

**TOWN OF DUNBARTON, NH
PLANNING BOARD MEETING MINUTES**

August 19, 2020 ~ 7:00 p.m. at Dunbarton Fire Station

IN ATTENDANCE Alison Vallieres, Brian Pike, Chairman Ken Swayze, Secretary Chuck Frost, Jeff Crosby, Ex-Officio Dave Nault, P/Z/B Department Administrator Donna White

BUSINESS Secretary Chuck Frost stated that meeting notices were posted on the Town's bulletin board and website, as well as a public notice in the Concord Monitor.

1. **Approval of Minutes:** **Chuck Frost made a motion to accept the minutes of the March 18, 2020 meeting as presented; Dave Nault seconded the motion.** There was no discussion. **All were in favor.**
2. **Correspondence/General:** Chuck Frost informed the Board of a voluntary lot merger done for two lots on Gile Hill Road. The lots were created as part of the Chan subdivisions; a couple recently purchased the lots and merged them in order to build a new home in their preferred spot on the lots. Donna reported the receipt of a regional impact notice from the Town of Hooksett. The applicant is requesting a two-year extension of their Special Exception for a wireless communication facility.
3. **Selectmen's Office Report:** Dave Nault reported the following: 1) There is a project being done at the school. The garden club had an informational meeting with the selectmen about the project of creating a garden for the school kids. Some trees behind the school were taken down to prepare the site. A couple of trees went onto abutting property; the matter is being handled. 2) The Board of Selectmen are meeting every other week per their usual summer schedule; they may continue the schedule into the fall in order to limit the number of meetings. Many other groups in town are not holding meetings or are doing them via Zoom, Skype, telephone, etc. 3) The café has reopened; it is now the School Street Café. Their public water system has been reactivated by the State after the café being closed due to COVID. 4) As his first meeting with the Board, he felt the member packet that Donna sent out was very well done. He said it was very inclusive and easy to decipher when preparing for the meeting.
4. **Planning/Building Department Report:** Donna informed board members of the following: Building department is steady; several new homes under construction, two ADUs under construction, one home near CO, a lot of pool and deck permits. Having an issue with one resident who installed an in-ground pool and has not installed the fencing required by building code.

ELECTION OF OFFICERS

1. **Ken Swayze nominated Chuck Frost as the Chair; motion seconded by Brian Pike.** Mr. Swayze said Mr. Frost has been on the Board for a long time in multiple sessions due to his time away for active duty. There were no other nominations. Mr. Frost accepted the nomination; **all were in favor.**
2. **Ken Swayze nominated George Holt as Vice-Chair; motion seconded by Brian Pike.** There were no other nominations and no discussion; **all were in favor.**
3. **Dave Nault nominated Ken Swayze as Secretary; motion seconded by Chuck Frost.**

There were no other nominations and no discussion; **all were in favor.**

CONCEPTUAL CONSULTATION

Bob Pike and Jenn McCourt appeared to present a conceptual plan for Mr. Pike's property on Stark Highway South (former golf course). Ken Swayze stated that this is a non-binding consultation and is subject to reconsideration. Dave Nault stated that he has done business with Mr. Pike in the past and feels he can be objective when discussing the project. Board members had no objection to Mr. Nault participating in the discussion, and Mr. Pike had no concern with Mr. Nault participating. Bob Pike stated he is not related to board member Brian Pike.

Mr. Pike said he lives at 91 Peaslee Road in Bow where he just completed a 31-lot open space subdivision. He said he has owned the golf course properties since 2004, mentioning a previous proposal that was before this board a few years ago. Mr. Pike noted that in 2017 the Zoning Ordinance opened the property up to the open space option.

Jenn McCourt, McCourt Engineering, identified the properties located on the west side of Route 13, the former golf course. The parcels are in the Low-Density Residential District with a Multi-Family Residential Housing District overlay. The total acreage involved is 240.78 acres, and they are proposing a 46-lot open space development. Ms. McCourt stated the three lots would be merged together as Map B4-01-11. Open space density would allow 48 homestead lots; they are proposing 46 homestead lots on a total of 135 acres or 56%.

Ms. McCourt handed out a plan of the proposed boulevard, allowing dual access. The first 1500' would be at 10% grade, the main section would be 2960' with 9-10 lots, north to the cul de sac would be 1307' with 11 lots, and south would be 1829' with 24-25 lots. There would be cut throughs to allow people to reach driveways on the other side of the median. Dave Nault asked if this would be a town-maintained road. Ms. McCourt said it would be, and she suggested that members look at Peaslee Road for an example. Mr. Pike said the home-owners association would maintain the center strips and out to the shoulder on their lots. The town would maintain the road only. There would be an elevated center, allowing water to shed off either side of the road. There was discussion about the open space, fire department water supply possibilities, and the width of the road.

Chuck Frost said he feels 125' frontages put the houses pretty close together. He suggested that sidewalks be installed in anticipation of the number of pedestrians. Mr. Pike said he has looked at doing a sidewalk along the boulevard, noting that the post office is going with centralized mailboxes recently. He said the 24' wide road required by Dunbarton is at least 2' wider than most towns. Jeff Crosby said the wider road allows more area for walking and eliminates the maintenance of sidewalks. He said this gives more area for oil trucks, landscape services, and the passing by other vehicles. Jenn McCourt pointed out that the lot frontages vary.

Dave Nault asked about existing buildings on the property. Mr. Pike said there is just the clubhouse which will be used as a sales office for a while, eventually being demolished. Ms. McCourt said they will go to the ZBA for setback variances as 40' really narrows the building pocket. Chuck Frost and Ken Swayze spoke about the open space regulations already making a compromise with the 40' setback where 50' is typically required. They both spoke about the narrowness of the lots, making them strip lots. They also stated that it was never anticipated or expected that someone would plan 125' frontages across the board. Mr. Pike said the regulations allow 125' frontages and these are not pork chop or flag lots. He talked about the type of homes being sought in today's market, noting that 30-45% of the homes would probably be purchased by empty nesters. Mr. Pike said a 45' pocket wouldn't work; he needs 50-55' to work with. He said he doesn't do barracks

housing and would like the ability to move them around a bit, so they want to address this with the ZBA and at least present their case.

Mr. Pike said there will be two critical waivers needed, the 10% grade and the boulevard. He said they can work the rest out. Jeff Crosby said he would like to see the boulevard lane width increased from 12' to 14'. He said he would also like to see a dedicated access road to the fire pond/dry hydrant if it's a distance from the road. Mr. Pike said he will be meeting with the fire chief to discuss the water supply. There was some discussion about the type of land in the open space areas, ownership, and providing parking areas for users of the open space.

Chuck Frost read an email from George Holt (unable to attend this meeting) with concerns about using the existing water system, well and septic layouts. Mr. Pike said the water system that was installed for a previous proposed project is completely defunct. He said state regulations have changed and DES is not in favor of community wells. He said the state and the Town's zoning regulations address this matter with deeper wells, more casing, and grouting.

Alison Vallieres spoke about establishing the lot frontages before going to the ZBA for variances. Brian Pike said he likes the open space idea. He said Bob Pike talked about 140' frontages and noted he could get the building pockets he wanted without having to go to the ZBA if he made those adjustments. Bob Pike said he will work with the boards, adding that the town can't make the regulation of 125' and not go by it. Jeff Crosby said he doesn't like the plan but nonetheless, it meets the Zoning Ordinance. He said he is hearing others say they never expected this scenario, but they should have thought of that before accepting the change to the Zoning Ordinance. He said if the applicant meets 125' as required, he doesn't see how the board can say no as the applicant is entitled to ask for it.

Dave Nault said the applicant will be looking for two waivers in the future, the 10% grade road and the boulevard. He said he would rather see the board give those waivers and the applicant have a little give and take, doing something with the frontage on the lower lots and looking at access to the open space areas. Bob Pike said he has 140' in mind but still wants to go to the ZBA. He noted there are two good access points to the open space areas. Mr. Nault suggested the ZBA might be open to splitting the setbacks.

The chair opened the discussion to the public. Stan Sowle said he is with the Conservation Commission. He asked about the Peaslee subdivision that was mentioned earlier in the meeting. Mr. Pike gave the location of the subdivision known as Estates of Peaslee, made up of 31 one-acre lots with 20' setbacks. He told Mr. Sowle that he will be in touch with the Commission to schedule a meeting. Fred Mullen asked how many houses would be permitted if these were five acre lots. Jenn McCourt said 48 lots would be allowed based on the acreage. Mr. Mullen asked if the open space would be for the use of those homeowners only. Ms. McCourt said that is to be decided.

Mr. Pike said he would like a sense of the board's feelings before leaving this meeting. The chair again stated that this is a non-binding discussion. Ms. McCourt said that is understood; they would just like to know if anyone has real issues with the 10% grade and boulevard. Board members said they do not at this time.

NEW BUSINESS

Application #2020-PB-004, 131 North Stark Highway Realty Trust – Three-lot Subdivision of Tax Map G3-03-03, Stark Highway North, in the Medium-Density Residential District. Donna gave a summary of the application as follows: Intent of the plan is to subdivide the 9.73-acre lot into three lots of 3.02 acres, 3.44 acres, and 3.27 acres. There is a single-family residence on the parcel; assessing

records show the lot as 11.99 acres; the deed indicates the parcel consists of 12 acres, more or less. Fire, police and the road agent were given copies of the plan; the road agent said this only impacts the State road and he had no comments. State subdivision approval and NH DOT driveway permits are required. Based on staff review, it appears this application is sufficiently complete. **Chuck Frost made a motion to accept the application as complete and move to public hearing; seconded by Dave Nault. All were in favor.**

Jacques Belanger, agent for the applicant, gave an overview of the proposed subdivision. The parcel is made up of three tracts, the wetlands have been delineated, they will go to the State for driveway permits and state subdivision, and there are no wetland crossings. He said there are existing access points, and he does not anticipate any problems with getting the driveway permits. Dave Nault had a question about a solid line on the plan. Mr. Belanger explained it was a soil type line, separating soil types. Brian Pike asked if the well and septic shown by the existing house are actual locations. Mr. Belanger explained that there are two wells; one is no longer used. There is a concrete pad where that one is located. Mr. Pike asked if it was decommissioned; Mr. Belanger stated that it was not. He thought there may have been a problem with salt contamination. Jeff Crosby asked if there were any issues getting the building pockets based on the amounts of wetlands. Mr. Belanger said there were none.

Chairman Swayze opened the hearing to the public; hearing nothing, he brought the hearing back to the Board. **Brian Pike made a motion to continue the application to the meeting of September 16, 2020; seconded by Chuck Frost.** The chair noted that regional impact needs to be considered. **Chuck Frost moved that there is no regional impact; seconded by Brian Pike. All agreed. The chair called for a vote on the motion to continue; all were in favor.** Chuck Frost suggested that board members do individual site walks; Mr. Belanger will inform the owner.

Application #2020-PB-005, Michael & Dana Baier – Request for Waiver of Site Plan Review, Tax Map B7-01-08, 233 Twist Hill Road in the Low-Density Residential District.

The chair asked Alison Vallieres to summarize the applicant's recent hearing with the Zoning Board. Mrs. Vallieres gave a brief overview of the hearing for a special exception to have a home office. She said the applicant was asked to come back with more specifics about the request.

Mr. Baier presented the board members with an outline relative to the provisions for a home occupation as listed in the Zoning Ordinance. He gave an overview of their plan for the house they are purchasing next door to their own residence at 229 Twist Hill Road. Mrs. Baier has a home office for her real estate work, as a contractor with an agency in Bedford, and would like something else nearby to allow her more space and away from their everyday family activity. Mr. Baier read from Section IV-C of the site plan regulations which addresses home occupations. He said they are asking for two home occupations with some exceptions, acknowledging that they have to go to the ZBA and then probably to the PB with a site plan. Ken Swayze agreed because this isn't the typical home occupation since they will not be living in the home. He said it is his personal opinion that the applicants do not need to bring in a lawyer and engineer, but they do have to address such things as the uses involved, signage, septic requirements and maintenance, etc. Mr. Baier said initially they plan to rent out the house and would like to use the garage and basement as office space. He said, ideally, they will be able to eliminate the rental situation and use the whole building in time.

Ken Swayze explained to the applicant that the use continues with the property when sold. They need to establish the actual uses; conditions would be put in writing. There was discussion of the definition of home occupation, the need to go back to the ZBA, showing the ability to park multiple cars, turnaround, etc. Mr. Baier asked to clarify that this is not a real estate office, but simply a

private office. Donna read emails received from two abutters. 1) Julie Monahan – after hearing the applicant's plan for the property, she had no concerns. 2) Matthew Burke – “Thank you for reviewing these written comments in regard to the request of waiver of site plan review for the property of 233 Twist Hill Road, Dunbarton NH. My family are property abutters in Goffstown and have concern in regards to waiving the site plan review. We have reviewed the meeting minutes from the Zoning Board in regards to the applicants submittal for special exception to have a business at this property. During this meeting the Board asked about the applicants regarding the proposed use of the property. The Board was unable to determine what businesses would be located in the building in addition to the rental of the first and second floor. The Board pointed out that the approved special exception would go with the property when sold and because of this, the proposed use has to be specific when it is approved by the zoning board. Due to this the zoning board continued the application for special exception. Based upon this we feel that waiver of site plan review would be unwarranted being further detail needs to be introduced as to what type of business is going to be allowed at this location so the Planning board could see that any business will have adequate parking etc. Being as the applicant was not detailed as to what this will be used for it is concerning that an approval could allow for any type of business down the road without better specificity and could lead to an inappropriate location and impact on the community. Thank you for taking the time to read these comments. Respectfully, Residents 511 E. Dunbarton Rd. Goffstown NH”

Donna said when looking at Mr. Baier's ZBA application, she talked with him about requesting the waiver of site plan due to the nature of his request for a home office. She asked what the Board wants to see for a site plan review, noting that there are approximately nine pages of checklist items, the majority not applying to this situation. Donna asked if the applicant could simply put N/A or if he should ask for a waiver of each item that does not apply. **Jeff Crosby made a motion to grant the waiver of site plan review.** He said the applicant has been 100% honest, he may possibly rent the house out, and wants an in-house office. Chuck Frost said he doesn't have enough information to decide; he is against the waiver. The chair called for a vote; it was noted there was no second yet. Brian Pike said to let the ZBA do their thing, then come back. Alison Vallieres said there needs to be more specifics known. Dave Nault reminded members that Donna asked for assistance on how to address the application since there are no specifics for a minor vs major site plan review. He suggested allowing Donna to use her expertise when working with the applicant. The Board was in agreement with the suggestion. The chair stated there is a motion on the floor. **The motion did not receive a second.**

There was discussion about continuing the application, if notification and additional fees were required, etc. Board members agreed the applicant had already paid the appropriate application and notification fees, there should be no additional costs. Donna noted that the applicant had applied for a waiver of site plan review, and now the Board was asking for a site plan review which is a different request; abutter notification should be done. **Dave Nault made a motion to continue the hearing to an unspecified date, allowing the applicant the opportunity to return after going to the ZBA; seconded by Brian Pike. All were in favor.**

OTHER BUSINESS

1. Dave Nault spoke about interim Subdivision and Lot Line Adjustment applications that were developed last fall as part of the policies and procedures project. Ken Swayze stated that he gave a couple of additions to Donna. Chuck Frost said he thought the application deadline had been changed from 30 days to 21 days. Donna said it was part of the procedures review

that did not get finished, and a vote was not taken on that change. **Dave Nault made a motion to accept the applications as distributed by email to Board members earlier today; seconded by Chuck Frost.** Donna explained that these applications were distributed to Board members in October and November, and Mike Kaminski, who was heading the project at the time, said to put them into use as 'interim' until accepted by a vote. Mr. Swayze's comments to add notes of the number of typical meetings for each type of application were read, followed by discussion on the changes. Brian Pike suggested tabling the matter until the next meeting, adding those comments and giving others time to review the applications. Chuck Frost said he did not feel they had enough notice and the topic was not on the agenda. Dave Nault withdrew his motion; applications will be put on the next meeting agenda.

2. Jeff Crosby said he thought there was going to be an application on the agenda for a property in Gorham Pond, based on plans given to him for review as road agent. Chuck Frost said the application was withdrawn. He said some of the members looked at the plan and had concerns. Donna explained that the applicant first applied in April and then re-submitted in July. She said the Board officers received each of them, responding with questions and concerns on both. It was the officers' consensus that the application should not go forward. Donna said Ken Swayze spoke with Jacques Belanger when in the office recently and explained that three of the members were not comfortable with the plan as presented. Mr. Swayze told Mr. Belanger that it was his option whether to continue or to withdraw the application. Mr. Belanger decided there was no sense going forward, only to get denied. There was discussion about all members not getting all information relative to the Board. Donna said she has voiced her concerns right along of the three officers receiving and reviewing information, saying she is not sure of the legality or if it is right or wrong, but feels the full board should be informed. Dave Nault stated he feels all information should be distributed. Brian Pike said it gives the perception of impropriety. There was a question about minutes being taken when the officers meet. Donna said a new application/plan goes to the three officers, they comment, the comments go on the status report, those comments could hold the application from being placed on the agenda, and the application does not get to the rest of the members for review until the monthly packet is mailed out shortly before the meeting. She said she feels acceptance of an application should be a Board decision. Ken Swayze said it is common practice to do this type of review to ferret out certain applications, so they do not have a lot coming to the Board that need more information. He said with three people there is no quorum. Brian Pike suggested the rest of the members should get the information, as they see information being exchanged and have no idea what is going on. Mr. Swayze said the officers are looking at the completeness of an application. It was suggested that the other board members may have valid points/concerns to give to the surveyor as well.

Ken said all board members could get a new application when it comes in, and the three at the helm still review the application and comment. He spoke about the Mayhew application that was discussed earlier and said George and Chuck had some concerns. Ken said they like to suggest to the applicants that it is not looking good; he read an email that he sent as part of a chain of emails between the officers and Donna: "The applicant has every right and opportunity to still file their application under the Board's criteria for submitting a "complete application" based on current submittal timetables. Under standard circumstances, the application will be reviewed for completeness." Mr. Swayze said they are not ruling or voting

on an application but reviewing if it is complete. He said Donna does the review for completeness as well. Jeff Crosby asked why the officers do the review if Donna is already doing it. Donna suggested the entire board review new applications at a workshop meeting. Ken said they used to do that, but nobody wanted to continue the process.

Dave Nault said he agrees with Brian Pike about everyone getting the materials. He said they have a competent person in the office to do the job of reviewing for completeness. There was discussion about emails back and forth among members constituting a quorum. It was agreed to distribute application materials to all members; each member should respond directly to Donna (not Reply All) with any comments. Mr. Pike said Donna could be the facilitator of responses. Ken said everyone could comment; there may be duplicate concerns. Discussion continued about conceptual consultations. Donna stated that was part of the policies and procedures review that was never completed. A draft procedural outline was created and includes doing a conceptual consultation.

3. There was a question on the date and time of a meeting with a resident and his agents for a proposed subdivision on Kelsea Road. Donna reported the meeting is scheduled for next Tuesday at 11:00. There was discussion of the purpose of the meeting. Jeff Crosby said he had been asked to attend but did not know why he needed to be there. Ken Swayze said it is a Board of Selectmen matter, not one for the Planning Board. Dave Nault disagreed. Donna said she was informed by Mike Kaminski, when arranging the meeting, that it was to discuss a potential subdivision application. Mr. Swayze said he thought it dovetailed with other work they want done. Dave Nault explained they knew the subdivision was coming, and Mike Kaminski is acting as the alternate ex-officio since Mr. Nault will recuse himself from the matter. Jeff Crosby asked about having a meeting to discuss something when there is no application filed. He said all of the guidelines are in the regulations, and he does not understand the need for this meeting. Ken Swayze agreed, saying he did not want to go. He explained that the resident's attorney called him because he is on the Planning Board; he said he told her he has no jurisdiction and to call Mike Kaminski. Ken said Mike Kaminski is in charge of this and wanted the road agent there. The question was asked as to why this meeting was being held to talk about a potential subdivision. Brian Pike said the Board does not make special exceptions for other applicants, and he feels this could be a slippery slope of how to conduct business. Ken Swayze said he would like the Planning Board to say this is not proper, and if there is a problem with something in the past, it should be here at the Planning Board. Several Board members said they agreed. It was the Board's consensus that this is not standard process, and the Planning Board did not want to participate in the proposed meeting. Ex-Officio Dave Nault will report that to the Board of Selectmen at their meeting the next evening.

With no other business before the Board, **Brian Pike moved to adjourn the meeting at 9:36 p.m. Chuck Frost seconded the motion. All in favor.**

Respectfully submitted,
Donna White