

1                                    **Planning Board Meeting- Final Minutes**

2                                    **December 13, 2022, Meeting House**

3    **Members Present**

4    Greg Meeh, (Chair), Kent Ruesswick (BOS rep), John Schneider, Lucy Nichols, Scott  
5    Doherty (Vice Chair), Joshua Gordon, Logan Snyder (alternate), Hillary Nelson  
6    (alternate)

7    **Members absent**

8    Anne Dowling

9    **Others Present**

10   Matt Taylor, Matt Baronas, (CNHRPC staff), Wayne Mann (Agricultural  
11   Commission, Canterbury), Kelly Short (Canterbury Conservation Commission);

12   Webster Stout, surveyor; Mary Ellen MacCoy, Brian Hutchinson, Adrienne  
13   Hutchinson, (for subdivision), Calvin Todd, (abutter); Alfred Nash (applicant) and  
14   Cathy Viau

15   **Agenda**

16        1. **Call to Order**

17   Greg Meeh called the meeting to order at 7 pm.

18        2. **Minutes of November 29 - Work Session**

19   Scott Doherty moved the previous minutes. Kent Ruesswick seconded. There  
20   being no discussion, all members voted to approve the minutes, except for Joshua  
21   Gordon and Hillary Nelson who abstained since they were absent that evening.

22        3. **CNHRPC members Matt Taylor and Matt Baronas – special permits,**  
23        **discontinued roads and mapping**

24   Greg introduced these issues. There had been some discussion about  
25   separating the Agricultural and Conservation zones. It could be difficult to do.  
26   More information was needed. Wayne Mann, chair of the Agricultural  
27   Commission was invited to attend this evening because he had researched the  
28   discontinued roads in Canterbury. The Planning Board has little jurisdiction

over roads but did want to see that the status of the roads in town were delineated correctly on maps. This has been and is a complex task.

#### Special Permits from the Planning Board:

Matt Taylor from CNHRPC had drafted some language for Conditional Use Permits to replace the Special Planning Permit (SPP) in the ordinance. His draft would cover 4 types of application: excavations, possibly driveway excavations (though this is a 'double permit'), commercial cluster developments and essential public utilities. Changes to the Table of Uses would be necessary.

Board members asked clarifying questions. Matt's work was based on RSAs, the town ordinance and research. The SPP is in the ordinance, as a special permit from the Planning Board as distinct from the SPS which is the special permit from the Select Board. It appears that there is no appeal to a ZBA for these permits. For Conditional Use Permits (CUPs) the statute does not give appeal other than to the superior court. The list of criteria (listed a-h) for the permits was open to editing, Matt had created it looking at ordinances and information in their office. It could have agriculture added to the natural/conservation conditions mentioned. It could also be framed in positive language rather than the negative imperatives used in this draft.

**It was agreed that the Board needed time to digest this draft and come back to regional planning for further discussion,** taking into consideration the timeline necessary if it was to go to Town Meeting in March 2023.

#### B) Discontinued Roads

Greg described some of the history of roads being discontinued in town. It started as early as 1905 and up until 1945 the roads were discontinued by a vote at Town Meeting with some notification to the State. After 1945 that was dropped. Wayne Mann had researched this topic. The municipal book on roads, A Hard Road to Travel, mentioned the requirement to send notification to a court but there is no record in town regarding which particular road. Permission was supposed to be sought from a court. The Selectmen would have been responsible for notifying another town if a road was discontinued in Canterbury and it continued into another town adjoining Canterbury. Prior to 1945 court permission was needed but that is no longer required unless there

is a court case pending for neglect of a road (see page 70 if A Hard Road to Travel).

The issue for the Planning Board and town was that some roads had been treated as if they were private roads since 1928, some houses had been built on them, and it was important to get the status of the roads correctly reflected on a map that showed Class 6 roads. Matt Baronas had already worked on such a map. Kent had seen it. And to get the right information for the map, **Kent was setting up a small committee of folks who would know which roads were certainly discontinued, and then they could look at the roads where it was not so clear whether they were discontinued or not.** Corrections could be made to the draft map when that information was assembled. **The town attorney should also be involved in the making of corrections.** Regional Planning can do so much, they can map, but getting the correct information requires town research. It emerged in discussion that the DOT gets its information from the town, so if the town does not have correct information, then regional planning cannot get accurate data either. There is a map to work from, that was created by the former committee who worked on discontinued roads. Wayne Mann had been part of that committee. Kent had a copy of that, and he gave it to Matt Baronas to use. Wayne noted a minor mistake made on part of Scales Road. Greg thanked Kent for taking the initiative in forming another committee to look at the data.

#### C) Mapping of Agriculture and Conservation together

Matt Baronas shared some of his new maps and the website link for Canterbury materials. That is available at: [https:// cnhrpc.org/canterbury-master-plan-update](https://cnhrpc.org/canterbury-master-plan-update)

This is not on the town website yet – it is a work in progress. **Greg asked that it be sent to Ag Comm and CCC, along with Matt's email.** Matt suggested there could be a subcommittee of Canterbury board/commission members who could work with him on details on the maps. There were a number of options – small groups, virtual meeting, or in person large public meeting with the maps shown large scale. They could facilitate collaboration across groups in town. Greg suggested that the Board explore holding a session during the second

January meeting – **January 24, 2023. Secretary to find out if that would work with Mike Tardiff's office schedule.**

Kelly Short, Co-Chair of the CCC, already had the online material but not the printed copies. The CCC is working on their Cooccurrence map and having had members work on their priorities they were now reaching out to a broader group of professionals in conservation and related fields to take part in the exercise. She asked Matt B if anything had stood out for him as he worked on the agricultural/conservation mapping and he said there was no, he had noticed good soil in other areas such as the Center Historic District and the Shaker Historic District.

Board members thanked the 2 Matts for attending.

#### 4. Web Stout – MacCoy Subdivision at the Sugar House, Hackleboro' Road

Web Stout, surveyor, introduced the application. The original lot was 104 acres, and the proposal was to cut off nearly 13 acres on the left side, including the sugar house, into a separate lot. Both lots have over 300 feet frontage. The new lot is in the Agricultural zone and the old lot is in the Residential zone. Although the other lot would be a strange shape it was not so unusual that it would be against the spirit of the regulations (ex. it was not like a narrow bowling alley shape). It had been worked out between Brian Hutchinson and his father. There could be a residence built on the new lot. There was enough land around the wetlands within the lot. There were natural and road boundaries around it. The Todd family, abutters, had a deeded right of way to their property. Barnett Road is almost all Class 6, Calvin Todd stated.

There was no one to speak in opposition to the application.

**Hillary Nelson moved that the Board approve the motion for the subdivision of the MacCoy property on Tax Map 230, Lot 4, as it is in compliance with the Canterbury ordinance and the Subdivision regulations. Joshua Gordon seconded. Members voted unanimously in support of the motion.**

**Web Stout clarified that he would be taking a copy of the property to the Registry that did not have all the topographical data on it. The Board wanted to have a copy with that information. The Mylar will be taken to the Registry by the secretary when it is ready and signed by the Chair.**

Preconceptual discussion – Alfred Nash – Wyven Road -

Web Stout introduced the preconceptual discussion. Referring to RSA 674:41 he said that when making lot line adjustments he would try to make the lots more conforming rather than completely conforming. He had a map of Wyven Road. This is discontinued. Alfred Nash had a house on the North end of Wyven Road end and was proposing to cut off part of the property to sell to a friend. There are private roads involved. Some have ownership to the center of the road and some to the edge of the road. This road would require deeded easements from the properties that the private road passes over.

There was lengthy discussion of some of the issues involved. The Board does not give permission for building on Class 6 roads – that is up to the selectmen to issue a waiver. It could be approved as a subdivision. The proposed subdivision is in the Rural Zone which requires 300 foot frontage and 3 acres. There is also an association (Soft Path) in the area, where people collectively pay for road upkeep and there are rights of access. Soft Path has an easement on the Wyven Road. They would have to be consulted. Web noted that Wyven is a decent road compared to parts of Shaker Road (it was used by the Shakers for transport in the winter). Many of the issues to be resolved are private, between landowners, rather than Board issues. Greg himself owns part of the road.

There are also complications from the history of the road ownership. It was discontinued in 1941. Web believed courts do not want to get involved in these issues now. There were no roads mentioned in the original proprietor records. There were no Class 6 road designation at the time these roads were discontinued so they cannot return to Class 6. It seems the town discontinued roads to end the need for town maintenance, so if roads were returned to a previous status it would make them town maintained again. Web would have to look at deeds and find out if the town went to court with the discontinuation in 1941. There might be records in Town Meeting minutes but often those do not detail which roads were discontinued, and the only record would be with the state.

There was consensus that the Board would need to see some of these private issues resolved before a vote on the subdivision could be taken. A legal letter

proving that the road matches statutory requirements would be necessary. All parties needed this cover - the Board, and the applicant and his potential purchaser. Web said they would talk to Soft Path. Greg asked that they secure deeded access. The Board would later make a recommendation to the select board regarding the Class 6 waiver. A right of way from the northern end of the property could work. The Board thanked Web Stout and the applicant for attending.

#### 5. Hazard Mitigation and Climate Resilience

Greg has talked to Matt Monahan at CNHRPC about this. There is language for master plans to work with. **Issue tabled for next time when Matt Monahan can attend.**

#### 6. Economic Development issues

Lucy Nichols, economist by training, shared a graph she had drafted that showed projected tax revenue growth under alternate zoning in commercial districts. One line on the graph was based on actual data and the other 'paths' shown were counterfactual projections. As of now the town does not have formal economic development staff though some town members may well have computer models that could be used. Net numbers were the best to use. There was some discussion about the use of zoning as a way to control growth and the resulting services needed. 'Scaleability' is important too.

The idea of encouraging an economic development committee in the Master Plan was raised again. It was something else to talk to regional planning about. What should the primary purpose of such a committee be? Could Lucy's questions be included in the draft of the Economic Development chapter? A few years ago, in town there was such a group, who met with a member of staff from the UNH Cooperative Extension. It disbanded. There was also such a committee many years ago. **It was decided to table this topic until Mike Tardiff could attend again and assist with developing an action plan.**

#### 7. Noise Ordinance

There was discussion regarding the presence of a noise ordinance in town. It is included within the Obnoxious Use ordinance using the 'reasonable person standard'. If such a person is disturbed by noise, then the selectmen are

190 supposed to hold a meeting to discuss the issue. **Hillary Nelson was asked to**  
191 **look this up and check exactly what is currently included in the ordinance.**

## 192 8. Burial grounds

193 The issue had been raised with the preconceptual discussion at the last  
194 meeting, whereby the Friends Meeting wished to acquire a neighboring lot to  
195 use as a burial ground and memorial garden.

196 Board members discussed some of the issues that had come up. Their ability to  
197 regulate burial grounds is very limited – it would just be the standard site plan  
198 criteria. Because burial is often a religious practice, their regulation is even  
199 more limited by recent statutes passed in the Legislature giving churches new  
200 freedoms from restrictions. So, if the ZBA approves the use of a property as a  
201 church there is little the Planning Board can do. The ZBA would grant a  
202 variance or a special exception depending on the zone that the property is in.  
203 If it was commercial zone, it would need to be a special exception. But a  
204 commercial zone may not stay static over time – the land use could well  
205 change in later decades. Burial grounds are not currently listed in the Table of  
206 Uses. Could the Planning Board approve the use as an accessory use (the  
207 primary one being the church that is already allowed). There were so many  
208 issues raised by this potential application it may well require town counsel to  
209 advise. The issue was tabled for now.

## 210 9. Adjournment

211 Joshua Gordon moved to adjourn. Kent Ruesswick seconded. It was around 9  
212 pm.

### 213 Action items

- 214 • **Members to look at the draft for CUP language for further discussion with**  
215 **regional planning and possible preparation for warrant article**
- 216 • **Kent to form small committee for researching discontinued roads to get**  
217 **accurate information to regional planning**
- 218 • **Secretary to contact Mike Tardiff's office to see if further discussions are**  
219 **possible on Tuesday January 24 (to revisit Mapping work: to include**  
220 **Hazard Mitigation and Climate Resilience with Matt M attending: action**  
221 **plan for Economic Development issues with Mike T)**

- 222 • **Chair to sign MacCoy subdivision mylar when available and Secretary to**  
223 **take to Registry**
- 224 • **Hillary Nelson to check on the Noise Ordinance/Obnoxious Use ordinance**

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226 Respectfully submitted,

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228 Lois Scribner, secretary

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