

Planning Board
January 11, 2024
Public Hearing
7:30pm

Members present: Chip Current, Barry Hantman, Joe Hester, Leo Traverse, Chris Smith, Charles Underhill

Others Present: Gail Turilli, Henry Bannister, Josh Manning, Annemarie Inman

The minutes from the December 14, 2023 meeting were reviewed. Chip notes one correction on line 83 where it states 111, should be Olde Road. Barry **made** and Joe 2nd a **motion to accept the minutes as amended**. All in favor with Charles and Chris abstaining. **Motion passes.**

The minutes from the December 23, 2023 Site Walk were reviewed with no comments. Barry **made** and Joe 2nd a **motion to accept the minutes as written**. All in favor with Charles and Chris abstaining. **Motion passes.**

Chip explains that tonight's meeting consists of 2 public hearings for citizen's petitions for amendments to the Danville Zoning Ordinance.

Article XIII.B.9:

Barry **made** and Charles 2nd a **motion to open the public hearing**. All in favor, **public hearing is now open.**

Chip notes the citizen's petition as follows:

To see if the Town of Danville will vote to amend the Town of Danville Zoning Ordinance to exempt Heritage Commission review for work on Emergency Lanes as defined by RSA 231:59-a. Specifically, this will add a new subsection (i) to Article XIII.B.9 as follows:

"i. All work authorized by the Selectmen on Emergency Lanes as established under RSA 231:59-a."

Annemarie Inman, head petitioner/Board of Selectmen member, addresses the Board. She explains that this came about in a public hearing to designate a piece of Tuckertown Road as an emergency lane per RSA. This was reviewed by town counsel who would have authority over that piece now that it is changing over to an emergency lane in addition to a Class VI designation. She received an opinion from town counsel that the municipality is exempt from its local ordinance. This brought to her attention that there is a section in the Historic District Ordinance that includes the municipality. This is basically if the other petition failed by the vote, we can at least have the exception that the Selectmen can maintain authority per state law. Chip noted that we are not automatically exempted from our own regulations but, we can exempt ourselves from them. There are two bodies in town that have the authority to exempt us from

zoning which are the Selectmen and the Planning Board. There are no other comments from the public at this time. Barry **made** and Charles 2nd a **motion to close the public hearing**. All in favor, **motion carries and the public hearing is now closed**. Charles asked if emergency lanes have an accepted definition to which Annmarie stated, yes per state RSA. Chip notes that RSA 231 talks about road infrastructure, specifically, :59-a talks about emergency lanes and turning Class VI highways and Class A trails into corridors for public safety. That is what the Selectmen did back in December. He further explains that it is illegal for municipalities to utilize funds to maintain an abandoned road. Charles asked how many other avenues would be covered by this. Chip stated this is the only one. There are a bunch of Class VI highways that are discontinued roads effectively. In order to stop maintaining them, the town has to vote to discontinue the road, which was done for Tuckertown Road. It is still being used by people, including Forestry. Annmarie stated that the town owning a piece of it can make use of it as an access point. Chip mentions that the Historic District is overseen by at least three entities in town. Heritage, Zoning has prior authority and jurisdiction. The town forest is largely in the Historic District, the Forestry Commission has jurisdiction over the town forest and the Selectmen have jurisdiction over the town. The way this is written now, in order for the Selectmen to do something in the Historic District, they have to get permission and go through the entire review process. This is trying to exempt that. Charles stated that since being on the Planning Board, there have been two properties that have come in associated with Class VI or abandoned roads. One being the connection for a back route into Kingston and the other was the abandoned road next to the 4 property subdivision where the existing structure was torn down. Barry stated that there will be no impact to those properties which are not in the Historic District. Chris asked what the process is for designating an emergency lane. Chip stated it is done by the Selectmen. Barry feels that the word "except" is a typo and should be changed to the word "exempt" as it makes this more clear. Chris **made** and Barry 2nd a **motion to change "except" to "exempt"**. All in favor, **motion carries**. Chip states this will go forward to the ballot. Joe **made** and Barry 2nd a **motion to add recommended by the Planning Board**. All in favor, **motion carries with a vote of 6-0**.

Article XIII.B.7:

Chip notes the citizen's petition as follows:

To see if the Town of Danville will vote to amend the Town of Danville Zoning Ordinance to remove the municipality from requiring reviews when doing work in the Historic District. Specifically, to change Article XIII.B.7 to read:

"7. It is unlawful for any person to excavate, construct, alter, repair, move or demolish any buildings, structure, site or improvement which lies within an Historic District, area or place, without first obtaining a Certificate of Approval from the Heritage Commission in the manner prescribed in this Article. Exceptions are declared in Section XIII.B.9."

Charles **made** and Barry 2nd a **motion open the public hearing**. All in favor, **motion carries**. **Public hearing is now open**. Chip noted that all this is changing is removing the word

“municipality.” Annmarie stated that the Board of Selectmen had a public hearing in October and designated a portion of Tuckertown Road as a designated emergency lane. As a result, the town attorney advised that the municipality is not subject to our local zoning and authority would be with the Board of Selectmen. Currently, as it states now, if work were to be done such as logging or road improvements, the Board of Selectmen may have state law driven purview but, would need to present an application for authority to do it to Heritage. She further explains why the municipality should not be in its local zoning is because if an administrative decision, such as a designated emergency lane is made, work is done, the Heritage Commission could potentially appeal it to the Zoning Board of Adjustment. Typically, that peer right is for someone who comes before the Planning Board and feels that a piece of what they were denied should be appealed. Heritage can take that function, go to the ZBA or use town funds to obtain a legal opinion and then go to ZBA. If the ZBA doesn’t agree with the Heritage Commission, they can legally fight this up to the supreme court because we don’t have a land court. Not only does this involve three Boards but will extend to Forestry, Planning, and Conservation. The dissention among the Boards internally and the strife it would cause would be awful. Being on the Board of Selectmen, she feels it would be financially irresponsible to not correct this because it could be a potential litigation problem. Josh Manning, who also signed the petition, stated that this is for public safety, protection of forest fires, and emergency access. No point is protecting history more important than public safety. Annmarie stated that additionally, she learned at the public hearing and in speaking with the Police Chief and Fire Chief, that there can be potential fires from “puffs.” Also, John Haskell, resident, spoke to his experience where he was fighting a fire in Florida, an engine went in and the engine was lost along with two firefighters because they couldn’t back them out. She wants Forestry and Heritage to do their work but, doesn’t want to bind anyone as it’s unnecessary. There are no other comments from the public. Barry **made** and Joe 2nd a **motion to close the public hearing**. All in favor, **motion carries and the public hearing is now closed**. Chris asked if this passes and municipalities are no longer required, will a review process still be required for other projects. Joe explained that if Forestry was doing some logging, they would come before the Board of Selectmen, state what is being done, what is needed, and the cost. Annmarie also noted that the intent to cut would be needed as well. Barry stated that he believes this needs to be discussed and decided in a public forum and not necessarily in a public hearing. Annmarie stated that this was correct. Barry **made** and Joe 2nd a **motion to add recommended by the Planning Board**. All in favor, **motion carries with a vote of 6-0**. This warrant article will be put forward to town warrant.

Preliminary Discussion for 259 Main Street:

Henry Bannister, resident at 259 Main Street, addresses the Board. He is looking to make the most out of his property which is 13 ½ acres, and is looking for some guidance. He is thinking about the possibility of putting up short term rental cottages or an ADU. The property is located in the Village District and is zoned for mixed use. Barry mentioned one big thing that the Board will be looking for is fire suppression and if looking to put up short term cottages, there needs to be a note on the plans stating they can not be used to establish residency. Chip explains that there can be no more than one dwelling with the exception of the ADU as long as it's no more than 750 sq ft or a duplex or quadplex. Short term cottages could be a possibility for this property. A subdivision would be challenging and a site plan review would be required. 2 acres per unit is required and a maximum of 6 units would be allowed. Barry recommends going through the list of allowed uses in the Village District within the Zoning Ordinance.

Barry mentions that there are two positions up for election this year which are, Chris and Leo. He states that he hopes they both run again for Planning Board members.

Emily Lane – Neighborhood Postal Unit Plan:

Lavelle & Associates had dropped off a postal unit plan for Emily Lane for the Board to review. This was not part of the original approved plan. Barry stated that the Board needs the developer or the engineer to come into the Planning Board to discuss the mailboxes. Questions that need to answered are: who is maintaining the structure, who owns the structure. There are also concerns with setbacks, safety, pull off and drainage. Chip asks that Joe find out from the Board of Selectmen if they would accept the road this way. He also recommends bringing in Jim Seaver for discussion. A possible amended plan may be needed.

Chip mentions some correspondence that was received from the Town of Kingston regarding a public meeting for a minor lot line adjustment for the corner of Cheney Lane and Long Pond Road. The meeting will take place on Tuesday, January 16, 2024 at 6:45pm in the Kingston Town Hall for those that may be interested.

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

Agenda for next meeting:

1. 29 Olde Road Site Plan continuance
2. 12 Olde Road – Preliminary discussion for an additional building with 25% of the building being residential.

165 Respectfully,
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167 Gail Turilli
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