

TOWN OF CENTER HARBOR
PLANNING BOARD
Meeting
Tuesday, November 1, 2016

The Chairman called the meeting to order at 7 p.m. Board members present, Chairman Charles Hanson, Selectmen's Representative Harry Viens, Peter Loudon, David Reilly, Kelli Kemery, Bill Ricciardi and Clerk Aimee Manfredi-Sanschagrín. Bob Coppo was absent. In the audience, Code Enforcement Officer Ken Ballance and property owner Vicki LeClair.

Voting Members: Charles Hanson, Peter Loudon, David Reilly, Bill Ricciardi, Kelli Kemery and Selectmen's Rep Harry Viens.

- I. **MINUTES:** Peter Loudon motioned to accept the minutes of October 18, 2016. Seconded by Bill Ricciardi. All were in favor.

II. **LOT 208-052 ANTHON ROAD WETLANDS BOUNDARY DISPUTE**

Chairman asks if the Board had a chance to review the document from Bollinger Associates regarding the wetland survey, the Board confirmed. Chairman asks Ken Ballance to speak to the situation. Ken presents the Board with a copy of the letter from Chip Bollinger along with a copy of the septic plan. Ken explains this lot has had two approved septic plans, one for the previous owner and a new approved plan is for Vicki LeClair the current owner of the property. Ken provides a plan showing the two test pit results that were done on the property.

Ken continues, the lot has been on record for a long time and as stated has had two rounds of approved septic plans. No reports of the lot being wet not even non-designated wetlands have ever been identified on the lot. We now have a new online map per the newly adopted Section 10 using aerial photography, the map shows the lot, specifically in the location where the house and septic are to be placed, completely wet. The delineation from our aerial map happens to be 70' minimum too far to the west which is right in the middle of the lot. We need to get this cleared up and that is why we are here.

Ken provides the Board with a copy of the online map to show where the aerial photography has the wetlands and the buffer for this particular lot. Ken shows where the house has been approved to go based on the septic design which according to our online map, is right in the middle of a wetland buffer. Based on the data found on the online map, it makes this lot unbuildable but the test pits and two septic approvals prove otherwise.

Board reviews the section of the ordinance that deals with boundary line disputes for wetland delineations. Ken continues, the report provided to the Board s from a wetlands scientist not a soil scientist so I want to get that straight right now so there is no confusion. This section (10:4:2:4) identifies it must be a soil scientist. Chairman and Peter Loudon both say they believe this qualifies because the language uses the term "other research". Chairman, I would say if we have a licensed designer and a licensed wetlands scientist we have some credentials to work with. Ken, I want to be clear, this information is for this property only, we are not looking to make this across the board on all properties that we may encounter issues with. Ken continues, I have held this up for over 6 weeks trying to figure out a way to make this work without having to come in here but unfortunately we are here because we see a glitch which may allow some relief on this particular case. Chairman, so if the wetland is correctly delineated to what it actually is, it meets all the setbacks? Ken, yes that is correct. Again, we are looking for relief for this lot only, if other's come along we will deal with them at that time. Harry Viens, these plans were preexisting approved plans? Ken, yes absolutely. Kelli Kemery, Bollinger Associates just tested it recently? Ken, yes I just had them do it, they had one done about a week ago and then this data just came in over the last few hours because I knew we needed to get more information to the Board.

Chairman, there is the caveat here which when I first read this I was thinking along the same lines as you, that we need a social scientist and HIS report but it does say "other suitable research that the information contained on the Center Harbor Water Resources Map is incorrect." This is an example of when we make new rules, the unintended consequences and I am glad that language at least got in there. Chairman continues, in my mind you have a certified wetlands scientist along with a septic designer that have been providing test pits. Ken, the septic plan has been approved twice now by the State and that would not have happened had there been wetlands present.

Chairman requests the Boards thoughts on what has been presented. Peter Loudon, I think this qualifies for an exception to correct the error on the map. Chairman, so now we know there is a mistake we have to get it corrected. Harry Viens, but that would mean updating the whole map. Chairman, right and we can't update the map unless it goes to Town Meeting.

Kelli Kemery, how long ago were the test pits done? Ken, the first set was done about 9 days ago and this second set was done today so he could have someone else there besides himself to prove the results. He thought this was best because he is the designer of the septic plan and is also a wetlands scientist. He also is a person who approved septic designs for the State of New Hampshire for a number of years.

Chairman asks the property owner if she would like to share anything else with the Board. Vicki LeClair states she likes how the conversation is going. One of the contingencies for me closing on this property was that I had the State's approval and the Town approval that I could build on this lot. It wasn't until the builder found this overlay map that I was made aware I had an issue. Chairman, no worries you just happen to be the first interesting case to come before the Board since we have adopted this ordinance and it seems to me we have a mechanism here to address it.

Chairman, procedurally it does not talk about what it really means so I am thinking we consider a motion to accept the information as presented and acknowledge the we do in fact have an error in our map and that we should keep a running list as these come up. Chairman continues, perhaps every 5 years we have the map updated. Peter Loudon, I would make a motion for accepting the information pertaining to this particular case in front of us. I think we have enough information here and there is no way a test pit like what we see here would be in a wetlands area. Ken, I just want to be sure that we are putting her in the long term clear before she invests any more money. Chairman, I think this is pretty clear.

Chairman Motions: On parcel ID 208 Lot 052 owned by Vicki LeClair located on Anthon Road, based on onsite investigation by a licensed septic designer of Bollinger Associates, a Certified Wetlands Scientist license 126 Charles Bollinger and onsite evaluation by Center Harbor Code Enforcement Officer Ken Ballance, the Board concurs there is an error with the online map and that the PB accepts the new proposed wetland boundary as the actual correct boundary as defined on Septic Plan prepared for Lorna Wiedman, Trust Dated January 1, 2016.

We have made this decision in accordance with Section 10:4:2:4 of the Center Harbor Zoning Ordinance. The PB believes the information presented meets the criteria as outlined in Section 10:4:2:4 as "other suitable research".

Seconded by Peter Loudon.

One additional question was asked by Bill Ricciardi after the motion which was whether or not this would have anything to do with the area not having any snow or rain for a year. Ken Ballance responds, test pits don't lie. The dirt does not lie in levels, you can tell in the layers where there is water laying around for the last 100 years based on what is in the soil levels. Ken continues, they can go back and do a core and tell whether or not you filled a wetland 75 years ago. Chairman asks if there are any other questions before the Board votes hearing none Board takes a vote.

Board votes unanimously in favor of the motion.

The Board would like Town Attorney to review the procedure taken and make sure that this situation was handled correctly. Clerk will send the information over to the Town Attorney for review.

III. ACCESSORY DWELLING UNITS (ADU)- SENATE BILL 146

Based on the passing of Senate Bill 146, the Board has to amend the current Town Ordinance pertaining to Accessory Apartments. Their draft amendments to Section 5:9:2 and Definitions 2:2:20 were completed and approved. It was requested that the changes be sent to Town Attorney for review. Clerk received a response from the Town Attorney which was read to the Board. The Board was satisfied with the amendments as presented. Chairman motions to take the Accessory Dwelling Unit changes to Town Meeting as warrant article. Seconded by Peter Loudon. All were in favor. Public hearing on the Ordinance changes will be held January 3, 2017 @ 7 p.m. in preparation for Town Meeting.

IV. PLANNING BOARD POLICIES AND RULES AND PROCEDURE

Planning Board reviewed final PB Policy document and were happy with the document as presented. Bill Ricciardi motioned to adopt the Planning Board Policy dated October 20, 2016 Final. Seconded by Peter Loudon. All were in favor.

V. PERMITS

Board reviews the remaining permits for the month of October.

The Chairman adjourned the meeting at 7:45 p.m. Next meeting scheduled for November 15, 2016 @ 7 p.m. Respectfully submitted by Aimee Manfredi-Sanschagrin.