

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

November 6, 2023

Members Present: Scott Grant; David L. Patch; David Shedd; Michael Galante; Kevin Bennett; Joe Heuston; Vicki Garland. **Members Absent:** None.

1. Pledge of Allegiance: Chairman Scott Grant opened the meeting at 6:00 pm. He led all present in the Pledge of Allegiance and announced items on the agenda.

2. Continuation/Final Approval: Jason Brown, Route 302, Bartlett NH. File: 2023-1290. Application to subdivide a 12.27-acre parcel on Route 302 into a 16-unit PUD. Tax Map 2RT302-2, Lots 161L00, 165L00, and 170L00.

This application is still waiting for state approvals and for Burr Phillips' technical review. Motion to continue to the December 4, 2023 public hearing made by Joe Heuston; seconded by David Patch. Vote: All in favor.

3. Review and Approve Minutes: The minutes of the September 4, 2023 meeting were reviewed. The Chairman asked whether there were any corrections or comments. With none, a motion to approve, as written, was made by David Patch; seconded by Joe Heuston. Vote: All in favor.

4. Mail and Other Business:

- An email from the NH Municipal Association (MA) in response to a question asked of them regarding short-term rentals was reviewed and discussed. The email suggested the board contact the town's legal counsel for assistance, and it was agreed to do that. David Shedd asked what the submittal and public hearing deadlines were for zoning amendments proposed to be on the 2024 ballot. That information was provided when the secretary read the zoning amendment calendar out loud. The board engaged in a short discussion on how to proceed with dealing with short-term rental regulations. The Chairman recalled that last year the board voted whether to put a zoning amendment on the 2023 ballot which reflected the voter's 2022 directive to limit STRs to the commercial zone. The vote failed 3-3-1. He asked whether we wanted to take another vote to do something next year. Michael Galante asked whether we were actually going to have wording that limits STRs to the commercial zone, saying he was bringing the subject up because he predicted we would have the biggest crowd we've ever seen, which the meeting room would not be able to accommodate. Mr. Galante said after reading the MA's email, it sounds as though the board was stuck with doing what the voters want. He said he was not in favor. Vicki Garland felt we needed to do what the voters asked us to do, but felt the board could present a good case at the public hearing to inform people why they should vote no, such as the threat of litigation. She noted courts had ruled that a short term rental was a viable use for a residence, but what they did not say was that towns could not regulate them. She felt this approach may be less-likely to generate lawsuits; would allow the town to have knowledge of each STR; and the registration fee would bring in some revenue. Joe Heuston asked Ms. Garland whether it was her opinion they should only be in the commercial zone. Ms. Garland said in an ideal world, yes, but we did not live in an ideal world and taking that approach would not be practical. Kevin Bennett said he favored the approach Jackson had taken.

David Shedd said he would like a sense of whether the board was willing to do something, as opposed to doing nothing. He asked whether we wanted to develop an ordinance just doing what the voters want, or do we want to develop our own ordinance which was more appropriate for the town? David

Patch said whether we like it or not, the board needed to do something. He noted the voters had directed us to go in a certain way and while did not feel that was the way to go, he believed it would be illegal not to comply with their directive since we had always acted on prior warrant articles that voters had passed. Mr. Patch said he liked Mr. Shedd's suggestion to get an ordinance going that put some rules and regulations in place for STRs. He felt it should require an owner to sign an affidavit saying they were in compliance with life safety codes, and it should try to answer the concerns of the people who have been complaining about them. He felt that approach would allow the town to have more control over STRs as they would then have rules to follow, including grandfathered ones, rather than just throwing them all in the commercial zone. Mike Galante said that was his opinion as well. Mr. Patch said there would probably need to be two amendments on the ballot; one limiting STRs to the commercial zone to satisfy the requirements of the petitioned warrant article, and another which allows them anywhere with regulations and rules which would pertain to every district. He said the voters could hopefully be convinced not to support the first amendment. Mike Galante reminded the board of his suggestion to add a penalty phase so people knew they had to follow the rules, or else. He said being involved with STRs himself, he knew that people who rented them were out of their mind and nine times out of ten they just did not care about rules. He felt that was why we were going to need to be strict about the rules, and owners were probably going to have to hire a management company.

Vicki Garland said she wanted to explain her involvement with the petitioned warrant article which passed last year. Ms. Garland said in 2021 she attended a webinar with a presenter whose expertise was with short term rentals. Later, when a local individual attended the selectmen's meeting to ask what the town was going to do about short-term rentals, the information from the webinar was shared with her, and ultimately shared with the petitioners who wrote the warrant article. Ms. Garland said her involvement was well-intentioned, but added the warrant article was not at all what she would have liked it to have said. The Chairman said he had also received a little heat from a couple of people and noted the high emotions expressed at the public hearing. He asked Ms. Garland whether the selectmen had gotten complaints about short-term rentals. Ms. Garland said they get them weekly, but noted the recent ones were from real estate agents who were unhappy when the town challenged the number of bedrooms the agents were listing their properties as having. She said the town followed-up with a letter to the new property owner advising them of the regulations and any violations the town was aware of and reminded them of the safety codes requirements they needed to follow if they rented to more than sixteen people. She said this further angered the real estate agents as they believed the property value then went down. She said other complaints often came from neighbors for noise or when they saw party buses pull up to a rental.

The board engaged in a short discussion concerning septic density and MLAR requirements, and whether the state dictated how many people could be in a bedroom. It was noted the state used gpd per person to calculate septic usage, but it was generally-accepted that two people were allowed per bedroom, plus two extra, i.e. a three-bedroom house could have eight people. Kevin Bennett said that is what Jackson went by.

The Chairman asked what the best way would be to speak to town counsel; whether in person or via a conference call. He said he would discuss it with selectmen at their next meeting. David Shedd felt it was important to start holding work sessions again to work on this ordinance, and the board agreed. Vicki Garland suggested members do some research of other town's ordinances and to jot down some ideas of their own which could then be discussed and collated.

- Several miscellaneous items were discussed. The Chairman asked why the Elliman project on Jericho Road had been denied a building permit and were made to remove one of their foundations because it was too close to another foundation. When he indicated the fire chief had been involved, it was thought it may have had something to do with fire codes or to allow passage of fire equipment between buildings. Vicki Garland said she was not sure of the reason, so did not want to give an incorrect explanation, but also wondered why they had poured a foundation without first obtaining a building permit. The Chairman was directed to the section of the zoning ordinance under setbacks, which prohibited any structure or part thereof designed for habitation to be within 25-ft. of another structure. He read the section out loud and was satisfied that explained the situation.

David Shedd asked whether the joint selectmen/planning board letter had gone out to LBWP precinct members. Ms. Garland confirmed they had, and said she had folded and addressed every one of them herself. Mr. Shedd's final comment was about the extension of Cave Mt. Road into Block G at Stillings Grant. He said he did not want AMSCO to think once they got approval to put the road up to the new cul-de-sac that they could start selling lots in that portion of Block G. The Chairman said that would not happen as they had not even submitted an application or real plans yet. He noted the water line was not able to be installed until the road was roughed-in and the ditch filled-in so as to allow them to get past that area. The Chairman gave an overview of his assessment of how things were progressing and said the road agent and Burr Phillips were both involved and were frequently on the site.

There being no other business, the Chairman called for a motion to adjourn. Motion made by David Shedd; seconded by Joe Heuston. Vote: All in favor. The meeting adjourned at 7:08 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary