

TOWN OF CENTER HARBOR

PLANNING BOARD

Tuesday, April 4, 2023

Meeting @ 6 p.m.

Chair Charles Hanson called the meeting to order at 6:00 p.m. Present were: Vice Chair Peter Loudon, Selectmen's Rep. Bill Ricciardi, Members: David Nelson, Mark Hildebrandt, and Rachel Xavier. Alternate Members: Alan Rilla, Steven Brown and Clerk Linda D'Auria. Absent without notice, Kelli Kemery.

Voting Members: Charles Hanson, Peter Loudon, Bill Ricciardi, Rachel Xavier, David Nelson, Mark Hildebrand and Alan Rilla.

Public Attendance: Andy Weeks, Edwin Kline, Derek Kline, Philip Turner, Helen Heiner, David Patz, Susan Patz, Bill Doucette, (Code Enforcement Officer), Kristine Arcant, Gracie Running Fisher and Sheila Mohan.

MINUTES: Peter Loudon made a motion to accept the March 7, 2023 meeting minutes to be accepted as read. Bill Ricciardi seconded the motion. All were in favor.

HEARINGS : Postponed to Tuesday, April 18, 2023.

OTHER BUSINESS: Waiver of Bond request / Kline / Application 2020-0505

Chair Hanson recognized Derek Kline regarding the Waiver of the Bond request.

Mr. Kline opens by stating he is at a stand-still in moving forward as the several bond companies he's contacted are not willing to grant him the \$243K bond.

What **Mr. Kline** has found is that the bond companies all use the same groups of underwriters for approving bonds. The underwriters have looked at the situation and feel it is too risky a situation, due to the 5-year history between the town and the Kline's regarding getting this road done.

Mr. Kline asked if he could have Andy Weeks, a road contractor, speak in regards to a possible solution to completing the road.

Mr. Weeks: presented a lengthy breakdown of what he felt was needed in order to complete the project. He gave measurements and calculations for materials to do a phased approach to complete the road, He also mentioned the materials will need to be stored off site in order to complete the project.

Chair asks if there is anything else the Klines would like to add to this consideration. There was no response.

Chair next opens up the meeting to the public in attendance for any comments or questions. No one responded.

Chair addressed the Planning Board for discussion, beginning with a bit of recent history on this case: “ We reached and signed an agreement on March 2, 2023 with the Kline’s and the Board of Selectmen. At that signing, the bond was part of the agreement, and about two weeks later the Kline’s sent in a request to release the bond waiver. This was ground we covered last May and we denied it, and at that time it was for financial reasons. It is for a slightly different reason this time in that you are saying no bonding company will work with you.”

We now have a choice on how we want to handle it, are there any questions or thoughts?

Vice Chair Peter Loudon – Is there an alternative? A way to obtain a new surety or something that can be put up as a surety without going through a bonding company? Without going through us?

Chair - Well, that’s what Mr. Weeks was alluding to, it would be no big deal if the road doesn’t get finished there will be enough money so we could clean up what was done to that date, but the whole point of this discussion is to get the road finished, which was agreed on way, way, back when this all started.

Selectmen Rep Bill Ricciardi – I have a couple of questions. You’re at \$21K for a bond and the engineer we hired came up with \$243K. That’s a large difference, for me, that’s a plausible reason for a bond is just the discrepancy in the numbers. Another question, I’m not really sure why any bond company is aware of the history, it’s like you poisoned your own well, why would they know, the drama that has occurred. So, I don’t understand that... and as far as getting a bond, it is not that unusual, you yourself have said you have gotten plenty of bonds (directed at Mr. Weeks). So, you could go get a bond and he (Mr. Kline) can pay you. You’re not needing to come up with 200K you need to come up with, what 2% of that as a bond? These are some of the things running around in my head.

Mr. Weeks - replied he was talking about stabilizing the road, not the cost for the entire project. And further he was not suggesting a bond we are suggesting in lieu of a bond a surety with the town. As far as the quantities, they are pretty cut and dry. The numbers don’t change on that...

Selectmen Rep Bill Ricciardi – so how did your numbers get so far apart?

Mr. Weeks- I can tell you with 100% confidence that the numbers that they (our engineers) provided you for the quantities, not the pricing, are off, they can’t be right and I would be willing to go through the calculations with you.

Selectmen Rep Bill Ricciardi – so you disagree on how we got to those numbers.

Mr. Weeks- I don’t know how he got there; I’m not saying I disagree with how he got there.

Selectmen Rep Bill Ricciardi – You said you have been looking at this for 6 years. The engineering report is 2 years old... why are we just getting to this now? After two years of going down this road? Wasting a lot of time, a lot of money and nobody thought to come up with this? Why would we even have an agreement? Two years down the road. Is this a new discovery? You've had the report, the engineering report, why now? So that's my question for that. I'm just trying to understand the whole thing.

Mr. Weeks deferred this discussion to Derek Kline, stating there was no reason for him to come in at this point. This is his (Mr. Kline's) road.

Selectmen Rep Bill Ricciardi – So Mr. Kline, after two years and you've had this report, you've talked to Mr. Weeks and have seen all this information in the engineering report and this hasn't come up till tonight?

Mr. Kline – "Well no". Mr. Kline went through reasons going back to the May 2022 denial of waiving the bond. He stated that things have changed and he wants to work cooperatively with the town to complete this and put it behind us. He spoke to all the ways he has tried to secure the bond. Mr. Kline spoke with our attorney, Mr. Hillson. who understood what **Mr. Kline** was presenting and told him to go to the board, try to work things out, it's the board's decision. Perhaps we can get the cul-de-sac done first and then the widening of the road second. To provide perhaps some kind of sweat equity/surety that we are going to get it done. I'm just trying to think of alternatives we can do.

Chair - Point of clarification, just to the board, it was a big deal for us to get the cul-de-sac completed as it was originally supposed to be done from the 1989 approval and so they are good to go on that, they do not need to post a bond, that is what **Mr. Kline** is talking about.

Mr. Kline - If you drive down there now there is a building permit up, we have not been able to get to it. If we were to break up into 3 sections, first the Cul-de-sac, second the widening, and then the new road construction. **Mr. Kline** discussed other ideas on how to go forward with the project.

Vice Chair Peter Loudon – It's been stated that there are no services going down that road. That's not true, emergency vehicles, fire department trucks need to be able to get down that road and be able to maneuver safely. We need to be sure that the road is not substandard and that it's done correctly. Which is why we have an assurance.

Chair – We can talk about different options all we want but we still need something more solid.

Chair - Addressing the board, "How would we like to handle this?" Does anyone want to make a motion on the request?

Member Mark Hildebrand - I'd like to see something in writing.

Chair to Mr. Kline, so it's a no go at this point.

Mr. Kline- Everything is tied to this bond? So what do you suggest? What will make you feel comfortable?

Chair -If you want to send us a proposal as to what Mr. Weeks was talking about, we will consider it, but do it in the form of an application and we will take it up at our next meeting.

Mr. Weeks - A project like this shouldn't need a bond, \$21K isn't going to get you very far.

Chair - Andy, let me stop you right there, you keep saying A project like this shouldn't need a bond.... there are towns all over the state of New Hampshire that require bonds. This project for Phase One had a surety in the form of a mortgage which was to be equivalent to a bond, so what you are saying, that doesn't fly with me.

Selectmen Rep Bill Ricciardi - I like the idea of doing this in phases, but what you are not getting is that the cul-de-sac was part of Phase One 1989. So, in the board's thinking, we have a pretty good history of nonperformance. This is where the surety comes in. So, if you want to break it into Phases, the Cul-de-sac is **not** the new phase one, it's still part of the old phase. We are stuck in this spot because the first phase was never completed. So, we are going to complete Phase One which is the cul-de-sac and then move forward, we tried to get it all together by saying we are going to let you go all the way down to the hammer head. You need to start at the cul-de-sac and you are going to need a bond. I think that is where we're at.

Selectmen Rep Bill Ricciardi - I know it feels like we are adversaries but we are not, we are just trying to get this thing going.

Chair -It was stated both the town and the Kline's would all like to see this road completed, however the boards position is to protect the town and because at some point the town could be responsible for this road, maybe not now or in any of our lifetimes but we need to be sure the road is done up to code.

Chair - Come up with something different, we would be willing to consider it at the next meeting, make a proposal, but for us to go back and forth here we aren't getting anywhere.

Selectmen Rep Bill Ricciardi – Requested a list of the surety companies that he has contacted. Get the original cul-de-sac done... then the widening,

The board would need a new set of approvals in order to approve it. Once all the conditions are set then the Mylar will be brought to the meeting and then deed and the mylar are recorded at the same time.

Selectmen Rep Bill Ricciardi - If you look at the original plan and the specs on the map, the cul-de-sac is not done.

Mr. Kline - No it's not.

Selectmen Rep Bill Ricciardi - So a lot of the blocks with the road are, you saying its measurements are done and it's not done. And every time we say it needs to be this width, etc., you say it's done and it's not. That is the first stumbling block.

Selectmen Rep Bill Ricciardi - keep in mind an approved building permit for the cul-de-sac doesn't mean the cul-de-sac has been approved according to the plan, you just have a permit, you still have to build it, and then it needs to be inspected and approved.

Chair- Here is where we are at, the same as last May at least come up with some solution, we need some hard and fast plan for us to even consider this phase idea. Here is your open door, we are willing to listen to an alternative, a phased approach may be an acceptable alternative. I'm not going to guarantee it, but at least try to come up with some solution.

If we go to the Phased approach, you said there would be 3 phases, we'll take the first phase out since the cul-de-sac is supposed to be done.

More questions came up and the Chair said he would like Mr. Kline to send us a conceptual drawing of what you plan to do and how you will be doing the construction. The phases, your estimated cost, and we can take it up at the next meeting. If you do submit technical information and we need to have an engineer review it, as stated earlier we are not construction people, the fees are going back to you, we waived the engineering fees the first go round. This is in effect today forward. Any engineer fees the board requires will be absorbed by the Klines.

Mr. Kline needs to send in the new proposal by Thursday April 13th by noon so the information can be sent to the board members in time to review before the next Planning Board meeting April 18th.

This new proposal will be considered separate from the (Kline) Boundary line adjustment Case: 2023- 0316B at the April 18th Planning Board meeting.

Chair asks if anyone has anything else to add on this issue? There was no response. The Kline business was concluded.

PERMITS: There were no questions or comments on the permits received this month.

Other Business: Mark Hildebrand was present and shared with the board some further updates from his notes on the Proposed Development Project for Koss Construction, LLC. More information can be found on the main page of Center Harbors website under **News and Announcements.**

Adjournment:

- Chair adjourns the meeting at 7:18 p.m.
- Next meeting scheduled for **April 18 2023** at 6:00 p.m.

Respectfully submitted:

Linda D'Auria, Clerk