

## Danbury Planning Board

April 23rd, 2024

### Adopted

The Danbury Planning Board met on Tuesday April 23<sup>rd</sup>, 2024 in accordance with the schedule adopted and posted. John Taylor called the meeting to order at 7:00 p.m. and welcomed everyone present. John asked if anyone had a conflict of interest and hearing none proceeded with the meeting.

#### **Present:**

John Taylor, Chair

Mark Zaccaria, Vice Chair

Gary Donoghue

Jim Phelps

Matthew Remillard, Secretary

Ruby Hill, Selectmen ex-officio

#### **Not Present:**

Anna Offen, clerk

**Guests:** John Warzocha, Account Manager, Nick Vertefeuille, Surveyor – Horizons Engineering LLC

The Board reviewed the meeting minutes from April 9<sup>th</sup>, 2024. Gary Donoghue made a motion to approve the minutes Jim Phelps seconded. **Motion passed with 5 affirmatives and one abstention.**

John Taylor greeted the present members of Horizon Engineering, who were present on behalf of SRK Holdings, LLC (one of two corporate entities that manages Ragged Mountain Ski Resort). They were present for an informal meeting regarding an upcoming subdivision application. SRK Holdings, which primarily focuses on the management of the skiing operations is hoping to subdivide the parcel of land that currently holds the ski lodge. The Board listened to the presentation and had some concerns and questions. Primarily that the lot as it stands now, does not have the required road frontage due to the restructure of the private Plowman Road. A remedy proposed was a lot line adjustment for the lot, but this would also require some restructuring of surrounding lots to meet minimum requirements. Jim Phelps brought up the fact that the that SRK wants to be granted Subdivision status for an 18,000 Sq Ft lot with one huge building on it that, then, would violate set back standards. Phelps noted that this would become a potentially saleable property within the Town that is Non-Compliant with the Land Use and Zoning Ordinance (LUZO). John agreed and said that the Planning Board would need to legal advice in order to navigate this subdivision. He asked that SRK Holdings appear at the next

meeting to further discuss. John Warzocha informed the Board that the public hearing notices had already been mailed for the 5/14/24 date. Both parties agreed that the public hearing would be continued on 5/14/24 to the next meeting date of 5/28/24. A new attorney will be retained to represent the Planning Board and should be present on 5/14. John also asked that SRK Holdings be prepared to answer the following questions at the next meeting:

- Why is SRK (Ragged) doing this redesignation?
- How does this action fit with the Five Year Plan, specifically as it relates to RD Devco's future Forrest Knowles' developments?

The Board discussed some other potential concerns regarding set-back and future building footprints.

John then asked Mark to further discuss the memo that he had circulated to the Board related to a recent meeting of the Lakes Region Planning Commission. He noted that there were several possible opportunities to generate income from the Town Transfer Station, and that an assessment and estimate of those details could be made by Mr. Rose following a site visit. The point of the memo was to ask the Select Board for authority to arrange that visit and then to report to it on LRPC recommendations. The consensus of the Board was that even 'Little Danbury' needs to be aware of its options in this ever-changing area. By acclamation Board recommended asking the Select Board for this authority. Ruby Hill agreed to forward the Memo and the Planning Board's request.

John Taylor then began an explanation of his memos on two related subjects. The subjects are the Zoning Board of Review (ZBR) action on the 3J Farms application for Subdivision. The Planning Board denied the original application. The ZBR overruled that denial. The matter is now in NH Housing Court on appeal from 3J abutters, the Marchands. Taylor's point in his first Memo was that ZBR had failed to notify PB of their Public Hearing on the original denial. In his opinion, this meant the Appeal to ZBR was not perfected, and thus invalid. That was the legal basis of John's request for dismissal at the Housing Court. He claimed ZBR had no jurisdiction to make its original decision, as a result of their clerical error in notification. John noted that 3J Farms' Attorney, Phil Hastings, counterargued that the ZBR has the right under RSA to waive the notification requirement. Taylor noted that this argument is correct, but only following the State's adoption of new Zoning Regs on 15 SEP 23. He noted the ZBR action in question took place before that date and no retroactive application was mentioned in the new RSA.

John Taylor's second Memo dealt with the problem he feels was created following Attorney Laura Spector-Morgan's tenure as Legal Advisor to the Select Board and, subsequently the Planning Board on the 3J Farms case. Taylor claims a Conflict of Interest arose when she left that post to immediately advise the Danbury ZBR on that same matter.

Taylor asked that the PB authorize him to be its Representative to these proceedings. He also asked that he be authorized to write a letter to the SB, raising these issues in detail with them. Jim Phelps MOVED that Chairman John Taylor be appointed PB Representative on the 3J Farms matter and that he be instructed to write to the Danbury SB raising his concerns and suggesting appropriate action. Gary Donoghue Seconded. In discussion it was stated that former Danbury

Town Attorney, Mike Courtney, claimed that he could not simultaneously represent two Town Boards in conflict. It was also noted that Attorney Courtney had recommended Attorney Jason Reimers to the Marchands. By all accounts Mr. Reimers has done a good job for them and is well versed in this matter. His name was suggested as Counsel to the PB, if that should be required. The Question was Called. By Voice Vote the Planning Board approved it unanimously. The Motion carried.

All permits were read into record.

At 8:15pm Jim Phelps made a motion to adjourn, Matthew Remillard seconded. **Motion passed unanimously.**