The regular monthly meeting of the Dunbarton Planning Board was held at the above noted time, date and place with Chairman Kenneth Swayze presiding. The following members were present:

Board Members Present:

Kenneth Swayze, Chairman
George Holt, Vice Chairman
Alison Vallieres, Secretary
Jeff Crosby
Chuck Frost
Brian Pike
Mike Kaminski, Selectman’s Representative

Board Members Absent:

None.

Staff Members Present:

Stephen Laurin, Building, Planning and Zoning Department

Others Present:

Rick and Renee Botnick, Blue Sky, LLC
Wayne Morrill, P.E., Jones and Beach Engineers

Ken Swayze called the meeting to order at 7:00 p.m. with a seven-member Planning Board present. He noted for the record that the Planning Board had a quorum for the meeting and that all members would be voting as would be properly allowed.

Stephen Laurin confirmed that the meeting had been properly noticed throughout Town, and placed on the Town’s Website.

GENERAL SESSION:

A. General Board Administration:
   1. Approval of prior meeting minutes;
      
      *George Holt made a MOTION to approve the minutes of July 19, 2017 as submitted.*

      *Brian Pike SECONDED the motion. The motion PASSED 7-0-0.*

B. Correspondence from the Secretary
   None.

C. Selectmen’s Report
   Mike Kaminski noted that the Town has made a deposit to Michie Corporation for concrete casting work on the Stark Bridge. Michie will begin the casting, which will take several weeks to
cure. Jeff Crosby said his plan is to get the bridge in this year, but it is contingent on there being no delays in the delivery of the components.

D. Planning and Zoning Department Report

Stephen Laurin said Dunbarton’s 2017 Hazard Mitigation Plan has been approved by NH Homeland Security and FEMA, and is good until 2022.

He said he has been trying to get a response from Karl Benedict at DES whether they have completed, or scheduled, a site walk for the wetlands permit monumentation requirements at Overlook Estates. In response to a question from the Chairman, George Holt said Brett St. Clair is communicating with Jacques Belanger to verify that all the bounds have been set, and to schedule a site walk. He said the Conservation Commission is flagging the easement lines.

Stephen Laurin said it is his understanding that they have been granted two extensions on the wetland permit, and he believes there are still some bounds that have not been set.

Mr. Laurin noted that the only outstanding subdivision is the Cote and Sciere 3-lot Open Space on Grapevine Road.

OLD BUSINESS:
None.

NEW BUSINESS:

Site Plan Application

Applicant/Property Owner: Blue Sky, LLC, Rick and Renee Botnick
Agent: Wayne Morrill, P.E., Jones & Beach Engineers
Property Location: 210 Kimball Pond Road, Map B5, Block 03, Lot 03. LDR Zoning District.
Description: Site Plan application proposing to construct a 16,704 s.f. horse barn, to house an indoor riding arena, 18 stables, and a one-bedroom apartment for caretaker, with proposed 21 vehicle-parking spaces, for use as a Riding Academy and Commercial Stables.

George Holt stepped down from the Board for this application.

Ken Swayze said the Board first needs to discuss the five waiver requests that have been submitted by the applicant. He said that both Stephen Laurin and Matt Monahan have reviewed the waiver requests, four of which have to do with surveying work such as surveyed property-lines of entire lot, boundary survey, existing and proposed USGS topography and wetland delineation of entire lot. He noted that the property is approximately 134 acres. The plan shows all contours and soils in the area of the project, which is about 4 or 5 acres, and all the plans have a surveyor and/or engineer’s stamps. The Chairman said that because of the scope of the project the four waivers could be granted, or in fact don’t even apply. Chuck Frost asked if the project area shows USGS datum for the contours. Wayne Morrill said the survey information is from the reference plan which used an assumed elevation. Ken Swayze said the Board will require USGS elevations, noting that it was easily transferrable by CAD options.

After a brief discussion, it was the consensus of the Board that, other than the requirement for USGS elevations, the items identified in the four waiver requests do not apply to this application.

The Chairman then moved on to discuss the applicants request to waive the fees for Site Plan Review. He said he did not believe the Board could properly address the issue at tonight’s meeting. He said the Board will need to address the issue of square footage fees, acknowledging that the building is large and that when the .25 per square foot fee was created in the schedule of fees, they were not anticipating 10,000 to 20,000 square foot buildings. He said there needs to be a determination of a fair value for the amount of work that has been performed by the Town and its Departments, and
will assess that amount at a later date. It was noted, however, that all scheduled fees have been fully paid by the applicant with the submission of this application, and that any reduction would be refunded to the applicant.

Stephen Laurin presented an overview and commentary of the 16,704 s.f. horse barn with indoor riding arena, 18 stables, and caretaker apartment, with associated parking, all shown on engineered plans. The applicant received a Special Exception from the Zoning Board on April 10 of this year for a Riding Academy and Commercial Stables.

The Planning Department received application and plan comments from Conservation Commission, Fire, Highway and Police. The Police Department and Highway Department did not have any written comments. The Conservation Commission and Society for Protection of NH Forests have commented on the plan, specifically with regard to the terms of the Conservation Easement on the property.

Mr. Laurin said the applicant has addressed every checklist item that applies to this type of project. It was noted that Central NH Regional Planning Commission (CNHRPC) comprehensively reviewed this project. He continued by saying that multiple meetings have taken place between himself, the applicants, their engineer, Matt Monahan with CNHRPC, the Planning Board Chairman, and Department Heads. He stated that it took a few plan iterations to get to this point and, both he and Matt Monahan with CNHRPC believe it is ready for Planning Board discussion and action.

Chuck Frost made a motion to accept the application of Blue Sky, LLC and begin deliberations this evening.

Mike Kaminski seconded the motion. Motion passed, 6-0-0.

Ken Swayze asked Wayne Morrill to present the application to the Board.

Mr. Morrill said they spent a lot of time with the Town and Department Heads to address every concern to make certain the application is complete before presenting it to the Planning Board. He noted that the principals, Rick and Renee Botnick, are here with him tonight, celebrating their 26th anniversary. He presented the application and plans to the public and Board members, highlighting the building, landscaping, the driveway and parking layout, the temporary trailer-parking areas, paddock and manure storage areas, fire access around the building, and drainage issues. The plans include the layout of the apartment, truck turning templates, and a note on the plan that the driveway on Kimball Pond Road across from the site cannot be used for turning/access maneuvers to the site. He said he has opened up the throat of the Botnick driveway so that larger vehicles can maneuver in and out of the site without using the driveway across the road. They have provided a grading and drainage plan, and a drainage analysis that indicates a reduction in flow offsite. All the drainage from the disturbed portion of the site goes to the back of the property to some large detention areas. They have incorporated a velocity-reducing plunge pool near the bottom of the driveway to catch the drainage from the top of the driveway down, so there would be no impact on Kimball Pond Road. Jeff Crosby had questioned whether the plunge pool was adequate to prevent drainage onto the Kimball Pond Road R-O-W, so they incorporated a pipe at the plunge pool to take the water to the back of the project area. Wayne Morrill said that he does not believe the pipe is necessary and, because of the cost, would like to talk to the Board tonight to consider removing it.

Wayne Morrill reviewed the lighting and landscaping plans that show wall packs on the building, two light poles on the north side of the building opposite the abutters on Kimball Pond Road, arborvitae will be added to the front and side near the parking area, the existing tree-line along Kimball Pond Road will not be disturbed, and he noted that there is clear site-distance in both directions from the driveway.

He added their application addresses all the Site Plan Review checklist items, and the plans include all the required information, including truck-turning radius plans, septic and test pit data, etc. He would like to have a discussion with the Board regarding the necessity of the pipe running from the plunge pool to the back of the site.
The Board discussed the manure storage area and asked the applicant to explain how the application deals with it. Wayne Morrill pointed out that there are blocks on the back of the manure storage area, and there is a hip roof over the storage area to prevent water from flowing down the back side of the hill. They have also updated their best management practices to the latest standards outlined in the State of NH manual, which was submitted as part of the application.

Chuck Frost said he is satisfied with plans for the manure storage area. He asked how the manure will be moved from the barn to the storage area. Mr. Morrill said there will be a side door in the building to move the manure out to the storage area.

Rick Botnick said they will use a wheel barrow and tractor to move the manure out of the building, and added that they have an agreement with a vendor to pick up the manure and remove it from the site on a three-month basis.

Chairman Swayze asked Jeff Crosby to comment on the issue raised by Mr. Morrill regarding the plunge pools, re-directing of drainage, the connecting of new and deep-underground drainage piping, and the claimed dramatic increase in cost. Road Agent Jeff Crosby said he was sympathetic with the applicant’s concern about the cost of running pipe to the back of the site, but might be satisfied with an alternate solution as long as they can assure the Town that it would not negatively impact the drainage to the public R-O-W (Kimball Pond Road). He added that he did not feel it was as “expensive” as claimed.

The Chairman noted that the original recommendation and request by Mr. Crosby had met with consensus by all at a well-attended workshop meeting to cover site work as it affected the Town’s roadway. In addition, the Chairman further noted that the “new” and latest design was placed on the amended engineering plan for tonight’s meeting, to the Town’s satisfaction. The Chairman continued that, accordingly, it was not the intended purpose of tonight’s Acceptance of the Application and Public Hearing to have the Board re-work a site engineering (and cost) feature at the last minute. It was noted that if there continued to be a difference of opinion tonight, the Board would most likely ask for a third-party opinion, paid-for by the applicant, and the Road Agent would also ask for additional review time; all of which would result in a continuation to next month, or later.

The Chairman suggested the applicant leave the current engineering intact (considering they were asking for approval this evening), think about it, discuss the matter with Jeff Crosby, and with a third-party consultant, if necessary, and return for a Minor Modification to the plan if alternate conditions were acceptable to the Town Road Department. Wayne Morrill said they would be willing to obtain a third-party engineering review, if necessary, of an alternative solution that would be acceptable to the Town. There was consensus by all (the applicants, the Engineering representative, and members of the Planning Board) to pursue this resolution. The Chairman counselled, however, that the “approved” plan and engineering feature would be of record and prevail, if, in fact, there was no Minor Modification approved by the Board within a reasonable period.

Looking ahead, Rick Botnick said he is running out of time with regard to the construction season and his builders, and would like to begin construction of just the arena portion of the building for personal use, and then next year begin the work on the rest of the barn project. The Board discussed the applicants’ inquiry about obtaining building permits for phased construction so they can begin construction of the riding arena. Ken Swayze said they can do phased construction, but there would need to be an agreement about the timing of what gets phased and when.

In response to a question from the Chairman, Stephen Laurin confirmed that the Town of Goffstown was notified by Certified mail of tonight’s public meeting/hearing.

The Chairman opened the public hearing, and Alison Vallieres read through the list of abutters. Stephen Laurin read the letter (attached) submitted by Attorney Andrew Sullivan on behalf of Diane M. Bedard.
Diane M. Bedard, 199 Kimball Pond Road, asked about turning the building 90 degrees and moving it slightly down the backside of the hill so she is not looking at the entire length of the barn from her property, and to relocate their driveway to somewhere else further from her driveway on her side of the road. Ms. Bedard also noted that her letter requests an 8’-high fence and three rows of 10’-high evergreens along Kimball Pond Road.

The Chairman invited Wayne Morrill to respond to Ms. Bedard’s comments. Mr. Morrill said that based on the topography of the site it is not feasible to turn the building 90°. He said he would need to have a 100’ high foundation wall to support the back of the barn. The existing driveway cut has been used over the years for access to the property for various reasons including hay removal, so the proposal is to continue use of that location where there is already a break in the stone wall.

Mr. Morrill continued by stating that removal of existing vegetation to put up an 8’-high fence and all new vegetation would actually reduce the amount of screening from the road because the barn, at 10’ above the road, would be higher than any of the new screening.

Ms. Bedard asked whether they could move the proposed barn closer to the existing barn. Mr. Morrill said there is a stable behind the existing barn, so there is not room to move the proposed barn. As shown on the current plan, the space is used up by the proposed retaining wall behind the stable to shore-up that area, and the 24’ wide building access on the side of the new barn to provide 3-sided access, as requested by the Fire Department.

Ken Swayze noted that some of the concerns stated in Attorney Sullivan’s letter, e.g. easement restrictions, etc., have been addressed by other organizations and agencies prior to tonight’s meeting, and are beyond the purview of the Planning Board.

Brian Pike asked why there is a discrepancy in the hours of operation between the plan and the application. Stephen Laurin said the hours of operation for different uses was discussed at the Zoning Board approval hearing. The Botnick’s stated that they may have occasional events at the facility, which would be limited to the hours of 8 am to 8 pm. However, the stables would be available to their clients to pick-up and retrieve horses between the hours of 7 am to 10 pm.

The Chairman pointed out that the area allows for agricultural uses, and agricultural activities may occur as necessary anytime day or night. He added that the Selectmen are working on a revised noise ordinance to protect residents Town-wide.

In response to a question from Ken Swayze regarding any additional comments from the Conservation Commission, George Holt said there are none.

There were no other comments from abutters or members of the public.

The Chairman closed the public hearing.

The Board had no others comments or questions about the plan.

The Chairman read the requirements specified in the RSA’s to determine whether a project qualifies as a Development of Regional Impact. The Board discussed the requirements for a determination of regional impact and determined there were none.

Brian Pike made a motion that there is no regional impact resulting from this project.

Mike Kaminski seconded the motion. Motion passed, 6-0-0.

In response to a question from Jeff Crosby regarding the caretaker apartment, Ken Swayze said it could be considered an Accessory Dwelling Unit, but noted that the Zoning Board legally approved the use of the apartment as part of the Special Exception approval, which comes with its own restrictions.

Wayne Morrill said that any building construction, including the apartment, will be inspected and certified by an Architectural Engineer that it is constructed in compliance with all engineering and Town requirements, and all site work will be inspected and certified by him.
Ken Swayze made a motion to approve the Site Plan application of Blue Sky, LLC, proposing to construct a 16,704 s.f. horse barn to house an indoor riding arena, 18 stables, and a one-bedroom apartment for caretaker, located at 210 Kimball Pond Road in the Low Density Residential District, Tax Map-Block-Lot B5-03-03; revised plans submitted on July 17, 2017.

Approval is subject to the following conditions:

1. Submittal of a final, technically accurate, and graphically correct plan-set in full compliance with all current Site Plan Review Regulations (excluding waivers granted by the Board) and incorporating any and all additional requirements established during deliberations with the Board (per Status Report, Planning Board minutes, and other acknowledgments);
2. Compliance with all provisions of prior plan approvals, and deed restrictions, as applicable;
3. Approval and receipt of all other required local, State and Federal permits. There shall be no change(s) to the base plan(s) without re-consultation with the Board as a result of such other permit approvals;
4. Payment of all fees and costs associated with the Dunbarton Planning Board application process and plan recording;
5. Completion of any special, identified work and improvements at the site, as specified by the Site Plan Review Regulations, and/or required by the Board, that are required to be completed prior to the signing and filing of the Mylar;
6. That: a.) all engineering plans; b.) general and specialized construction related to agricultural buildings; and, c.) related site work shall be reviewed and approved by a New Hampshire licensed engineer(s) prior to the Building Department’s issuance of all Town-required building permits and the final Certificates of Occupancy and Use; and that, generally, all construction and related trade functions shall be under the oversight, inspection, and control of a licensed N.H. Professional Engineer retained by the applicant/owner/proprietor (and/or contractors);
7. Preparation, submittal, and filing of all Deeds, legal instruments, and/or documents required or intended to be filed at the Merrimack Country Registry of Deeds; in such content and form acceptable to the Town; that the applicant shall satisfy all conditions of final plan filing at said registry within 90 days, or shall submit a request to the Planning Board, prior to the deadline, for approval to extend the deadline beyond 90 days.

Chuck Frost seconded the motion. Motion passed, 6-0-0.

Alison Vallieres said she would like to be assured that Jeff Crosby’s concerns regarding the runoff/drainage issue with the driveway onto Kimball Pond Road is resolved to his satisfaction, so there is no drainage onto the town road, creating a liability to the Town.

OTHER BUSINESS:

George Holt returned to the Board.

Stephen Laurin handed out copies of the revised and reformatted Zoning Ordinance to the Board. The Chairman said to notify Steve and Line if they see something that would need to be incorporated into the next round of Zoning amendments.

The Board agreed that it may want to schedule meetings in the future to discuss agricultural zoning changes after the Master Plan revisions are complete.
ADJOURN:
Mike Kaminski made a MOTION to adjourn the meeting at 8:25 p.m.
Brian Pike SECONDED the motion. The motion PASSED, 7-0-0.

Respectfully submitted,
Stephen Laurin
Building, Planning and Zoning Administrative Assistant
Re: Applicant/Owner: Blue Sky, LLC, Rick & Renee Botnick

Location: 210 Kimball Pond Road, Map B5, Block 03, Lot 03

Zone: LDR

Matter: Site Plan Application for Riding Academy, Commercial Stables and One-bedroom Apartment.

Hearing Date: August 16, 2017 at 7:00 p.m.

Objecting Abutter: Diane M. Bedard, Trustee of Diane M. Bedard Revocable Trust, 199 Kimball Pond Road, Map B5, Block 02, Lot 08

Gentlemen:

I represent the above-referenced Objecting Abutter. As you can see from the submitted site plan, her driveway is directly across from the proposed driveway into the proposed Riding Academy and Stables. She has lived there quietly for 47 years.

Her daughter was into riding and she knows from first-hand experience the noise and activity a stable generates — especially at events and on weekends. I make this last observation because whereas the application called for hours from 8 to 8, but plan calls for hours from 7 to 10 seven days a week!

Mrs. Bedard would have shown up at the Variance Hearing, but did not know she could have done so. Hence, she is now objecting at the Site Plan review stage.

She has asked me to stop the stables, based on the Town’s approval of the special exception being in violation of the Taylor Conservation Easement because:

(a) a stables for which the owner gets paid for board and use is a commercial use and, as such, is prohibited;

(b) the residential apartment improvement contemplated, because it is not a single-family home as being the only residential use in the conservation easement area, is prohibited; and
(c) the uses violates the Conservation Easement and RSA 477:45-47.

I also note, that because Town has chosen not to enforce the easement, gives to the Society of the Protection of New Hampshire Forests the right to terminate the Town's authority to enforce this easement and wrest control over it pursuant to Paragraph 5 of the easement.

I have explained to Mrs. Bedard that she could file a Declaratory Judgment action against the Town, seeking to void the ZBA decision granting the special exception and seeking an injunction from any further approvals. Mrs. Bedard tells me she is willing to take this as far as it goes to stop the stables as currently configured.

Regarding the site plan, it should be denied due to the above, and also because:

[1] The driveway entrance, being directly opposite Mrs. Bedard's driveway, unreasonably interferes with public safety. It should enter Long Pond Road about opposite the existing barn on the Botnick's property and then curve around the proposed stables on the northern side of the stables to a parking lot located on the eastern side of the stables.

[2] To create a more quiet and less visually impacting site, (a) the stables should be moved back 100' and turned perpendicular so the long side is on the north side and the parking is behind the stables on the east of the turned stables and (b) the two proposed paddocks should be north of the turned stables further down the hill. This way the natural contours of the land will lend to further noise buffering.

[3] There is not enough buffer. The entire length of the site (other than the driveway entrance) should have a solid, green vinyl fencing at least 8' high at the road with a bank of 10' high evergreen trees between the fence and the road edge, from the site's northern line to 15' north of the existing paddock shown on the plan. There should be three rows of 10' evergreen trees starting 6' east of the fence, and then another row 6' eastward and then a third row 6' eastward. The trees in each successive row should be alternately staggered so looking westward toward the trees, the fence cannot be seen.

[4] Hours should be limited to 7 am to 7 pm subject to any even limited from to Noon to 5pm.

Thank you for giving all due consideration to this letter on behalf of Mrs. Bedard.

Sincerely,

Andrew H. Sullivan

Cc: Atty. John Cronin
    Rick and Rene Botnick