



# Town of Middleton

182 Kings Highway, Middleton, New Hampshire 03887

## PLANNING BOARD MINUTES

Middleton Old Town Hall  
200 Kings Highway  
Middleton, NH 03887

**November 9, 2023**

**Meeting called to Order by:** Janet Kalar at 6:32 PM

**Pledge to the Flag**

### Roll Call

Members present: Janet Kalar (Chair), John Mullen (Vice Chair), Christine Maynard (Alternate), Roxanne Tufts-Keegan (Selectboard Rep.), John Quinn (SLVD Rep.)

**Invocation:** Dan Saliga

**J. Kalar** asks Dan Saliga if the ZBA has any zoning ordinance change recommendations for the Planning Board to review. She says if anything is going to be put out to vote at town meeting in 2024 they need to have it soon as the Planning Board needs to review it before it goes to public hearing. November 13 is the first day to accept petitions to amend zoning ordinances and December 13, 2023 is the last

**J. Mullen** says they have to post the first notice of hearing on January 11.

**D. Saliga** says the ZBA was discussing proposed changes. He will remind them about the deadlines at their next meeting on November 21, 2023.

**Motion** to accept the minutes of October 12, 2023 as transcribed.

**Motioned by:** J. Mullen

**Seconded by:** C. Maynard

**Vote:** Unanimous

**Motion Carried**

**Motion** to accept the minutes from the work session of November 2, 2023 as transcribed.

**Motioned by:** J. Mullen

**Seconded by:** C. Maynard

**Vote:** Unanimous

**Motion Carried**

**Attachments:**

**Opening Remarks:** None

**New Business**

*Hertel Subdivision, New Durham Road Property, Map 12, Lot 15*

**J. Hertel** says he is there to request preliminary approval for a subdivision of Map 12, Lot 15. This is the remaining parcel from the previous subdivision of what was Map 12, Lot 15-1. This lot is 29.5 acres on New Durham Road. They want to subdivide this lot into a five-lot subdivision. One lot will be going to the abutters, Emily Roy and Patrick Prosper who will be doing a merger. The remaining four lots range from five acres up to seven acres. All have adequate road frontage except the seven-acre lot that is a “pork chop” lot which he says is allowed to have 50 feet of frontage in the zoning regulations.

**J. Hertel** shows a proposed plan and says they will submit the application, abutter information and other required items to the Board and the Town.

**J. Kalar** asks about the water and soil survey done for the prior subdivisions.

**J. Hertel** said they will have one done specifically for this lot.

**R. Tufts-Keegan** asks why they did not include this request when the previous subdivision was discussed. During that hearing, it was said this lot was going to go to Van Hertel’s grandchildren. **J. Hertel** says he (Van) was trying to keep it for them for recreational activities or second homes, but they are all over the country and have no interest in the property.

**J. Hertel** says he will get the abutter information to the Town Offices by Wednesday of next week so we can give the required notices in time to have the public hearing on December 14.

**J. Mullen** asks him to email the application to **J. Kalar**.

**J. Hertel** leaves.

*R. Downer request to build another duplex on Map 22, Lot 5-1*

**R. Downer** asks the Board if it is possible to build one or two duplexes on his property at 101 Access Road (Map 22, Lot 5-1). He says the previous owner told him there was previous approval for cluster housing.

**J. Mullen** says he is not sure whether this property was ever approved for cluster housing.

**R. Downer** says there is a garage already on the property with a duplex in the back. He says he wants to put a second duplex in.

**R. Tufts-Keegan** asks if that’s the one they call senior housing.

**R. Downer** says yes.

**R. Tufts-Keegan** asks if the garage is a commercial garage.

**R. Downer** says it's a big one, yes.

**R. Tufts-Keegan** asks Christine who owns lot 6.

**C. Maynard** says Carelle Properties.

**R. Downer** says that's Paul Taylor.

**R. Tufts-Keegan** asks who owns lot 5.

**C. Maynard** says Carelle.

**R. Tufts-Keegan** says 22 5-1 is 101 Access Road.

**R. Downer** says that's him.

**J. Quinn** says it must have been subdivided and was part of 5.

**J. Kalar** says cluster housing is on page 35 of the zoning ordinances then it refers you back to article 5.

**J. Kalar** no driveways on Access Road will be allowed because it is a right of way, not a road. You would have to sign a waiver.

**R. Tufts Keegan** says they need to sign a waiver and file it with the Strafford County Registry of deeds to eliminate liability to the town. Because it's considered a class 6 road there is no ambulance service, no police service and such. She says Access Road is a class 6 road and it can't be maintained without permission from the town.

**R. Tufts-Keegan** says private roads (e.g., Deer Run, Auclair) are different. They are maintained by the homeowners.

**J. Kalar** says the first 725 feet and a large portion at the end belongs to Wakefield. Middleton is in the middle. She spoke with one of the planners in Wakefield about it.

**R. Tufts-Keegan** says if the road is not maintained for a number of years, it reverts to a class six road which we don't maintain. There is an RSA that says in order to get a driveway permit you need to file this waiver.

**R. Tufts-Keegan** says it not impossible to do but there will be additional work that needs to be done.

**C. Maynard** suggested going back to the minutes when those structures were first put up to see what the prior owner discussed with the planning board.

**R. Tufts-Keegan** said we should have permits on file for all of the buildings.

**R. Downer** asked if there is a limit on how much you can build on a certain lot.

**R. Tufts-Keegan** says right now the lot size outside of the Sunrise Lake Village District is 5 acres minimum. However, if a plot was already smaller than that prior to the implementation of the ordinance, that's allowed to be built on.

**J. Kalar** says the ordinance for cluster housing says there is no minimum. She reads from the development standards number 34, page 3.

**J. Kalar** says you have to have enough land to accommodate sewerage and wells and that's going to be determined by DES. They have to approve what you're doing.

**R. Tufts-Keegan** reads from the zoning ordinances about cluster housing. Its purpose is to protect the environment so there has to be some standards around that.

**J. Kalar** says yes 25% of the total acreage has to go to what they call green space.

**K. Buzard** says the whole intent of that is not to cram as many buildings in that you can. It's to create an open space for wildlife and for recreational use.

**C. Maynard** asks so what are you trying to do; what is up there now.

**R. Downer** says he wants to put up another duplex or two tops. Right now there is one duplex and a garage.

**K. Buzard** asks will this be 55 plus.

**R. Downer** says he wants to go with that.

**R. Tufts-Keegan** says there are 6.8 acres and there is already a commercial garage along with a duplex.

**R. Downer** says it would be three buildings total.

**R. Tufts-Keegan** says we have to go by the state guidelines.

**R. Downer** asks how he can find out what the requirements are for the state.

**J. Kalar** says call DES, clean water division.

**R. Tufts-Keegan** says she suspects there's already two septic systems there; one for the garage and one for the duplex. 6.8 acres is not a lot of land with two big buildings there already. The homework is to find out what the standards are and that will determine how you move forward.

**J. Kalar** says she would like to see a water study done. You don't want to put another well up there that could draw off the garage or the house. If there are wetlands, you would have to have wetlands from DES come up and look at it. The engineer who does your plan can delineate where the wetlands are.

**R. Downer** says Paul has a building permit for 121 Access Road. There is a state approved septic.

**J. Mullen** says they can't comment on the building permits and whether they are appropriate or not. He has questions about what and how building is going on up there.

He was on the board when Mr. Taylor built his garage. It was allowed because he said the garage was going to be used to service his own vehicles. However, now it's a service garage.

**R. Downer** says he doesn't charge anyone.

**R. Tufts-Keegan** says he (R. Downer) owns it now. He was just giving background on how that came to be on that road.

**J. Mullen** says he doesn't know how the garage was switched into a business. You can't do that. You need to have a permit.

**K. Buzard** asked if they were just looking at the rules for cluster housing.

**R. Tufts-Keegan** says it's open space conservation/cluster development.

**J. Mullen** says it's Article 10, page 31.

**K. Buzard** says cluster development is trying to increase the amount of open space.

**J. Mullen** says I'm trying to protect you. You can go online and look at the Documents under Zoning Ordinances under the Planning Board. Article 1 and it will tell you all the criteria.

**J. Kalar** said it's so convoluted up there. The deeds that are involved in this go back and forth between the same people.

**R. Tufts-Keegan** asks how you access the unit that's behind the garage.

**R. Downer** said where you said, you take that left and it's in the field.

**K. Buzard** said I remember hearing the only reason they were allowed is because they were pushing the 55 plus saying there were no kids so there would be no impact on the school.

**J. Mullen** says anything pertaining to over 55 would be a deed restriction.

**R. Tufts-Keegan** says in Article 10 there are specific requirements you have to follow. She reads from the article.

**R. Downer** says the duplexes have a full foundation but where I want to go in the field I think would be a slab.

**R. Tufts-Keegan** says then it's not going to meet the requirements.

**C. Maynard** asks if these are going to be rentals.

**R. Downer** says one would be and he would live in the other.

**C. Maynard** says you need to be sure anyone who rents is aware there are no emergency services.

**J. Quinn** says if the duplex changes hands, they may not realize there are no services because it's a class 6 road.

**C. Maynard** said in the future it may not be maintained the way it is now and EMS may not be able to get there in an emergency. It's a safety issue.

**J. Quinn** says it needs to be clear to everyone. You don't want that liability for yourself or the town.

**R. Downer** asks if it changes anything if it's a single-family dwelling for just me.

**J. Mullen** says it doesn't matter; a dwelling is a dwelling. In a normal lot situation, you are allowed to build a single-family home or a duplex. That's on a 5-acre lot. Then you have to meet setback requirements. Since you are trying to put more buildings on a particular lot I suggest you use the cluster conservation system. Then, if everything meets those requirements, the building permit would be authorized by the Code Enforcement Officer to meet certain building codes.

**C. Maynard** asks if he would be able to add on to the duplex that he has.

**J. Kalar** says he would have to meet the setbacks. Between that and the wetlands, and the well and the septic, he's not going to have room to put more than one more unit back there.

**R. Tufts-Keegan** says she thinks at one time 5 and 5-1 were one lot and it was subdivided many years ago.

**J. Quinn** says we don't mean to discourage you, we just want to make sure you understand what you need to do.

**J. Kalar** says read that article, contact DES with regards to your septic and well and the wetlands. If you decide to go forward, get an engineer to draw everything out for you and show where the wetlands are.

**R. Downer** leaves.

*Map 11, Lot 1-20  
Melanson Transport LLC  
113 and 109 Pheasant Lane – Subdivision*

**R. Tufts-Keegan** says he was in here less than two years ago saying he wanted a family compound and now he doesn't want it. There are two houses on this 5-acre lot. She reads from page 58 in the Zoning Ordinances under Family Compound. She says when the board approved his request for a family compound the minimum lot size was 5 acres. He knew going forward he would not be able to subdivide his 5-acre lot.

**J. Mullen** says unless you get a variance.

**J. Kalar** said according to the regulations, the lot size doesn't matter. A resident can put up to three homes on one lot provided there is one owner and no rent. You also need to have a septic and well for each home.

**K. Buzard** says this is why we should get rid of the family compound ordinance.

**R. Tufts-Keegan** asks what's to prevent the next person from saying they want to put a family compound and then subdivide it.

**J. Mullen** says you change the regulations to say once it's a compound you can't subdivide it.

**J. Quinn** says (reading from the ordinance) if subdivided, each dwelling will be located on a conforming lot to include the minimum required size. So, we've covered it. If this were ten acres and he wanted to subdivide it into two 5 acre lots that would be okay. If in the future we change the lot size to 2 acres, this would be a different story. Right now, it's 5 acres.

**J. Kalar** says he could go to the ZBA and get a variance.

**K. Buzard** says no. She asks what the hardship would be.

**J. Mullen** says that would be up to the ZBA. You can't deny them to ask.

**C. Maynard** asks if they were to subdivide what would be the set back of the houses.

**J. Kalar** they would have to meet the setback requirements.

**J. Mullen** says he can't divide it because it would be less than 5 acres so that's it.

**J. Kalar** says she has to get in touch with him and have him come before the Planning Board.

**K. Buzard** expresses concern about subdivisions being subdivided again shortly after the first lot is approved. She says there should be better planning, so it is all presented at once.

**J. Quinn** says it's up to the property owner to make these decisions.

**C. Maynard** says they do have the right to do within reason to do what they want provided they follow the rules and ordinances.

**J. Mullen** says we go by the rules in here. If the rules are insufficient, then we change the rules.

**J. Quinn** says we don't want to tell people what they can or can't do with their land as long as it's authorized.

## **Old Business**

### *Solar Ordinance Review*

**J. Mullen** went over proposed changes and additions to the existing Solar Ordinance draft.

The Board Members reviewed and discussed the changes and decided on a final version to present to the town.

**J. Mullen** says, as an aside, next year, he would like see them add stormwater management as part of the requirements for an Intent to Cut of more than x number of acres.

**J. Mullen** says some other town's large solar projects have a Landscape Stormwater Plan.

**J. Quinn** asks how you enforce this.

**J. Mullen** says code enforcement.

**J. Quinn** says when the land is sold, the new owner has to be told they have to maintain the plan.

**J. Mullen** says the plan is registered.

**R. Tufts-Keegan** asks **J. Mullen** to make these the changes to the Solar Ordinance and send it to Attorney Harinarayan (Huddy) Grandy with a copy to the BOS email.

**Motion** to accept the Solar Ordinance as revised.

**Motioned by:** R. Tufts-Keegan

**Seconded by:** J. Mullen

**Summarize:** Unanimous

**Motion Carried**

**Motion** to adjourn at 8:00 PM

**Motioned by:** J. Mullen

**Seconded by:** C. Maynard

**Summarize:** Unanimous

**Motion Carried**

Respectfully submitted by:

Robin Willis  
Administrative Clerk