

**TOWN OF BARTLETT
PLANNING BOARD
56 TOWN HALL ROAD
INTERVALE, NH 03845
603-356-2226**

AGENDA

Approved Minutes Work Session

January 21, 2025

6:00 p.m.

Present: Scott Grant (Chair,) David Patch (Vice Chair) Michael Galante, Pat Roberts (alternate), David Shedd, Joe Galante

Absent with notice: Vicki Galante (Selectmen Representative)

Absent: Kevin Bennett

Chair opened the meeting at 5:59 PM

1.Pledge of Allegiance- led by Scott Grant

2.Discussion of application:

- **Discussion of sewer warrant for next public meeting** – Copy of proposed sewer warrant presented to board- warrant amended for posting to include the lines- “with the exception of allowing the Lower Bartlett Water Precinct to connect to the two pre-planned crossings (as of the date of this amendment) into the North Conway Water Precinct sewer system.” Mike Galante stated the attorney that was here told us to go ahead and gave us guidance but the attorney that wrote back was not as emphatic about the warrant. David Shedd explained the town uses the same firm but the first attorney (the one who spoke to the board) has retired and now we have an opinion from another attorney that has never given us advice before. Michael Galante asked if the attorney we are dealing with now has any experience with what we are dealing with? David Shedd answered he did not believe so but the other attorneys in the office talked about it and agreed

with the attorney's opinion. David Shedd wants to proceed and allow the town to give us an idea of what they think. He asked if the Selectmen have expressed an opinion about the attorney's advice? Pat Roberts wants to assured that the Planning Board and the Selectmen have a unified front. David Patch expressed that usually if we bring something forward it is with the advice of an attorney. He wants to be clear that we are going forward when the attorney is saying no. He agrees that we should go forward. Michael Galante expressed concern based on the last email from the attorney about going forward with the warrant article. However, he also expressed his apprehensions about attorney's in general- he expressed that if we find ourselves in a situation where we go to court and lose at least we tried. David Patch expressed that if you follow the rules and seek the advice of an attorney you can't be sued you are indemnified against any lawsuit period. But if you break the rules then you can be sued. He explained that he is not saying that we are going to be sued for bringing this up but that is why we usually did not go against the advice of an attorney unless we have another reason. David Shedd expressed his concern about the optics of the situation. We bring the warrant to the public and they vote on it. The Lower Bartlett Water Precinct may or may not sue us but how will that look to the town to have the Lower Bartlett Water Precinct sue the town? David Patch clarified he is not talking about us suing someone but the liability we have as board members if we do not follow the advice of an attorney or if we knowingly beak a rule. David Shedd expressed that he did not see this as a rule- it is an attorney's opinion and it is the first opinion that we have gotten from them. He asked if the Planning Board members are personally liable? David Patch explained that this was the advice he received from the attorney that was representing the town at the time. He was told that he has to follow the rules as set down by the RSA (which the board does) and you do not go against the advice of an attorney you can't be sued. Clerk reminded the board that the attorney also told them they can implement a permitting ordinance and that copies/examples can be obtained for the board. Clerk explained that the board can curb to some degree the expansion of the precincts by implementing a permitting ordinance associated with the installation of water mains or other utilities. Michael Galante expressed confusion regarding one attorney that said yes go ahead and no we have another attorney without experience that says you really should not proceed. David Shedd voiced that the board could let this go if they thought they were getting into a bigger problem. Michael Galante expressed concerns if the board lets it go and the water precinct goes ahead with the sewer like the water expansion then the board will never live it down. Pat Roberts asked if that would take a

legislative act for that to happen? Scott Grant clarified that is why we started- if Concord says that if sewer passes by your home you have to hook up and it can allow more density per lot to have sewer- it is the feeder. Other than that you would have the hotel in Intervale here in Bartlett. I think we are doing the town a favor. He thought that the town has a liability policy that covers the board and as a result the board cannot be sued So first this has to pass and then someone has to complain. Last year the Planning Board and the Select board put in the annual report talking about this and now we are acting on it. This issue is different than STR's- this is about precincts, expansion and local control. He wants it in the ballot and allow the town to vote on it whether or not the outcome is for the article or against. Michael Galante wants the public to be aware that the board has received legal advice both ways and none of it has been black and white conclusive. Discussion by the board regarding how something goes to court if needed- the lower court has to make a ruling first. The procedure is it goes to the court in Conway and if it is ruled against us, we go to Superior Court and if they rule for us then the other side can go to Supreme Court. Scott Grant clarified that if the residents of the town support the philosophy of the sewer then it is a dictation from the voters you need to do this. Joe Heuston informed the board that the home rule was tabled and he is not aware of the reason why. Michael Galante explained that it is not a party vote (Democrat vs Republican) about the state overriding zoning. It has nothing to do with bipartisanship- he has to do with the lower half of the state and people who want federal money. In order to accept federal money that the state has to agree to certain rules and regulations. The legislators will do what they can for their constituents. Bartlett is not in that category as we are not looking for federal money. Joe Heuston stated sewer affects density so why don't we adopt house lots- for example you can only put a single-family house on a lot. David Patch explained we already do because we have the minimum land area for a 3-bedroom house and how many houses you can put on a piece of land. Pat Roberts expressed that this is no longer about sewer per say but about personal choice- why would someone's grandmother have to hook up when they have a perfectly good working septic. He understood that there is a waiver process as long as your septic works well but the minute it has to be replaced then there is no choice. He expressed concern that the state may find our 75% restrictive policy as a problem then that will go away. Michael Galante affirmed that would be if the state enacts the new law that overrides local control. Pat Roberts acknowledged that if someone goes to Concord and complains that the town has a more restrictive policy then it would be an issue. David Shedd confirmed that the board had not spoken too much about water- in

order for people to hook up to the sewer system they would also have to hook up to water because how do you determine the sewer bill unless you have a water meter? David Patch declared that his brother's bill was based on his evaluation. David Shedd questioned whether they would do that for septic too. A member of Conway was so upset that the company made him connect to water because they did not want his unmetered water supply into their septic lines. That means that you have to disable a perfectly functioning water supply system. Board has decided to proceed with the presentation of the sewer warrant to the public but stressed that we have had two different opinions and all the board wants to do is try and keep Bartlett the way it is. Scott Grant invited Heather Forbes from the public to speak. She expressed an idea regarding the hook up of a house that is within 100 feet of the sewer line and asked the board does that mean if your house was 101 feet then you are not necessarily obligated? If this is the case then maybe look at the setback rules for a new construction on Rte. 16/302 or Dundee Road/Town Hall Road? If the setback would be now 100 feet then the new construction would not be mandated to hook up to the sewer. This would limit the increase in density for new construction. Can a new ordinance be created to eliminate the mandate to hook up to sewer? Michael Galante answered this was asked of the Lower Bartlett Water Precinct and they were given a roundabout answer- the water precinct pays for the hook up from the road at a smaller footage but then the homeowner has to pay per foot. David Patch expressed that using the 100 feet may make some lots unbuildable because you would be too close in the back or side of the lot. David Shedd also explained that now the setback is 60 feet from the centerline but sewer lines are outside of the road and this is a variable. This would be complicated because the building may be on the other side of the road. Scott Grant stated that when the public meeting in February that it needs to be stated that there needs to be more research on cost because it is not free- if you pump your septic annually at an approximate cost of \$400.00 it is cheaper than hooking up to town sewer- so why hook up to sewer? Discussion among board members regarding funding- state vs federal responsibilities.

- **Brian/Lucy Eling and Makai LLC and Hono LLC (Tax Map 2RT302 Parcels 36R00 and 38R00)-** proposes to adjust ± 1.06 acres of land from Lot 38R00 to lot 36R00. This will not result in a new lot of record- Clerk noted from the last meeting there was a motion to accept the application but not one to move to the next meeting. Motion made by David Shedd seconded by David Patch vote unanimous to move application to the 02-03-2025 meeting. Board discussed the right of way on the property and the implications of the applications.

- **Computer request-** Board requested that clerk put together a request to the Selectmen for a newer computer and whatever else is needed- including a scanner.

3. Review and approve minutes: Motion made by David Patch seconded by Joe Heuston- vote unanimous to approve the 01-06-2025 amended minutes

4. Mail and other business:

- **American Tower- Cell Tower on Wildview Drive**-email from Mr. Santos- Board made aware of Mr. Santos's request to have the report- report was sent to Mr. Santos and reminded him he can contact the FCC directly. FCC contact information provided to Mr. Santos.
- **Burke York** -wants to see the board regarding state change of reporting gallons/day. Board notified and is willing to listen to Burke York regarding the state requirements.
- **Heather Forbes**- Motion made by Joe Heuston seconded by Michael Galante to nominate Heather Forbes as an alternate to the Planning board. Vote unanimous to accept her nomination. Heather Forbes made aware to contact the Town Clerk to be sworn in.

5. Next meeting: Public meeting 02-03-2025 Work session 02-18-2025 if needed

Motion made by Mike Galante seconded by Joe Heuston vote unanimous to adjourn at 7:03 PM



Board Sign in
01-21-2025.docx



Public Sign in
01-21-2025.docx

Respectfully submitted
Louise B. Burns
Planning Board/ZBA Clerk