

TOWN OF CENTER HARBOR
PLANNING BOARD
Hearing
Tuesday, May 19, 2020

Due to the COVID-19, this meeting was conducted via Zoom. Participants, which included the public, could join in the meeting through video web or by telephone. All documents pertaining to this meeting were sent electronically to Board members and the same files were posted on the Website under the meeting announcement on the PB Calendar for public access.

The Chairman called the meeting to order at 6:00 P.M. Mr. Hanson announced that the meeting was being recorded and provided the protocol of the meeting (that document is contained in this set of minutes). Mr. Hanson asked Bill Ricciardi to do the Roll Call of the PB Members/Alternate Members.

**Roll Call: Chairman, Charles Hanson, in attendance at the Town Office with Town Counsel Chris Boldt and Selectmen’s Rep Harry Viens
Vice Chairman, Peter Louden, in attendance with no one else in the room
Secretary, Bill Ricciardi, in attendance with no one else in the room
Member, Kelli Kemery, clerk Pro Tem in attendance with no one else in the room
Member, Mark Hildebrand, no one else in the room**

Not in attendance: Member David Reilly, Alternate Member Rachel Xavier

Due to our clerk having to recuse herself, Kelli Kemery has been appointed clerk Pro Tem for this matter.

I. MINUTES:

Peter Louden motioned to approve the Minutes of May 5, 2020. Seconded by Mark Hildebrand. All were in favor of passing the Minutes as read.

Peter Louden motioned to approve the Minutes of the Site Walk on May 13th. Seconded by Mark Hildebrand. Mr. Hanson said that he had one correction to the Minutes of May 13th. In the last paragraph on the first page, second to the last sentence from the bottom. Mr. Hanson read, “He explained that the sole purpose of this process, from an engineering standpoint, is to get the roadway as far away from the Hayes property as they can, and that is why the Town proposed narrowing the right-of-way.” Mr. Hanson didn’t think that the Town proposed this. He thought that the applicants proposed this. Ken Ballance, the Code Enforcement Officer said that he thinks this idea may have come from him through the town. He said that he brought this up on three different occasions. Mr. Hanson asked Mr. Ballance if the Minutes were accurate.

Mr. Ballance agreed with the Minutes. Mr. Hanson withdrew his comment. All were in favor of approving the Minutes as read. (Mr. Hanson-Aye, Mr. Viens-Aye, Mr. Louden-Aye, Mr. Ricciardi-Aye, Ms. Kemery-Aye, Mr. Hildebrand-Aye).

II. PERMITS:

There was no discussion on the permits.

III. HEARING - AMENDMENT TO SUBDIVISION AND BOUNDARY LINE ADJUSTMENT BETWEEN EDWIN D KLINE, JR. TAX MAP 212 LOT 32 AND J. CONOR AND AMANDA HAYES TAX MAP 212 LOT 30 CONTINUED.

Mr. Hanson asked the Planning Board members if they had any further questions for Mr. Johnson after going on the site walk. The Board members had no questions at this time.

Mr. Hanson said that there was information in front of the Board. He and Mr. Johnson had a discussion earlier this week about the approach they could use to move this process along. The Board finds themselves with a two-part application. There is the Boundary Line Adjustment and the road construction piece. The applicants are being held up by the road construction piece so right now all the Board has are preliminary designs. Mr. Hanson suggested that the Board take each piece, one at a time, starting with the Boundary Line Adjustment. The Board members agreed unanimously with this approach. (Mr. Hanson-Aye, Mr. Viens-Aye, Mr. Louden-Aye, Mr. Ricciardi-Aye, Ms. Kemery-Aye, Mr. Hildebrand-Aye).

Mr. Hanson said that the first thing needed was a motion to accept the Boundary Line Adjustment portion of the application as complete. Harry Viens moved the motion, seconded by Peter Louden. There was no discussion from the Board. The vote was unanimously in favor. (Mr. Hanson-Aye, Mr. Viens-Aye, Mr. Louden-Aye, Mr. Ricciardi-Aye, Ms. Kemery-Aye, Mr. Hildebrand-Aye).

The Board then focused on the Boundary Line Adjustment piece. Mr. Hanson then made a motion to waive the provision of the subdivision Regulation 9.1:3 that requires a minimum of 50 foot Right-Of-Way in this location solely for the purpose of this Boundary Line Adjustment and solely for this one lot location using the protocols of Subdivision Regulations 11: “Where strict conformity with these regulations would cause undue hardship or injustice to the subdivider, a subdivision plan substantially in conformity with these regulations may be approved by the Board, provided that the spirit of these regulations and the public convenience and welfare will not be adversely affected.” Bill Ricciardi seconded this motion. There was no discussion on this motion. The vote was unanimously in favor. (Mr. Hanson-Aye, Mr. Viens-Aye, Mr. Louden-Aye, Mr. Ricciardi-Aye, Ms. Kemery-Aye, Mr. Hildebrand-Aye).

Mr. Hanson then made a motion to amend the prior Subdivision Approval that originally laid out the road in this location solely for the purpose of this Boundary Line Adjustment and solely for this one lot location. Bill Ricciardi seconded this motion. There were no questions or discussion regarding this motion. The vote was unanimously in favor. (Mr. Hanson-Aye, Mr. Viens-Aye, Mr. Louden-Aye, Mr. Ricciardi-Aye, Ms. Kemery-Aye, Mr. Hildebrand-Aye).

Mr. Hanson then moved to Approve the Boundary Line Adjustment conditioned on the receipt, review by town Counsel and recording of a Deed for the subject area being conveyed from Mr. Kline to the Hayes/Nasons and a Voluntary Merger form being filed by the Hayes/Nasons so that the strip becomes part of their lot. Mr. Johnson asked for a point of order. Mr. Johnson wanted to make the Board aware with specific concentration on the twenty foot strip that is going to be reserved as an easement through the Boundary Line Adjustment process; it is a necessary portion of the process to provide underground power utilities to extend beyond the Hayes property as well as some slope easement due to the fact that they are working within the constraints of the thirty foot strip keeping in mind that they are not creating slopes outside of the thirty foot strip unless it is absolutely necessary to accomplish this as a safe road for the public and the lot owners. Peter Louden seconded this motion. The vote was unanimously in favor. (Mr. Hanson-Aye, Mr. Viens-Aye, Mr. Louden-Aye, Mr. Ricciardi-Aye, Ms. Kemery-Aye, Mr. Hildebrand-Aye).

Mr. Hanson said that this completes the Boundary Line Adjustment piece. Mr. Hanson said that the Board now has the road construction piece. Mr. Hanson explained that Mr. Johnson has just made him aware that DES is going to require a fully engineered plan up front. Mr. Johnson told the Board that this is a dynamic situation changing by the moment. He has just received word from DES that they will entertain a pre-application discussion on May 27th. That meeting has been scheduled and it will be between Mr. Johnson, his clients, and the engineer.

Mr. Hanson proposed that the Board continue this hearing to take up the road construction piece after Mr. Johnson has the necessary information. Mr. Hanson asked Mr. Johnson what he would like to do regarding a date for the next meeting. Mr. Johnson feels that two weeks is out of the question because the DES meeting is not until the 27th and they would not be able to put together a plan in that time. Mr. Hanson suggested a Planning Board meeting in a month, which would be June 23rd. Mr. Johnson said that he could not guarantee an approval from DES at that time but they will have a plan that would show the necessary information that the Board would need to make a decision on the road construction subject to DES approval. Mr. Hanson said that they understood that the Board couldn't let DES hold up this process. The Board does need the engineering plan knowing that it doesn't have final approval from DES. The Board will build in a contingency for that.

This hearing was continued to June 23rd. Mr. Hanson asked if the public had any questions or comments. Mr. Ballance asked a question regarding the engineering. He would like to know when they are talking about engineering are they talking about the whole section from the cul-de-sac up or only from the Nason/Hayes boundary line at Heiner's. Mr. Johnson said with regard to the original subdivision plan that was signed by the Planning Board there is a note saying, "All roadways and other improvements shall be constructed and installed by the subdivider to the satisfaction of the Selectmen and under the supervision of the road agent. These improvements shall be completed on or before a date specified by the Selectmen." Mr. Ballance agreed, but he said they will need something to make sure that the section of the road that goes down meets some specification, some standard; we don't have anything on file at this time for that section. Mr. Johnson said that they understand. Mr. Hanson said that because this is an application that has come before the Board now, it is in the Board's purview. He has gone back and looked at some of their rules and procedures and it is outlined that any road construction involves not only the Selectmen and the Public Works but also the Planning Board.

Mr. Hanson asked for any other comments on this. Hearing none he said that the hearing would be continued to June 23rd subject to anything last minute from the applicant. If anything does come up, they can reschedule.

Mr. Johnson said that there is a great urgency on their part to get this done. DES is trying to figure out how they will deal with these pre-conceptual hearings. Mr. Johnson feels that they will have something to look at on the 23rd.

IV. OTHER BUSINESS:

There was no other business.

V. ADJOURNMENT:

This meeting was adjourned at 6:25.

A Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State Of Emergency

As Chair of the Center Harbor Planning Board I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

We are utilizing the ZOOM platform for this electronic meeting.¹ All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone (See website for call in and password) or by clicking on the following website address: www.centerharbornh.org/planning-board

b) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Center Harbor Planning Board at: www.centerharbornh.org/planning-board

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

If anybody has a problem, please call 603-481-1485

d) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law.

¹ Many public bodies are utilizing video teleconferencing technology, such as Zoom, to ensure the electronic meeting comply with the Right-to-Know law and any applicable due process requirements. In certain circumstances, a regular business meeting of a public body may be conducted utilizing audio-only technology. If you have any questions about the appropriateness of the technology utilized to conduct your meeting, please consult your agency counsel or the Attorney General's Office.