 1. Adequate turnaround for snowplows, emergency vehicles, school buses, delivery trucks, etc. 2. Road widened to 18' of travel way and a 2' shoulder constructed to*

allow for passing of vehicles, snow removal, and ditch maintenance. In order to perform/accomplish this work, trees will need to be cut, stumps removed, electric/utility poles relocated, banking dug back, outcrops of ledge removed, and a layer of crushed gravel applied. (mark-up plan attached at end of minutes)

Abutters Jaimie Lemieux and Joseph Eudench submitted the following letter via email: *We are the residents at 19 Kelsea Rd. At your December site walk, it is seen in the minutes that "the road could use some widening in the area of 19 Kelsea." We wanted to send note because our well is positioned right in our front yard right off the road. Should the road be widened on our side of the road, it could severely impact our drinking water from all the runoff from the vehicles, plows, erosion. I have not seen this brought up through all the meetings and do not know if the engineers know that our well is positioned right adjacent to the road. Should the road be widened on our side of the road, we will want a written statement that if our drinking water is tainted in any way, that a new well will be drilled somewhere else on the property and re-piped to our house at the expense of the town or the applicant. Us owners at 19 Kelsea should not be responsible for drilling a new well for the benefit of the subdivision.*

Board members asked Mr. Rogers if he could locate the well for 19 Kelsea Road and add it to the plan. He agreed to do that for the next meeting.

The chair recapped the steps of the process: Establish the need; consider the nexus; compile the costs; and determine the proportionality. The outline of estimated costs for necessary improvements and calculation of exaction fees were read as follows:

Total estimates of improvement of Kelsea Road (**NOT including the turnaround**):

Road Agent's first estimate \$82,000

Road Agent's second estimate of additional work to be done

Pole relocation (using \$75,000 for this example) \$45,000 - \$75,000

Gravel, etc. \$24,000

Total estimate for work from Montalona to beginning of turnaround \$181,000

There are 12 house lots on the road, using or with the potential for using the road. $\$181,000 / 12 = \$15,083$ per lot; new lots being created by this subdivision is $5 \times \$15,083$ per lot = \$75,417 in exaction fees due from applicant; Town's portion would be $7 \times \$15,083 = \$105,581$.

The chair said it is being proposed that the exaction fees be paid prior to the signing and recording of the subdivision plan, rather than be assessed at the time individual building permits are pulled. He stated that the cost of the turnaround is not part of the road improvements, therefore any related items related to the turnaround would need to be negotiated with the Board of Selectmen. George Holt said he would re-advocate for the Conservation Commission's recommendation to reduce the size of the turnaround, which would reduce the costs and be more protective of wetlands, and approach it as a hammerhead. Ken Swayze reminded members that the turnaround is not part of this calculation. Alison Vallieres said consideration should be given to inflation when putting the numbers together. Ron Slocum noted there is a \$30,000 range on the pole re-locations and asked if that number could be pinned down. Donna said it will depend on how things go when they get out there, as the ledge and other factors have to be considered as well. She explained the estimate for pole relocation is what Mr. Guiney got from Unitil. She said the road agent took a copy of that estimate, contacted Unitil, and was told to use that number. The estimate from Unitil was just over \$11,000; the other \$4,000 was a verbal number given to Mr. Guiney by the phone company. Mike Kaminski spoke about the estimate on pole relocation, noting that it is quite a range. He asked if a portion of the exaction fees paid in advance could be refunded if it ends up that all of the poles do not need to be relocated. Board members agreed

that could be done if the costs are found to be less than estimated. Chuck Frost said this will be a significant amount of funds to come out of the highway budget, and he feels it would be best not to wait for the issuance of building permits to collect the exaction fees. Donna explained that the road agent's concern is having to cover the full cost of the project from his budget and how the funds could be allocated and reapplied to his budget if collected at the time building permits are issued. The applicant also has the option to contract with the blasting or utility company. Chuck Frost said it would be good to do the whole project at the same time, not piece meal. If the project comes in at a lower cost than estimated, the difference could be returned proportionally.

George Holt asked if there might be opportunity to widen just one side of the road, eliminating the need for the relocation of some of the poles. This would be a question for the road agent. Ron Slocum spoke about the nexus and how the Board has to prove that the road improvements are needed because the applicant is putting in five more lots. He said it has been stated that the road is a disaster now and needs to be fixed and asked how adding five lots is the nexus to do that. He said the Town has to fix the road before the lots are occupied. Mr. Slocum said if they are saying the road is a disaster now, they cannot delay improvements or there is no nexus. George Holt said the need is there and the fees should be collected upfront. Ron Slocum said the work needs to be done now, regardless of other projects, with the onus on the Board of Selectmen to move it along. Chuck Frost said with new houses comes more traffic, delivery trucks, construction vehicles, and additional impact. Ron Slocum said the project can be approved by the Planning Board, but the Selectmen need to co-approve the project and have the Road Agent do it now. Ken Swayze said the Town can also hire outside contractors to do the work. He said there is a great amount of work that could be done, and he does not think there is a problem here. Alison Vallieres agreed.

The chair opened the hearing to the public.

Attorney Panciocco asked if this is a continued hearing of the application. The chair said it is. She asked if the hearing was noticed. The chair said it was. Ms. Panciocco asked if the plan, as revised, is acceptable subject to resolving other conditions. She said she sent a letter a couple of weeks ago, asking if the Board would consider approving the plan with the condition of this matter being resolved. Chuck Frost said he would not be in favor of approving the plan without the exaction fee part being finalized. Ms. Panciocco asked if the Town has a Capital Improvement Plan. Mike Kaminski said they do. Ms. Panciocco said she noticed in town reports that there is some sort of revolving funds in the area of \$500,000 to \$600,000 for the highway department and asked for information on those. Mr. Kaminski said the Town has voted to allocate \$100,000 each year toward road paving. Because they have found that is not enough and the roads are degrading, they are going to the voters for a bond this year in an effort to do multiple paving projects rather than 'band-aids' being applied and falling further behind each year. He explained how the Selectmen hold a hearing each spring to discuss proposed road projects and get input from the public. Mr. Kaminski said this helps them prioritize road repairs when allocating the \$100,000. Ms. Panciocco asked about the fiscal impact of the bond. Mr. Kaminski said he did not have that information with him. The attorney asked about the \$570,000 to \$600,000 line items for the highway. Mr. Kaminski explained that is the department's operating budget to cover snowplowing, culverts, maintenance of the roads, and other department expenses, and it comes from taxes. Ms. Panciocco asked if the Town ever does warrant articles for improvements in the town. There was discussion about articles for various projects and this year being the first bond that members could recall.

Pat Panciocco asked how this project is creating the need for road improvements. Chuck Frost said the number of residents using the road will increase, and the potential for additional emergency services, deliveries, and safety have to be considered. Ms. Panciocco handed out copies of a set of 2006

ZBA minutes and a 2008 letter submitted by Ed Rogers requesting improvements to the road. She said the applicant does not have an approved subdivision and has not put any traffic on the road. She said the road has not been that important to the Board before, yet it is now an issue. She said she is struggling with the idea of a need here. She said they are willing to work with the Town, but for years exaction fees of \$4,000 per lot, or the cutting of trees or installation of culverts, have been assessed and now this exorbitant number is being suggested. She said this applicant comes in and the \$4,000 goes out the window. Ms. Panciocco said this is not what they have charged everyone else. George Holt said every site is different. He said this road is deficient and the Board should not approve lots without doing some upgrades because there are unsafe conditions. Ed Rogers said Mr. Holt is correct, every site is different. He said the Board took a different approach on the same road in 2008 when there was the ability for an applicant to offer right-of-way widening. He said if that had been done, pole relocation would not be necessary. He said the same process was not taken in 2008. Attorney Panciocco said there seem to be two sets of rules.

Donna explained that what has been done in the past is history, and they are trying to create a process to do this consistently for each and every subdivision from this point on. She said nobody is denying there has not been consistency, and they are working to improve the situation. She said it is one of her goals as the office administrator to make sure that all documents and procedures from this point forward are consistent. Donna said they have to start somewhere and are working under the advice of legal counsel. She said the Board is establishing a methodology to create this, and they cannot undo what has been done but also cannot continue to do what has been done. George Holt said he strongly agrees with what Donna has said, that is then, and this is now. He said the minutes that were handed out by the attorney do not seem relative to this application. Ms. Panciocco said the minutes show they brought the road to the Town's attention in 2006. She also mentioned that there is a huge common driveway beyond Mr. Guiney's house and how the rules get changed. It was stated that the lots beyond Mr. Guiney's house were existing lots of record.

George Holt said if the group has issues with the numbers, they could have their engineer come up with his own cost, and the Town could have its engineer run some numbers. Ken Swayze said the Town's portion is \$105,000 so it is not like the Town is not doing anything on this project. He said the Board's decision forces the Town to come up with \$105,000. George Holt said they could get a second opinion if haggling over the cost. Mr. Swayze pointed out that the documents distributed earlier by the attorney are 14 and 16 years old. Ed Rogers said those were used to show that the need for improvement to Kelsea Road was brought up before, and the road has been deficient since the '60s. Ms. Panciocco said she applauds the Board for their efforts in correcting this but wonders how fair it is when other people on the road or in town had paid \$4,000 or done work in lieu of the fees, and now the applicant is being assessed four times that. Donna said the Board has a process to follow and they need to focus on that at this point. Chuck Frost said they are using the information that Ms. Panciocco submitted as a cost analysis and case law. He said they are trying to apply the same formula and information she provided. Ms. Panciocco said \$75,000 in exaction fees is over the top. She said the estimates look like ball-park figures, and it is so uneven and grossly different from how others have been treated.

Donna said the purpose of tonight's hearing is to establish some sort of process. Abutters were notified, estimated costs were provided, and calculations were done to arrive at a per lot assessment. Donna said the discussion seems to be going around and around and it would probably be best to continue the hearing to the next meeting. Mike Kaminski asked if there was any goodwill for the area being donated toward the turnaround. It was stated that is a separate matter, not part of the road improvements. The chair said the Board will examine the information over the next couple of weeks

before the next meeting. Attorney Panciocco said there is no way she is willing to have her client sign any guarantee about the well on 19 Kelsea Road.

Abutter Dave Nault said he likes the point on the calculations. He stated that he put in five power poles in 2008, and through an urban impact program with Unitil, was able to get some refund on the cost because it was over three lots. He suggested that might be a possible way to reduce the costs of pole relocation. Mr. Nault spoke about the location and number of poles on the road. He asked why Unitil has not been contacted for specific costs. Donna explained that the applicant previously submitted correspondence from Unitil with the proposed cost of relocating a pole. She said the road agent has since contacted Unitil to discuss the need to relocate additional poles and get a firmer number. He reported to her that he was advised to use the figure proposed in the correspondence to Mr. Guiney and that the representative did not feel it necessary to visit the site to view the poles in question. Mr. Nault spoke about the boundary on the left, the lot size of the log home, and how the road has to go the other way.

George Holt made a motion to continue this hearing to the meeting of March 16, 2022 at 7:00 p.m.; motion seconded by Alison Vallieres. All were in favor. Donna informed those present that the meeting will be held in the ‘common area’ in the main hall of the elementary school. There will be no further notification. Mike Kaminski stepped down from the table; Dave Nault returned to his seat.

Other Business

Workforce Housing Ordinance – Because members have not had the time to review the comparison of the existing and the proposed ordinances, this will be covered at a later date.

Grapevine, LLC open space area – Donna read an email from Bob Pike about the open space proposed for his project on Zachary Drive. There was discussion at the February meeting about the ownership of the parcel, and he would like to know if there is any interest on the Town’s part before going into the next meeting. George Holt reiterated that the Conservation Commission would not be interested in the parcel because of its size. Dave Nault said he feels it would be a good piece for the Town of have and will take it to the Selectmen at their meeting the next night. He asked Donna to leave a copy of the plan at the office for him.

Countryside Estates agreement – Donna presented an agreement between the Town and Countryside Homes, LLC. relative to the construction of the roads in the subdivision for Board members to sign. The agreement addresses commencement of construction, surety being in place, plans being signed and recorded, the roads being constructed to Town standards and accepted as Town roads upon completion. The agreement has been signed by the owner and will be signed by the Selectmen at their meeting the next night. It will then be recorded and distributed to the owner and his attorney so they can proceed with registering the subdivision with the State.

Ron Slocum moved to adjourn the meeting at 8:30 p.m.; seconded by Dave Nault. All were in favor.

Respectfully submitted,
Donna White