

**TOWN OF BARTLETT PLANNING BOARD  
PUBLIC HEARING**

**September 4, 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 October 2, 2023 public hearing made by Michael Galante; 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.

This application received conditional approval on August 7, 2023 pending the resolution of a driveway issue and a correction to the name of the road. These conditions have now been met and a motion to grant final approval to the subdivision was made by Kevin Bennett; seconded by Joe Heuston. Vote: All in favor. A mylar was provided for recording, which the chairman signed.

**4. Review and Approve Minutes:** The board reviewed minutes of the August 7, 2023 meeting. The Chairman asked if there were any comments or corrections. David Shedd noted a typo in David Patch's name on page 3, first paragraph. This will be corrected. A motion was made by Kevin Bennett; seconded by Joe Heuston to approve the minutes as amended. Vote: All in favor. There were no minutes for the August 15, 2023 work session as the meeting was not held.

**5. Mail and Other Business:**

- The Chairman advised that he and Mike Galante had attended a recent selectmen's meeting where Gary Chandler of the Lower Bartlett Water Precinct (LBWP) gave the same presentation regarding the precinct's proposed expansion that he gave to the planning board. The Chairman asked selectman Vicki Garland to summarize the meeting. Ms. Garland said she did not believe anyone really supported their plans, though said she may be misinterpreting that. She said a lot of clarifying questions were asked of Mr. Chandler, but he kept coming back to groundwater protection. Ms. Garland said she informed him she did not think he was looking at the big picture and pointed-out the potential for the state to change the structure of the town by increasing density which would create a lot more second homes and short-term rentals. This increase in population would, in turn, increase the amount of contamination in the groundwater, as humans were the main source of pollutants. Ms. Garland said she told Mr. Chandler he should also look at that aspect of his expansion project, instead of just focusing on groundwater protection.

The Chairman said he believes the board also agreed that this expansion was not a good idea because of what the state could do in the future and which the town would have no control over. It was asked how the planning board could get involved. Prior discussion had talked about a joint planning board/selectmen letter being sent to precinct voters informing them of the potential of increased density being thrust upon the town. David Patch asked Vicki Garland whether this had been discussed at the selectmen's meeting. Ms. Garland said it had, but advised it would be illegal to enclose the letter with tax bills. Since a letter would only reach a small number of people, it was felt getting an article into the Daily Sun, or perhaps a Tele Talk question, may be a good way to start, as that would reach a larger audience. David Patch agreed. Mike Galante felt it was important a letter went to the whole town, not just to precinct members. He said he had actually had an offer from the Mt. Washington Valley Republican Committee to do the mailing and to pay for the cost. Mr. Galante said we should utilize that offer. Vicki Garland advised the cost of mailing was one of the valid concerns the selectmen had, but this offer would ease that concern. Joe Heuston asked whether the letter would acknowledge that the Republican Party had funded the letter? Mr. Galante said absolutely, as it would show that there is someone out there with a concern about the town losing its control. Mr. Heuston concurred with Mr. Galante's comment and said he was sure everyone here was on-board, as well. Vicki Garland felt being forthcoming from the beginning was important, because if it came-out after-the-fact that this was funded by the Republicans, it could become a bigger problem because people were going to start saying a conspiracy was involved, when this was simply an offer of generosity. The Chairman asked whether the offer required that the Republican Committee's sponsorship be acknowledged in the letter, or whether we can have them pay for it and just go ahead and do it. Mr. Galante said he would not support doing it that way, saying the letter should be on the Committee's letterhead and should state why they were doing it and what their concerns were.

The Chairman asked whether Anita Burroughs, a Democrat, had signed onto it. Mr. Galante said he personally did not care what she signed onto, saying, if he was correct, she signed onto taking the town's independence away. When told that was Chris McAleer, Mr. Galante said it could have involved both, but it was craziness nevertheless. Joe Heuston recalled Ms. Burroughs was present when the LBWP originally presented their plans to the planning board, and said he thought she kind-of agreed she did not want to see the town lose any control over density. When Vicki Garland suggested Ms. Burroughs may be willing to put her signature where her mouth is, Mr. Galante said his own personal opinion was that he only wanted to see the selectmen and planning board members sign the letter, but if everyone else would like her to sign, then so be it. The Chairman said he did not want to make this a political issue, because everyone should be concerned about it. Mr. Galante said that was why he had expressed to the Republican committee it was an issue we were not able to do or to fund, and they agreed it was important and agreed to help. The Chairman thanked Mr. Galante for doing that.

David Patch agreed the precinct's proposed expansion did affect the whole town, which was why he was in favor of sending a letter to everybody at once. Mr. Galante said the letter should be specific and address the initial implications as well as long-term ramifications whereby the state could come-in and change zoning to allow four houses on a one-acre lot. Joe Heuston said while he agreed, his contention was that everything was becoming too polarized in the country, right down to the local level. He said he would rather have the letter say it was being funded by concerned citizens, rather than the Republican committee. Vicki Garland suggested Ms. Burroughs could be contacted and asked whether the Democrats would like to chip-in and pay half the cost. Several members felt this was a good idea, and either the Chairman or Vicki Garland will contact her.

The letter was discussed, with the Chairman saying he had presented information to the selectmen expressing what he felt was the planning board's opinion. This would be incorporated with the selectmen's views after they had met and discussed it. Vicki Garland described the selectmen's administrative assistant as a "word master" and volunteered her services to compose the letter. David Patch agreed the selectmen were probably better able to look at this and do it in a legal and parliamentary process. David Shedd said he hoped board members would get a chance to review the letter before they signed it. The Chairman agreed they would. He also said once the letter was reviewed, an official vote should be taken to show the board was in solidarity with the selectmen's concerns and to proceed with the mailing.

Ms. Garland said as well as laying-out our concerns, the letter should also include an action step as when we worry people, we have to give them something to act upon. David Shedd said it should also state that only 14 precinct members voted at the meeting to authorize this forty-million dollar project. Michael Galante noted that most people in town were completely ignorant of what was going-on and what was being proposed, and he felt they needed to be informed. Discussed was whether the letter should be sent to all taxpayers or just registered voters. Mr. Galante said if the postage was being paid for by someone else, he would like the letter to go to everyone. The Chairman raised a concern that if it went to an out-of-towner who had a short-term rental and enough land, they would probably want it if it meant they could have even more rentals. He said everyone at the table knew full-well that if the state increased density it would mean more second homes and STRs, not affordable housing for locals. He said that was just a fact of life. David Shedd suggested the master plan, which drives the zoning ordinance, could perhaps be updated to help make that type of scenario more difficult to achieve. David Patch noted the master plan preamble called for the town to maintain a rural and rustic character, and allowing two or four times as many houses to be built on a lot did not do that.

- The Chairman advised he had been approached by members of the Conway Planning Board with a request that Mark Dindorf, Chairman of the Saco & Swift Rivers Local Advisory Committee, be able to give a presentation of the committee's river corridor management plan. Mr. Dindorf had recently given a long presentation to Conway about the need to protect these waterways. The Chairman asked David Shedd to share his knowledge of the river corridor management plan. Mr. Shedd described how the state had implemented the shoreline protection act about ten years ago which put setback restrictions on development, tree cutting, permeable surfaces, etc. along rivers to include the Saco and East Branch, but not the Rocky River. He recognized the intent of these protection plans, but said they had the tendency to put more and more restrictions on the rivers. Mr. Shedd noted there were brooks which fed into these rivers which did not have any permeable surface requirements and asked why restrictions were only being put on landowners next to the water? He said if they really wanted to protect the water, the restrictions should be spread out a little bit. The board continued discussing this issue, particularly discussing a local campground right on the river which was the potential source of septic pollution. There was a long discussion as to where their septic ended-up and where their leachfields and holding tanks were located. Vicki Garland said the state fire marshal was now involved and were asking for documentation. When the discussion finally returned to Mr. Dindorf, it was agreed that he could attend the October meeting and give a 15-minute presentation.

- The short-term rental situation was discussed. The Chairman recalled last meeting there was a discussion about having STR owners register their units and sign an affidavit stating they complied with fire codes and had read all the town's regulations. He asked whether that was where the board was still at. Joe Heuston said he thought we were going to leave it to the insurance companies. Mike Galante suggested registering them with a three-strike policy in place whereby owners lost their license

after incurring three violations. It was asked who would enforce this, since there was no code enforcement officer in town. Mr. Galante said owners had a responsibility to maintain their property and to not have parties or to let things get out of control, and if more than three noise or nuisance complaints were lodged with the police department, then the owner would lose their license to operate a STR. David Shedd said one of the limiting factors or rules should be that they cannot rent beyond the capacity of their septic system. Vicki Garland noted one local septic designer was adding a caveat to his plans addressing that situation. She paraphrased the wording as saying that the design was intended for normal household use and would not suffice for a short-term rental situation. She agreed this was intended to protect the designer in case the system failed after being over-used as a short-term rental. Ms. Garland said she was anticipating that more septic designers would add a similar warning.

Mike Galante said the designers were merely covering themselves and stated that in most cases, septic usage in short-term rentals was less than what year-round use would be. He noted his property was not at 40% occupancy, compared to a family being there 365 days a year. Vicki Garland said how it was described to her was that a family of five using a septic consistently impacts it in a different way than 15 people coming every weekend, or every other weekend, would. She said even though less water was going into the system, there was still a different, potentially negative impact. David Shedd repeated his prior concerns about the petitioned warrant article which passed last year which instructed the planning board to write a zoning amendment which limited short-term rentals to the commercial zone. He noted we no longer had a responsibility to the signers of the warrant article, but now had one to the town voters who passed it. He asked whether we are just going to ignore that article or were we going to write our own and just go by that, and could we have competing warrant articles?

Mr. Shedd said he would like to see the issue resolved. David Patch said he agreed it should be resolved, but said when we moved forward we needed to know that we had done the legal and proper thing by dealing with the vote. He noted the Municipal Association lawyer had informed the board it could write its own ordinance so long as it was worded properly. He added, regardless of which way we went, we would still be required to hold a public hearing on any article proposed to be put on the ballot. David Shedd said it might help if the board could be proactive with the public hearing by letting people know ahead of time what was going on, perhaps through an article in the paper. David Patch suggested re-contacting the Municipal Association and pose the question in a different way by asking, instead of writing an ordinance exactly as the vote had instructed us to do and restrict STRs to the commercial zone, could the board go further and write our own complete ordinance instead. Mike Galante suggested they also be asked whether the wording of the petitioned article was even legal. He said based on what has happened throughout the state right now, it would seem to him it would be challenged in court and we would lose. David Patch asked what the consequences would be if we had two ordinances on the ballot next year and both passed. He would like the MA asked that question as well. The secretary requested the MA also be asked to review our zoning ordinance for an opinion as to whether short-term rentals fell under the already-existing zoning regulation that dwellings of single-family character offering lodging to tourists in the residential zone had to be owner-occupied.

- David Shedd asked the Chairman what was happening at Stillings Grant in regards to Block G. The Chairman said they were still working on it and Burr Phillips was keeping an eye on things. He advised they were storing dirt from Block F on Block G instead of transporting it over the roads. Mr. Shedd agreed that made sense. The Chairman said he did discuss the water tanks with workers up there and the need for water circulation in them to avoid bacteria formation. He said there was a problem with having firefighting water on the same line as domestic water. David Shedd asked if there was any information on when the size of the 120,000 gallon water tank was dropped down to 90,000 gallons?

The Chairman said he had not discussed that. He noted that an application for Block G had not even been submitted yet as they were still waiting for some state permits. He felt it may be a while.

- There was a short discussion on the definition of a structure. David Patch said he thought if something was not attached to the ground, then it was not a structure.

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 7:10 pm.

Respectfully submitted,  
Barbara Bush  
Recording Secretary