

**TOWN OF BARTLETT PLANNING BOARD
PUBLIC HEARING**

August 7, 2023

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

Also Present: Steve Frackleton from the Conservation Commission.

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 September 4, 2023 public hearing made by David Patch; seconded by Joe Heuston. Vote: All in favor.

3. Continuation/Final Approval: Daniel & Ashley Elliman, Jericho Road, Bartlett, NH. File: 2023-1291. Application to subdivide a 6.02-acre parcel on Jericho Road into three lots containing 2.59, 1.84, and 1.59 acres respectively, then further subdivide the 2.59-acre lot into a 2-unit PUD. Tax Map 2JENKS-1, Lot 30L00.

State subdivision approval has now been received for this project and the approval number was added to the plan. The Chairman advised that a large driveway had been constructed into the property. He said it had been placed in the corner, close to a culvert, and did not correspond to the driveway location shown on the plan. During discussion, it was wondered whether this was perhaps a construction driveway to get heavy equipment down to the site which will be removed at a later date. Andy Fisher will be asked to look into the situation, but the Chairman said he was not willing to sign the plans until this issue had been resolved. A motion to grant conditional approval to the subdivision was made by David Shedd; seconded by Mike Galante, pending the driveway issue being resolved and the road name being changed back to read Jericho. Vote: All in favor.

4. Review and Approve Minutes: The board reviewed minutes of the July 3, 2023 meeting. The Chairman asked if there were any comments or corrections. Vicki Garland said she had abstained from voting to approve the minutes since she had not attended the meeting. The minutes will be amended to show that the correct vote was 6-0-1. A motion was made by Joe Heuston; seconded by Scott Grant to approve the minutes as amended. Vote: All in favor. There were no minutes for the July 18, 2023 work session as the meeting was not held.

5. Mail and Other Business:

The board reviewed an email from the NH Municipal Association in response to a question the board had asked regarding short-term rentals. The email indicated that the decision made by the supreme court in a Conway case would have no bearing on any ordinance Bartlett wanted to write limiting

short-term rentals to the commercial district. The board discussed at length which direction it wanted to take by either regulating and registering all short-term rentals, or restricting them to the commercial zone. Also discussed was the difficulty of enforcing any regulations, the legality of conducting life-safety codes inspections on one-and-two family homes; the pros and cons of having people sign an affidavit and whether that would negate the need for an inspector, and the number of short-term rental owners who blatantly overcrowded their units and exceeded their septic capability.

David Shedd reminded the board that the town had voted to restrict them to the commercial zone and the board had been instructed to write a zoning amendment doing just that. He felt their votes mattered and should not be ignored and wondered how we got around that issue should we want to come-up with something else. Other members felt limiting them to the commercial zone was unfair and people had a right to do whatever they wanted with their property, regardless of the vote or where their property was located. Michael Galante said it wasn't enforceable and would be challenged in court, and we could not tell people that they could not rent their property. David Shedd expressed concern about what would happen if someone did challenge the planning board in court about the delay to act on the town's vote. He said he would be embarrassed to use the excuse that a timeline to act was not specified. David Patch said it would not bother him at all to say that. He said it was a complex issue which the board was working on. The Chairman said he had spoken to several signers of the warrant article about its poor wording. He advised them they could collect another 25 signatures and submit a better thought-out and worded warrant article next year.

Kevin Bennett spoke of an accessory dwelling unit (ADU) in Jackson which was being used as a short-term rental. Mr. Bennett said it was his understanding that the state intended for ADUs to be used as accommodation for an elderly family member and their caretaker, or grown children, or a single long-term renter, etc. He was told that was correct and that was also what Bartlett intended them to be used for. Because of this type of use, we allowed ADUs to have much less septic density than what would be normally required. Mr. Bennett said Conway's zoning specifically did not allow ADUs to be used as a STR, and he wondered what the board's thoughts were on Bartlett having a similar restriction. When it was noted that either the ADU or the primary residence had to be owner-occupied in Bartlett, Michael Galante said he would find it unnecessary to prohibit a short-term rental in an ADU, if that was the case. Kevin Bennett responded that would allow people to have a little hotel in their backyard.

An email from the selectmen regarding issues at Beechwoods was discussed at length. It appears that several owners at Beechwoods are not following the conditions that were part of the approval granted by the planning board for Phase 2 of the Beechwoods subdivision. David Shedd said he had gone to Beechwoods this morning to personally review the situation, and Selectmen's representative Vicki Garland explained the situation a little further for the benefit of the board. The selectmen's letter indicated there were two similar situations whereby two abutting three-bedroom building sites had been purchased by a single owner who had the intention of operating a 6-bedroom short-term rental. While these sites shared a common leachfield, the capacity of the individual septic tank allocated to each one was only for three bedrooms. An amended septic design by Ammonoosuc Survey enlarging the tanks had been submitted to the state and approved, but the plan still showed the building envelope that had been "dissolved" to provide the extra septic capacity, as existing. The selectmen would like something to be developed which documented the existing conditions at Beechwoods and for it to be recorded at the Registry of Deeds to provide an official record that the building sites which had been

incorporated into the abutting sites no longer existed. The selectmen were concerned that if this was not done, an owner may attempt to sell the other lot if was still shown as a valid building lot on the plan currently recorded at the Registry. David Patch suggested a lot merger could accomplish this, but since these were PUDs where the land was owned in common, it was felt that was not a feasible option. David Shedd said while it was premature to know what to do, he would not mind having a motion made that gives the selectmen a sense of the board's direction, which then gives them the possibility of adjusting it so it suits their needs. He asked if he should make such a motion? Board agreed, and Mr. Shedd make a motion stating that we set in motion an amended subdivision plan to address the difficulties in Beechwoods involving exceeding septic requirements. It was asked who would pay for this work to be done. Members felt the party who was violating the regulations should pay. David Patch asked whether it should include correcting the location of Lot 23. He was told that had already been done in 2016. Vicki Garland said it had not been done, that she had seen a plan this afternoon where it was still shown in the wrong location. After she was shown the recorded 2016 plan and David Shedd verified he had seen Lot 23 in the correct location, she agreed the location of Lot 23 was now correct, even though the amended septic plan sent to DES was incorrect and showed it in the wrong location. Mr. Shedd's motion was eventually seconded by David Patch. Vote: All in favor.

Vicki Garland shared her dealings with one of the involved owners. The owner was told she could only have three bedrooms as that was what her septic was approved for, but Ms. Garland saw multiple beds in seven different rooms. The owner contended the other rooms were not bedrooms; they were the Crawford room, the Mt. Washington room, etc. However, they were advertising the property as having seven rooms available for sleeping and had party buses pulling in. The property was eventually sold to another owner who continued to overrent it. Ms. Garland's comments prompted a lot of talk about the Lower Bartlett Water Precinct's proposed infrastructure expansion, which was intended to protect the groundwater and their wells. The Chairman disputed it was intended to protect the groundwater, it was intended to allow the precinct to get their foot in the door to expand their tax base. Michael Galante stated he was not in favor of this expansion, fearing the state would force the town to increase density and that people would be forced to hook-up if the system went by their property. Several other members agreed with Mr. Galante's objections to the proposed expansion and the issue was discussed at length. The Chairman asked whether the board would be interested in writing a joint letter with the selectmen to precinct members explaining why the town was opposed to the expansion and warning them what the ramifications would be if they voted to approve it. Vicki Garland said two of the three selectmen would be happy to sign such a letter, and the third had not yet been asked to do so. Michael Galante wondered about the legality of sending such a letter, but felt if it was legal, then one should be sent to the entire town right away, to let them know what was going on. The Chairman felt a town-wide letter was an excellent idea, but thought two separate letters should go out; one to the town and one to the precinct members since they're the ones who have a vote.

There being no other business, the Chairman called for a motion to adjourn. Motion made by Michael Galante; seconded by Joe Heuston. Vote: All in favor. The meeting adjourned at 7:30 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary