Rowe Planning Board
January 11, 2022
7:00 P.M.

Planning Board: Chair Paul McLatchy III, Vice-Chair Ben Werner, Daniel Burke, Charles Sokol
Absent: Jessica Albrecht

Audience of Citizens: Carrie Silva, Bob Silva

Note: This meeting included one member who participated. All votes are taken via roll-call vote.

Approved Motion Summary:
(discussion details and vote records in minutes below)

- Sign the ANR related to the properties on Davis Mine Road as presented.
- Approve the minutes of November 18th 2021 and December 7th 2021 as presented.
- Adjourn the Planning Board meeting at 8:07 P.M.

Meeting Minutes:

Call to Order: Chair McLatchy III called the Planning Board meeting to order at 7:09 P.M., a quorum of the committee present.

Request for Division, Approval Not Required, Silva Property on Davis Mine Road: Carrie and Bob Silva provided an overview of the establishment of one new parcel definition within property currently held by Bob and Carrie Silva at 123 Davis Mine Road, of two parcels described in Book 5306 page 231. The new definition of the property will redefine that lot such that it conforms with the minimum frontage and total land area for residential building lots as required by Rowe zoning bylaws, and the remaining area of the original two parcels will similarly conform with the minimum frontage and total land area for residential building lots as required by Rowe zoning bylaws. Mr. McLatchy III confirmed that the Planning Board is not required to approve these easements and redefinition of lots through this ANR ("Approval Not Required"), but is required to acknowledge receipt of this information as presented.

A motion was made by Charles Sokol and seconded by Ben Werner to sign the ANR related to the properties on Davis Mine Road as presented.

Paul McLatchy III	-	Yes
Ben Werner	-	Yes
Daniel Burke	-	Yes
Jessica Albrecht	-	Absent
Charles Sokol	-	Yes

Minutes of November 18th and December 7th:

A motion was made by Charles Sokol and seconded by Ben Werner to approve the minutes of November 18th and December 7th 2021 as presented.

Paul McLatchy III	-	Yes
Ben Werner	-	Yes
Daniel Burke	-	Abstain
Jessica Albrecht	-	Absent
Charles Sokol	-	Yes

Zoning Bylaw Review: The planning board began considering the timeline for presentation at the Annual Town Meeting the previously reviewed Zoning Bylaws. Paul McLatchy III noted that in order to have any of the previously reviewed bylaws be included for consideration by the voters at the Annual Town Meeting, those bylaws would need to be presented for comment at a public hearing withing the next two months or so. He suggested that to meet that timeline, setting the date for that hearing should occur at our next regularly scheduled meeting in early February. He also suggested that we submit any bylaws we have reviewed that we may want to present at that hearing to Counsel MacNicol for comment prior to that hearing, preferably with enough time to choose to refrain from presenting any of these previously reviewed bylaws that Counsel deemed had substantial legal deficiencies.

Charles Sokol began reviewing previous meeting minutes to allow the board members a moment to recall what had previously been discussed regarding the reviewed bylaws.

Daniel Burke expressed concern that there was not enough time to submit the reviewed bylaws to Counsel for comment, schedule a public hearing, and properly deliberate prior to submission to the Board of Selectmen for addition to the Annual Town Meeting Warrant if we were to also want his full consideration on any of the reviewed sections, and that if the board wished to proceed given the deliberations that have already occurred to consider moving forward without his review. He also expressed concern that there may not be sufficient time for the board to proceed to bring these items to the Annual Town Meeting even without providing additional time for his full consideration of any or all of the reviewed sections.

After some further discussion, the general consensus of the board was that the next step of getting comment on the revisions under consideration from Counsel was warranted. At the next meeting in early February, the board will consider which, if any, revisions should be published on a public hearing notice after reviewing Counsel MacNicol's comments.

As part of the review process, the board requested that these minutes reflect the discussed revisions alongside the unaltered versions of each section of the zoning bylaws in their current form. The following section includes each reviewed section as it currently exists, followed by the notes and revisions previously discussed as described in previous meeting minutes, although no new discussion regarding these sections occurred at this meeting:

Section 2: Relating to use regulations

As currently written:

B. Table of Use Regulations

	Zones	
	R-A	*I*
I. Residential Uses		
a. Detached, Single Family Dwelling	*Yes*	*Yes*
b. Two-Family or Semi-Detached Dwelling	*SP*	*SP*
c. Multi-Family	*No*	*No*
d. Trailer Park or Mobile Home Park	*No*	*No*

As discussed on 8-17-2021:

The Planning Board discussed the limitations on dwelling types imposed by Section 2.B.I. The board determined that altering the use table as follows may be prudent:

I. Residential Uses
   a. Detached, Single Family Dwelling –
      No Change
   b. Two-Family or Semi-Detached Dwelling –
      Change from "Special Permit" to "By Right" for both zone types
   c. Multi-Family –
      Change from "Disallowed" to "Special Permit" for both zone types
   d. Trailer Park or Mobile Home Park –
      No Change

As discussed on 9-19-2021:

The Planning Board discussed adding an item related to kiosks to a new Section 2.B.IX, where that section could be used to define "other" structure types for regulation. The board agreed to upon the following addition:

IX. Other Uses
   a. Kiosks –
      Allow as "By Right" for both zone types

The Planning Board discussed the benefit of establishing a section in the bylaws where specific terms could be defined. After some discussion the following terms and definitions to add to such a section were agreed upon:

> *"Roadside Stand: A structure not having a ground area of more than 100 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed, and to be used for the sale of products."*

> *"Kiosk: A structure not having an area of more than 10 square feet, not to exceed 6 feet in any dimension, to be used for the charitable distribution of items, including but not limited to books or non-perishable foods."*

Section 4: Relating to non-dwelling structure roadside setbacks

As currently written:

"Any building or structure other than a dwelling and including roadside stands, gasoline pumps and accessory buildings hereafter erected shall not be located within twenty (20) feet of any street or highway line."

As discussed on 9-21-2021:

The Planning Board discussed the limitations on road setbacks for non-dwelling structures, taking time to discuss special-case structures such as farm stands or community-oriented charity kiosks (such as those for book lending/trading or non-perishable food distribution). After some discussion the following wording was agreed upon:

"Any building or permanent structure, other than a dwelling, kiosk, or roadside stand, hereafter erected shall not be located within twenty (20) feet of any street or highway line."

Section 5: Relating to dwelling setback from roadways

As currently written:

"Any dwelling hereafter erected shall not be located within sixty (60) feet of any street or highway line."

As discussed on 11-18-2021:

The Planning Board discussed the limitations on road setbacks for dwelling structures, taking time to discuss ambiguity of the phrase "road line" in the existing language of this section. After some discussion the following wording was agreed upon:

"Any dwelling hereafter erected shall not be located within fifty (50) feet of the centerline of any street or highway."

Section 6: Relating to number of dwellings per lot

As currently written:

"Except as provided under Section 2(B) I (b) of this Article, no more than one (1) dwelling unit shall be constructed on any dwelling lot and no existing structure shall be converted for use as a dwelling unit unless a dwelling lot is created in accordance with Section 7 of this Article. A dwelling unit shall be defined as a single unit providing complete, independent living facilities for one or more persons."

As discussed on 8-17-2021:

After some discussion, the Planning Board determined that allowing for more construction in the town would be better accomplished through examining the building lot size definitions as established in Section 7.

No change to Section 6 was suggested at this time.

Section 7: Relating to lot size and road frontage requirements

As currently written:

"No dwelling unit hereinafter placed in any district shall be located on a lot having less than the minimum requirements set forth below. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

(A) Class A Lot:
A Class A Dwelling Lot shall not be less than four (4) acres and shall have a minimum frontage on a public road of four hundred (400) contiguous feet. In the case of a Class A Lot at the junction of two public roads, the minimum frontage on each such public road shall be four hundred (400) contiguous feet.

(i) A Class A Lot has none of the following qualities in the area of proposed usage:

(a) Bedrock, ledge, hardpan or other impermeable or poorly permeable subsurface layer within six (6) feet of existing surface grade.

(b) Seasonal surface water present during the year for a period of 30 days or more, within 100 feet of an area of proposed usage.

(c) Ground water within six (6) feet of existing surface grade during any period when percolation tests are permitted.

(ii) The Soils Map designations of "slight limitation" and "moderate limitation" may be used for reference location of Class A Lots.

(B) Class B Lot:
A Class B Lot is any lot which has in the area of proposed usage one or more of the qualities listed in the definition of a Class A Lot. An in-ground sewage system shall not be permitted in a Class B Lot.

(i) The Soils Map designation of "severe limitation" may be used for reference location of Class B Lots.

DEFINITIONS:

A DWELLING LOT is hereby defined as a continuous parcel of land in one ownership with legally definable boundaries described in a deed recorded in the Franklin County Registry of Deeds or Land Court, which complies with the minimum requirements of this section.

AREA OF PROPOSED USAGE shall mean the location of an in-ground sewage system, the area of such location to be not less than twice the area required for the initial installation of that system.

SOILS MAP shall mean the map on file with the Town Clerk entitled "Soils Limitation for Septic Tank Sewage Disposal" prepared for the Town of Rowe based on U.S. Department of Agricultural Soil Conservation Service Survey.

The classification of all lots on which an approved in-ground sewage system exists at the time of the adoption of this by-law is to be designated as Class A. The classification of any lot designated as Class B may be changed by the Planning Board to Class A upon presentation to that Board of a certificate from the Board of Health that said lot has an area of proposed usage suitable for the installation of an approved in-ground sewage system."

<u>As discussed on 11-18-2021:</u>

The Planning Board discussed the intention of the listed definitions of Class A (qualified for dwelling construction) and Class B (not qualified for dwelling construction) lots. In addition to determining minimum lot size and road frontage for dwelling lots, some of the requirements appeared to establish limitations related to septic system construction. The limitations related to bedrock, ledge, hardpan or other impermeable or poorly permeable subsurface layer, seasonal surface water, or ground water each appeared to be covered by existing Title V regulations or the Clean Water or Wetlands Protection Acts.

The Planning Board discussed the lot size and road frontage requirements as listed, and considered whether the frontage requirements should be that each abutting public way meet a minimum contiguous distance, or that at least one abutting public way meet a minimum contiguous distance. The Planning Board also discussed moving the definitions of "Dwelling Lot" and "Area of Proposed Usage" from this section to the previously established Definitions Section. After this discussion, the following wording was agreed upon (the additions to the definition section will be formalized at a later time):

"Each dwelling unit hereinafter placed in any district shall be located on a Class A Lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

A. Class A Lot: A Class A Lot has all of the following qualities:
   i. A total area of no less than four (4) acres.
   ii. A minimum frontage of four hundred (400) contiguous feet on at least one public road.
   iii. Has an area of proposed usage suitable for the installation of an approved in-ground sewage system as certified by the Board of Health.

B. Class B Lot: A Class B Lot is any lot which does not meet the criteria of a Class A Lot.

C. Reclassification: The classification of any lot designated as Class B shall be changed by the Planning Board to Class A upon presentation to the Planning Board that said lot meets all criteria of a Class A lot."

Section 10: Relating to number of unrelated persons within a single dwelling

As currently written:

"No dwelling in the Town of Rowe shall be occupied by more than one family; one family being defined as one or more persons related by birth, marriage or adoption including minors under the legal guardianship or control of one or more adults or up to four (4) unrelated individuals or a combination of these living together on a premises as a single housekeeping unit."

As discussed on 8-17-2021:

The planning board determined that this section is problematic given the changing cultural definitions of a "family," and collectively the board determined this section should be stricken from the Zoning Bylaws.

Note that the numbering of all following Zoning Bylaws will be referenced as if Section 10 still exists to avoid confusion until any changes are adopted by the town.

Section 18: Relating to special permit application filing and issuing

As currently written:

"Special Permits shall only be issued after a public hearing which must be held within sixty-five (65) days after the effective date of filing of a special permit application. A special permit application shall be filed with the Planning Board at one of its regular meetings and the applicant is also responsible for transmitting a copy of the application to the Town Clerk forthwith. The effective date of filing is the date the application is filed with the Planning Board. If substantial use or construction has not commenced without good cause within a period of one (1) year from the date of the granting of a special permit, the special permit shall lapse. This time limit includes time required to pursue or await the determination of an appeal."

As discussed on 8-17-2021:

The Planning Board discussed ways to make the date of filing a special permit application more clear and no longer reliant on an official acceptance at a scheduled meeting of the Planning Board, as well as referencing the applicable Massachusetts General Laws. After some discussion the following wording was agreed upon:

"Special Permits shall be issued in accordance with Massachusetts General Laws Chapter 40A Section 9. A special permit application shall be considered filed as of the date the application is received by the office of the Town Clerk, either delivered in person or by certified return receipt mail. A special permit application, along with a record of the date of filing with the office of the Town Clerk, shall be delivered to the Planning Board. If substantial use or construction has not commenced without good cause within a period of one (1) year from the date of the granting of a special permit, the special permit shall lapse. This time limit includes time required to pursue or await the determination of an appeal."

Section 20: Relating to public hearing notices

As currently written:

"The Planning Board and the Board of Appeals shall mail notice of their public hearings to all property owners in the Town."

As discussed on 7-13-2021:

Mr. McLatchy III suggested changing the current wording:

"The Planning Board and the Board of Appeals shall mail notice of their public hearings to all property owners in the Town."

To the following:

"*The Planning Board and the Board of Appeals shall mail notice of their public hearin*gs in accordance with state law."

Mr. McLatchy III suggested this would place the onus on State Law, which he believes requires notice be sent to property abutters and surrounding towns' planning boards.

As discussed on 8-17-2021:

The planning board determined aligning the notification requirements of public hearing with the applicable Massachusetts General Laws would simplify the process. After some discussion the following wording was agreed upon:

"The Planning Board and the Zoning Board of Appeals shall mail notice of their public hearings in accordance with Massachusetts General Laws Chapter 40A Section 11."

Next Meeting Date, Time, and Location: The board discussed when the next meeting should occur. Charles Sokol noted that the next regular meeting date of February 8th would coincide with a Finance Committee budget meeting, and that this meeting would like be using the normal meeting space within the town hall. After some discussion, the Planning Board determined that a separate remote-only meeting scheduled to begin at 6:00 PM on February 8th would work for each of the members.

Ben Werner offered the use of a Zoom account separate from the Town of Rowe Zoom account to use for this meeting, as the Town of Rowe Zoom account would likely be in use for the Finance Committee meeting. The tentative connection information for the meeting hosted by Ben Werner's Zoom account is as follows, which may change prior to the official meeting posting:

Meeting ID: 833 7658 6578
Passcode: 749340
Phone Number: (301) 715-8592

Adjourn:

A motion was made by Charles Sokol and seconded by Ben Werner to adjourn the Planning Board meeting at 8:07 P.M.

Paul McLatchy III	-	Yes
Ben Werner	-	Yes
Daniel Burke	-	Yes
Jessica Albrecht	-	Absent
Charles Sokol	-	Yes

Respectfully Submitted,
Charles Sokol, Secretary

Approved: 2 / 8 / 2022

Chair Paul McLatchy III

Vice-Chair Ben Werner

Daniel Burke

Jessica Albrecht

Charles Sokol

Attachments:

- Agenda
- Minutes from 11-19-2021
- Minutes form 12-7-2021
- Davis Mine Road Land Survey