

PLANNING BOARD MEETING MINUTES
MAY 18, 2022, 7:00 PM AT DUNBARTON TOWN OFFICES

Roll Call Attendance

Ron Slocum, Vice-Chair George Holt, Chair Chuck Frost, Secretary Ken Swayze, Ex-Officio Justin Nault, and Jeff Crosby. Ex-Officio Alternate Mike Kaminski was present via Zoom.

Business

The chair confirmed with the secretary that this meeting was posted in two places and on the Town's website.

1. Approval of Minutes:

Ken Swayze moved to approve the minutes of the April 20, 2022 regular meeting; Ron Slocum seconded the motion. All were in favor.

Chuck Frost stated that Board members did a joint site walk on Gile Hill Road with the Conservation Commission on April 27th. He submitted some informal notes for the file.

2. Correspondence – None

3. Selectmen's Report – Selectman Nault reported that the Town Hall addition project is going smoothly.

4. Building, Planning and Zoning Department Report – Donna said she had several things to review with the Board and will bring them up under Other Business later in the meeting. She informed the group that the Building Inspector has given his notice, with his last day being May 26th.

Old Business

Application 2022-PB-005 – Strategic Contracting, LLC – Nine-lot Subdivision, Lot H5-01-01 on Gile Hill Road in the Low-Density Residential District. Jacques Belanger represented the applicants. He said the plan stands as presented at the last meeting. Mr. Belanger said this is on a scenic road, and the Conservation Commission held a site walk and a public hearing on proposed road improvements since that meeting.

The chair acknowledged receipt and distribution of a letter from the Conservation Commission. George Holt, as a member of the Conservation Commission, asked to speak to the letter. He said the Commission consents to the planned improvements with an 18' travel way and 2' shoulders, totaling a width of 22', tree cutting to be limited, and the road to remain unpaved. He said if a flagged tree needs to be removed, the Town/contractor needs to contact the Conservation Commission. Mr. Holt said there were questions regarding the road construction from the public at the hearing held on May 11th. He read those from the letter (notification when work will begin; large vehicles/public safety; location of mailboxes; narrow areas; runoff/erosion; wood chips/cut wood; spring near culvert; copy in file). Jeff Crosby said work on the first section of the road is dependent on what happens further up the road. He said funding is an issue, and the work will not be done before the subdivision is done. He said the department's budget does not allow for the amount of work to be done, and the subdivision cannot be

held up because of that. Ron Slocum spoke about concerns of heavy equipment in the narrow areas of the road. Chuck Frost said the recommendation for mailboxes is under the control of the USPS, not in the Planning Board's hands.

The chair reviewed the road improvements cost analysis that Donna created with estimates from the road agent. The estimate for the portion of the road to be done by the Town is \$88,500. The estimate for the work to be done by the applicant along their frontage is \$50,000. The total of \$138,500 divided by the 18 lots on the road equals a per lot cost of \$7,694. The applicant's nine lots would be assessed \$69,246; their in-kind work of \$50,000 would leave the balance of exaction fees to be assessed at \$19,246. The chair said the work could be done or a bond put up for the assessed amount. Ron Slocum asked if there was any pole work involved in the Town's section of improvements. Jeff Crosby said there was not. Mr. Slocum asked about the difference in culvert pricing. Mr. Crosby said one is at a different depth and level of work. Justin Nault asked if the tree cutting estimate of 30 trees is still accurate after the site walk. Mr. Crosby said he did not count the trees after flagging was done. He said the trees in the Town's phase would need to be done with a bucket truck because they cannot be dropped on residents' land. He said the contractor will do the upper section and can lay the trees on their own land. Applicant Rob Starace said they will have a staging area for equipment on the first lot of the subdivision.

The chair opened the hearing to the public.

Barry MacKinnon said the road is an issue, it needs to be widened, and safety is a concern. Kathleen MacKinnon said she is very concerned about truck traffic, saying they have no appreciation for the residents. She asked how the Town would help maintain safety for the residents. The road agent said he would put up construction signage. Mrs. MacKinnon asked if there is a maximum number of houses that can be built on a scenic road. George Holt said a single access road, not necessarily scenic, is limited to 25 houses. Rob Starace said he will approach the USPS about delivering to the homes once some are up. David Herrick said the mailbox issue and the road are his concerns. He said Zachary Drive is paved and wondered why this road cannot be paved.

Joe Milioto thanked George Holt and the Conservation Commission for their efforts. He said he is concerned about the house construction being done before the road is widened. Mr. Milioto went through his list of comments: 1) degradation of his driveway/front of his property. He said it is imperative that the widening is done before any houses are built. 2) He is concerned that the road will be drier/dustier with the number of trees to be taken down. 3) He is concerned about the number of houses on a scenic road; he referred to the Large Lot Zoning section of the Zoning Ordinance and said no variances should be given on frontage requirements. 4) traffic at the bottom of the road and bus stop location. 5) the area of the mailboxes is not safe. 6) the runoff across the road near his house. 7) water that crosses his property/streams; does not want anything to happen to the water quality. 8) gating of the road would create more traffic since some tend to use that way to leave the area.

Chuck Frost clarified the large lot zoning option, noting that reduced frontages are permitted with larger acreage, no variances are required. Jeff Crosby said his hands are tied with the limit of 18' travel way and 2' shoulders. He said he would do the best he can with what he has to work with. Pam Milioto said speed is a problem. Joe Milioto asked what assurances they would have that the right trees will be cut. Harry Ledger asked what the rush is of letting the houses be built before the road improvements are done. Ken Swayze explained that the Town has to match the funds for the improvements and those funds are not available until budgeted. Mr. Ledger asked where the money

would come from. Chuck Frost explained that it is part of the Town's budgeting process. Jeff Crosby said there are several facets of work to be done between the cutting of the trees and widening of the road. He said he will initially have some exaction fees to use toward the improvements, noting that work on the lower part of the road is important. Harry Ledger said safety is important. Doris Ledger pointed out that there is no shoulder across from the mailboxes, so no room to move over. She said the Goffstown postmaster said the Town could fix the road at the top, creating an official turnaround. It was stated that a turnaround was created with the Chan subdivision plan. A copy of the plan is available at the Planning Office. Harry Ledger stated that Steve Brennan was denied a subdivision because Gile Hill Road was unsafe, so he wonders how this subdivision can happen. Board members were not familiar with that matter. It was noted that the Chan subdivision upgraded the Class VI portion of the road since the time that Mr. Ledger is referring to.

Joe Milioto asked what are left for exaction fees from the Chan subdivision and when new ones are collected. Rob Starace said he would pay the assessed fees before the plan is recorded. Donna reported there are \$12,000 in exaction fees being held for Gile Hill Road. Mrs. Ledger spoke about a culvert near their driveway. The road agent said he would try to make the best ditch he could. Kathleen MacKinnon asked about the stages of repairs. The road agent said they would first get the trees and stumps removed, then work on widening. They would then move up the road, which probably will not happen this year. Pam Milioto stated the worst part is between their house and the Ledger property and needs to be widened.

Hearing no further comment, the chair closed the public hearing. George Holt said he feels the focus needs to be addressing the trees at the beginning of the road, widening it and getting gravel down.

George Holt moved to approve the Nine-Lot Subdivision for Strategic Contracting Co., LLC of Tax Lot H5-01-01 located on Gile Hill Road.

Subject to the following conditions:

- 1. Submittal of a final, technically accurate, and graphically correct plan-set in full compliance with all current subdivision regulations and incorporating any and all additional requirements established during deliberations with the Board (per status reports, Planning Board meetings & minutes of March 16, 2022, April 20, 2022, site walk of April 27, 2022, May 18, 2022 and other acknowledgments).**
- 2. Approval and receipt of all other required local, state and federal permits. There shall be no change(s) to the base plan(s) without re-consultation with the Board, as a result of such other permit approvals.**
- 3. Payment of all fees and costs associated with the Dunbarton Planning Board application process.**
- 4. That all specified work and improvements at the site, as specified by the Land Subdivision Regulations, be completed prior to the signing and filing of the mylar (e.g.: survey monumentation must be in compliance, etc.).**
- 5. Preparation, submittal, and filing of all deeds, legal instruments, and/or documents required or intended to be filed at the Merrimack County Registry of Deeds, in such content and form acceptable to the Town.**
- 6. In-house sprinkler systems will be installed in all homes per agreement between the owner and fire chief.**

- 7. Off-site improvements to be completed by applicant as outlined on cost analysis presented on May 18, 2022.**
- 8. Assessment of exaction fees in the amount of \$19,246.00 in accordance with the cost analysis presented at the meeting of May 18, 2022 to be used toward the improvement of Gile Hill Road .**

Motion was seconded by Ken Swayze. There was no discussion. **All were in favor.**

Application #2021-PB-004 – Michael Guiney – Six-lot Subdivision, Lot B6-01-05 on Kelsea Road in the Low-Density Residential District. Applicant Michael Guiney and his agents, Pat Panciocco and Ed Rogers, were present.

Ex-Officio Justin Nault recused himself from this matter as an abutter to the property. Mike Kaminski, via Zoom, stepped into the position.

The chair asked if there are any updates on the plan. Ed Rogers stated there have been no changes since the plan revision of January 10, 2022. The chair reported that the Board was in receipt of a letter from Attorney Panciocco; copies have been distributed to all members. The chair reviewed the road improvements cost analysis that Donna created with estimates from the road agent and Unitil. Based on the current number of lots and the proposed new lots, the applicant's portion of road improvements costs would be \$51,345 and the Town's portion would be \$105,233.

Attorney Panciocco said she has done extensive research on this project. She said the poles on Kelsea Road create a challenge to the widening of the road and have driven the cost of the road improvements. She said she talked with the staff at the Town Office and Unitil and no licenses were found. She said the poles were put out without licenses to the Town, noting there are nine poles. Ms. Panciocco said pole placement is the utility's responsibility and should not impact public safety or expose the Town to the risk of an unsafe road. She said she has presented the relative statutes in her letter, and the Town has the power to have the utility company fix the problem. She said the Board of Selectmen or the road agent can demand the relocation of the poles to safe locations and that would go a long way toward alleviating the costs to the improvement of the road. Ron Slocum asked when Kelsea Road became a town road. Mike Guiney said it was laid out by the selectmen in 1821. Mr. Slocum said he asked because he wondered if maybe the access had been considered a long driveway and not treated as a public right-of-way at the time the poles were placed. Ed Rogers said there was no question it was a town road that was laid out in 1821 and there were houses built in that era. Donna said she understood that Unitil has former Concord Electric records in archive. She asked Ms. Panciocco if she got someone to look for them, as she was told that they are short-staffed and was not able to get the information when she was communicating with Unitil. Attorney Panciocco said she spoke with Heather Otero at Unitil last week and she seemed very guarded. Ms. Panciocco said she asked Heather if the records are available, Heather said she would speak with her supervisor, and reported that a request would be put in to their legal department. Donna said she researched the Town Clerk's logs and found no records at all for a window of several years. She said it could be that there really are licenses. Ms. Panciocco said Heather did not say if they have archived records or not. She said the Town still has the right to demand the poles be moved as they are hazardous even if there are licenses.

Chuck Frost said he would think the poles had been located based on conditions of the road, topography, etc. He said there are others in town that are hazards but feels there must have been some conscious decisions made to place them. The attorney pointed out the poles on the plan, noting that they are next to the traveled way. Ed Rogers said the poles should have been placed where they would not

obstruct the road, adding that they may not have known the right-of-way location. Chuck Frost asked if they are saying the subdivision is not the root cause of the need to relocate the poles. Mr. Rogers said it is a substandard road that needs to be fixed. Ken Swayze asked Ms. Panciocco if they have asked Unitil to move the poles on behalf of her client. Ms. Panciocco said it is the Town's responsibility, either the Board of Selectmen or the road agent. Mr. Swayze asked if she has gone to the Selectmen and asked them to proceed with getting the poles moved. Mike Kaminski said they could add it to their next agenda as he would not want to delay the process. Mr. Swayze said they could make an approval contingent on the Selectmen's meeting with Unitil, adding that there has been a delay in bringing this forward before now. Pat Panciocco said her client is not willing to pay for the pole relocation. She said pursuing this through Unitil would save the Town a lot of money. Mike Kaminski stated that it would help both parties. Chuck Frost said he felt the Board was ready to approve the application with exaction fees, including the poles. He asked if they are willing to delay a decision. Ken Swayze said it could be contingent upon the outcome of the BOS/Unitil matter, but it would be cleaner if they go to the Board of Selectmen.

Pat Panciocco spoke about other parts of her recent letter, noting that a lot of road work has been done all over town, but nothing on Kelsea Road. She said this subdivision is not creating the problem, it is a long-standing problem. She said they did not create the problem with public safety, noting that the turnaround has been a Town problem for a long time. Ms. Panciocco said they are willing to work with the Town, however, this road has been neglected so long and let go so long, it is like the Town has been waiting for her client to come in, calling it the Mike Guiney tax. She said they are not agreeable to the number presented the last time they were in as this is a pre-existing condition and not necessitated by this development.

George Holt made a motion to continue this application to the meeting of June 15, 2022; seconded by Ken Swayze.

Mike Kaminski said he would like some sort of communication from the applicant to the Board of Selectmen, and they will act upon the pole relocation. Mr. Kaminski said he feels the road agent's estimates are clear and sound, that Kelsea Road has been maintained over the years, the land being deeded to the Town is fair, the credit to the applicant for the engineer's fees is fair, and their challenge on the pole location is appropriate. It was agreed that Mr. Kaminski and Ms. Panciocco would speak by phone the next day. Ken Swayze said at some point the Board needs to catch up with their procedures, they cannot go back decades with history, they are trying to make things better, and the Town has to put some money in as well. This is how it works. He said he feels the road agent's figures are adequate, progress is being made, and the improvements would be to the applicant's benefit in selling the lots. Ms. Panciocco said a few select people have paid nothing in exaction fees. Mr. Swayze said nobody is abusing the applicant, it is time to stop that mentality, it is 2022 and things change. Jeff Crosby said Ms. Panciocco keeps referring to an impact fee, which the Town does not have. He said the Town does exaction fees, there is a difference. Ms. Panciocco said she would consider the \$4,000 that has been typically assessed an impact fee. **All were in favor of the motion to continue.** That meeting will be held at 7:00 p.m. at the Town Office meeting room. There will be no further notification.

Justin Nault returned to the table; Mike Kaminski left the meeting at this point. Dave Nault asked for a copy of the letter from Attorney Panciocco and a copy of the cost analysis being discussed.

New Business - None

Other Business

Gile Hill Road trees - Jeff Crosby asked what he should do if told he cannot cut trees when notifying residents on Gile Hill Road. George Holt said notification of the Conservation Commission's public hearing was sent to all connected to Gile Hill Road. He said comments from those present were included in the Commission's letter; everyone had the opportunity to address concerns.

Solar project - Donna said the building department received an application for a solar array project for ORIS, the farm on Story Hill Road/Route 13 South. The array will cover approximately one-half of an acre. The Building Inspector was not sure he could approve the project because of its size so had asked Donna to check with the boards to see if a special exception and site plan review would be required. The group discussed other solar projects in town, noting that the Zoning Ordinance does not address solar in any way. It was the consensus of the members that the Building Department could handle the application as they would any other solar project.

Propane fill station project - Donna showed the group a certified plot plan that Bryan Murphy is using for his ZBA application. He has asked if it would be sufficient to use for his site plan review application. Donna pointed out the area where Mr. Murphy has since created a second access and driveway. It was agreed that the plan would be sufficient with the addition of the new access and driveway.

Zachary Drive agreement - Board members signed the road construction agreement for the extension of Zachary Drive. Donna will get it to the Selectmen for signature at their next meeting.

Land Use Handbook - Donna has reviewed the draft of the newly created land use handbook, combining subdivision and site plan regulations. She has sent it to Chuck Frost for his review before the two of them meet with Matt Monahan. The process on how to proceed will be outlined at that time, then Matt will meet with the full board. It was agreed to hold a workshop on June 7th at 6:00p.m. as Matt is not available on the usual workshop date.

Ken Swayze moved to adjourn the meeting at 9:18 p.m.; seconded by Justin Nault. All were in favor.

Respectfully submitted,
Donna White