



**Town of Gilmanton, New Hampshire
Planning Board**

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Roy Buttrick, Chair
William Mahoney, Vice Chair
Brett Currier, Member
Vincenzo Sisti, Member
Jacob Dalzell, Member
Mark Warren, Selectmen Rep
Marty Martindale, Alt. Member
Mark Fougere, Certified Planner
Bre Daigneault, Planning Admin

APPROVED

PLANNING BOARD MEETING

Minutes of November 12, 2020

A. CALL TO ORDER- Chairman Buttrick opened the meeting of November 12, 2020 at 7:00pm.

B. ROLL CALL

Alt. Member Marty Martindale, Member Jake Dalzell, Chair Roy Buttrick, Vice Chair Bill Mahoney, Member Brett Currier, Member Vincenzo Sisti, Selectmen's Representative Mark Warren, Planner Marl Fougere, and Planning Administrator Bre Daigneault were present at this meeting. There were three members of the public present.

C. SALUTE TO THE FLAG

D. Public Hearings-

a. New-

PB CASE #SUBMIN2020-508: Property owner Van E Hertel, Sr, Trustee of the RAED Hertel Family Trust, is applying for a three-lot subdivision to land located on Middle Route, more specifically described as map and lot 410-049.3, located in the rural zone. The lots would be 5.31 acres, 11.20 acres, and 12.25 acres. All lots exceed the minimum road frontage. The owner is represented by Norway Plains Assoc, Inc.

Mr. Hertel described the proposed 3-lot subdivision. He would be splitting 28 acres into 3 tracts of land being 5.3 acres having road frontage on Middle Route, 11.2 acres with over 400' of road frontage, and 12.25 acres with 500' frontage. The test pits have been submitted. Mr. Hertel clarified from the September meeting, the dotted lines on the plan indicated the lines between the different soils. Chair Buttrick inquired to note #8 on the plan stating a waiver had been granted for section VII, E. Stormwater management and erosion control pursuant section XIII, C. There had been no waiver request submitted. It was discussed whether a waiver was needed. Member Currier did not see any problems with approving a waiver. Admin. Daigneault had relayed a verbal conversation with the road agent, Paul Perkins, regarding concern with any run-off. The road agent had approved the proposed driveway placements and did not see there would be any problems with run-off. There is an existing culvert that he feels is sufficient in size to handle run-off. He does not have any problems with the proposed subdivision. Planner Fougere, after reviewing the ordinances, stated a waiver for the stormwater management would only pertain to a subdivision over four lots, therefor would not be needed. It was recommended to having note #8 removed from the plan. Member Currier inquired as to the allowable usage of Hill Top Farm Road. Admin. Daigneault felt it was a private road and would not be accessible to the subdivision.

Chair Buttrick opened the hearing to the public hearing. Member Currier inquired who had put in the private road and who has the rights to use it. Resident Peg Dockham responded. They had purchased the property in 1976. At that time, they had found there was no record of it ever being a town road. They paid to upgrade what was a logging road and have continued to maintain the road. Resident Daniel Dockham stated their deed refers to it as a range-way. Member Currier wanted it clarified whether if legally anyone could be stopped from utilizing Hill Top Farm Rd. Chair Buttrick inquired if anyone else utilizes the road. There was one other owner that used the roadway as access. Mr. Hertel felt there is no liability on the Town for the road, but feels it is a right of way for abutting land owners to use. Member Currier inquired if the lot that abuts Hill Top Farm Rd could use the private way to access the back portion of the lot. Mrs. Dockham inquired if the lot was being utilized if the Town would have to upgrade and maintain the road. Alt. Member Martindale inquired if the Dockham's taxes included the roadway. Mr. Dockham felt the first 125' of Hill Top Farm Rd was required to be brought up to town standards in order for the property at the beginning of the road be allowed to build. Member Currier inquired if Mr. Hertel would be willing to place a requirement on the lot that it must be accessed by Middle Route to avoid use of Hill Top Farm Road. Mr. Hertel feels the town owns the fee interest to the road and would not want to give up his right of way. Planner Fougere felt the surveyor should know what class road it is. Mr. Hertel stated it is an old town road or range-way, it is not maintained by the town. Planner Fougere stated if it is a range-way then it is town owned. The survey should be labeled as such. Mr. Dockham was told when they bought the property that there was no record of the road. He is concerned there may be damage to the road with others utilizing it and who would be responsible for fixing it. Mr. Hertel felt the Dockhams could request the Selectmen or building inspector, prior to the issuance of a building permit have the new property owner sign a maintenance agreement with the Dockhams. Planner Fougere read from *A Hard Road to Travel*, summarizing that a range-way does not necessarily mean it is a public road. Whoever owns that lot would have to show proof they have the rights to utilize it for access. He reiterated, the surveyor should make claim on the plan what type of road it is: class VI, range-way, or private. Alt. Member Martindale felt the road should be labeled a range-way. S. Rep. Warren felt it would be up to any future owners to research the road. It was questioned whether the first 125' was town maintained. Mr. Dockham plows and maintains that entire length. Mr. Hertel did not believe the Town voted to make the first 125' a class V road. Chairman Buttrick requested the surveyor place on the plan what class it is. Mr. Hertel felt the board did not have a problem with the subdivision, it is with the road, which would be addressed with the building permit. He could put a note on the plan that it is an unmaintained road. S. Rep. Warren did not feel they had enough information to classify the exact legal rights of the road.

Chair Buttrick closed the public hearing.

Chair Buttrick made the motion to accept the application. Member Sisti seconded. **Motion passed 6-0**

Member Currier inquired if the back portion of the lot had enough flat area to build on or if it was too steep. Planner Fougere stated if someone wanted to build on the steep slopes, they would need to apply for a CUP with the Planning Board. Member Currier felt a note should be placed on the plan that an agreement would need to be reached with the owners maintaining the road should they want to use it for access.

Chair Buttrick made the motion to approve the plan with the following conditions:

1. Note on the plan referencing a road maintenance agreement would be needed with the land owners of lot 410-50 (currently the Dockhams) should lot 49.5 wish to access the lot using Hill Top Farm Rd
2. Plan should designate the road status of Hill Top Farm Rd
3. Set pins prior to recording

Planner Fougere clarified a road agreement would also be needed with the Selectmen should lot 49.5 wish to build utilizing a road the town does not maintain.

Vice Chair Mahoney seconded. **Motion passed 6-0**

b. Old-

PB CASE #SPR2020-402: Continuance requested until December 10, 2020.

E. Minutes-

October 8, 2020- Member Currier made the motion to accept as written. Member Dalzell seconded. **Motion passed 5-0** Vice Chair Mahoney abstained as he was not present.

F. UNFINISHED BUSINESS

Chair Buttrick inquired as to the status of the CIP. Admin. Daigneault had received little feedback from department heads. S. Rep. Warren stated the Selectmen understand this is going to be a 2021 project. Admin. Daigneault recommended the board look to have department heads in after the first of the year as departments are currently working on 2021 budgets. She would reengage with departments to at least have their inventory lists updated. Member Currier recommended sending a letter to department heads that they would be called upon to meet with the Planning Board by January or February. Member Mahoney inquired as to the status of the last CIP. Admin. Daigneault believes it is 7 years old. S. Rep. confirmed there is a current CIP.

G. CORRESPONDENCE

H. OTHER BUSINESS/PUBLIC COMMENT

a. Zoning Ordinance Discussion-

Planner Fougere clarified the board would have to hold their first meeting no later than January 11th and would need to hand the final version to the Clerk by February 2nd.

- **55+ Development-** S. Rep. Warren inquired as to the essence of the 55+ as written. He felt it would be for a cluster of one, two, or three family style development and wondered if there would be room to make a multilevel building or convert an older existing building to 55+. Planner Fougere confirmed it is written for anything between a one and four family. Members felt only one resident of each unit should be required to be 55, however there would be no children allowed. It was discussed whether an existing building could be altered to accommodate 55+. Admin. Daigneault stated the table of uses already allows multifamily dwellings- interior alterations by CUP in 4 zones. Member Currier felt the required 40% of open space was too restrictive. Alt. Member Martindale felt 25% was even restrictive; it could be 20%. Member Sisti recommended Village, Light Business, and Business to 15%; with rural, conservation, and residential lake to 30%. Members discussed further and agreed to not allow 55+ developments in Residential Lake and Conservation, requiring open space of the site's net tract area at 25% in rural and 15% in remaining zones. Architectural

design was discussed. Planner Fougere read paragraph 9 which stated the style shall be suitable and appropriate for their intended purpose. It was discussed to add to paragraph 9 that one, two, three, and four unit buildings could be allowed by CUP and buildings with 5 or more units by Special Exception. Member Currier inquired about mandating a cistern for fire safety. Planner Fougere responded that anything over a two family is required by State law.

Members discussed this could be an opportunity to raise the tax base without burdening the extra costs of students. Member Sisti agreed this was a driving force for him. There is no way to decrease the burden of tax payers as there is no commercial development. S. Rep. Warren inquired if the board could come up with some estimated tax revenues this would generate. Planner Fougere recommended holding a public hearing on it next month.

- Solar- Chair Buttrick and S. Rep. Warren inquired of Member Sisti to share his expertise with the board regarding solar ordinances. Member Sisti felt all roof mounted panels, with exception to the Historic District, should be allowed to do as the space is already there. He felt the cap should be based on capacity, not size. A residential size could be capped at 20 kw. Member Currier inquired why it would go by kilowatts and not size. He felt as solar panels develop, they may be smaller in size and produce more kw. His main concern is the aesthetics. Planner Fougere clarified Member Sisti is recommending allowing any unit under 20 kw and anything greater as a CUP, possibly adding a third line to the proposed table for anything above 20 kw. He recommended relating the average size of a 20 kw system. Member Sisti stated it depends on the system to calculate the square footage. Member Currier is concerned if they are allowed by right, there would be no control over where they were allowed. Planner Fougere inquired if the board would want to make an exemption for 20 kw units. Member Dalzell felt ground mounted should all require a CUP. S. Rep. Warren inquired if it really was adding heavy labor or a deterrent for residents or contractors to come before the Planning Board. Member Sisti felt it could be for a resident. Member Mahoney felt it shouldn't be a big deal for them to come in front of the Board. Member Sisti felt they could cap a 10 kw system as a right in the back yard, not in the front yard, and to meet all set-backs. The consensus of the board was in agreement. Planner Fougere would include lesser requirements for the site plan.
- Outdoor Venue- Member Currier felt it should be allowed by CUP, not by right. Members agreed. The zones where it would be allowed were discussed. It was clarified the difference between the Conservation zone and a conservation easement. Members agreed the Conservation zone would need a special exception. It would be allowed by CUP in the Village, Rural, Lt. Business, and Business zones; not allowed in the Residential Lake zone. A minor versus major outdoor event was discussed. Minor would include less than 50 attendees and would not require a professional site plan; anything above 50 attendees would be considered major and require a professional site plan. It was added the 1,000-foot setback in paragraph c.5. could be waived with approval from the abutter. It was clarified a weekend farm to table event, for example, would not be considered a restaurant. Planner Fougere stated if it is held on a farm today, it is an allowable use under Agritourism. Paragraph c.5. could also include the monitoring of lighting. The hours of allowable operation are part of the considerations of a CUP.

- Manufactured Housing: Storage & Use of Recreational Vehicles: The town attorneys had reviewed Article VI.D and re-wrote the ordinance. Members had just received this ordinance and would be reviewing it for the next meeting. Admin. Daigneault stated the attorneys did not believe the mandate for storage could be enforced if stored on one's property where they do not claim residency.

I. ADJOURNMENT

Member Dalzell made the motion to adjourn. Member Sisti seconded. **Motion passed 6-0**

*Respectfully Submitted,
Bre Daigneault, Planning Administrator*

Authorized by


Chairman C. Roy Buttrick

Date:

