

TOWN OF CENTER HARBOR  
PLANNING BOARD  
Zoom Meeting  
Tuesday, March 2, 2021

**Chairman Charles Hanson calls the meeting to order at 6 p.m. Chair announced the meeting was being recorded and provides the protocol of the meeting in accordance with the Governor's emergency order regarding public meetings. (a complete copy of the protocol is contained in this set of minutes)**

Chair states the meeting will start by taking a roll call attendance by Clerk Manfredi.

**Clerk provides the roll call attendance:**

**Roll Call:** Chairman, Charles Hanson, present Jennifer Hanson in the other room.  
Vice Chair, Peter Loudon, in attendance with no one else in the room.  
Secretary, Bill Ricciardi, in attendance with no one else in the room.  
Selectmen's Rep, Harry Viens, in attendance with no one else in the room.  
Member, Rachel Xavier, in attendance with her son and husband in the other room.  
Member, Kelli Kemery, in attendance with no one else in the room.  
Alternate Member, David Nelson, in attendance with no one else in the room.

**Voting Members: Charles Hanson, Peter Loudon, Bill Ricciardi, Harry Viens, Kelli Kemery and Rachel Xavier.**

Before the Chair continued with the meeting, he updated the Board on the status of Ken Ballance. Chair, our good friend and member Ken Ballance who I spoke to last night, is at the end of the line. It's day to day with him at this point and he didn't want to be a distraction. He is no longer going to participate in the Planning Board because it could be any day now. I believe he wanted you all to know this that he has been battling for many years now, a lung condition that is finally coming home to roost. He is at home on hospice and I'm sure if any of you would like to reach out to him via text, I would be happy to provide his number to you or maybe even a visit if you wanted to try and arrange that. Chairman continues, Ken is as sharp as a tack as of this moment and he just likes to hear from people if you wanted to say hello. It's with sadness that I have to report this but like what I said to Ken last night when I spoke to him, I just wish you the very best for the circumstance at hand, it is what it is. Anyway, that's that.

**I. MINUTES:**

Chair asks for a motion on the February 2, 2021 minutes. Peter Loudon motions to accept the February 2, 2021 minutes as written. Harry Viens seconds the motion.

**Roll Call Vote by Clerk:**

**Chairman, Charles Hanson, yes  
Vice Chair, Peter Loudon, yes  
Secretary, Bill Ricciardi, yes**

**Selectmen's Rep, Harry Viens, yes  
Member, Kelli Kemery, yes  
Member, Rachel Xavier, yes**

## II. **HEARING – SUBDIVISION OF LAND JILDA B. BARKER 2003 TRUST MAP 218 LOT 003**

The proposal is to subdivide a portion of land from map 218 lot 003 to create a new lot (218-003.1). Map 218 lot 003 currently consists of approximately 20.79 acres which on approval of this subdivision will decrease to 15.79 acres. The remaining 5.32 acres will be contained in the new lot.

Chair turns the meeting over to David Dolan.

David Dolan of David M. Dolan Associates for the applicant Jilda B. Barker 2003 Trust. David Dolan starts by stating he wanted to pass on his thoughts to Ken Ballance. David Dolan displays the plan for 132 Whittier Highway via zoom share for the Board to review. Lot 218-003 is approximately 20 acres with about 600 feet of frontage on route 25. Approximately 400 feet of shorefront on Winnepesaukee broken out by a lot that was subdivided off years prior. Lot 218-004 has a house and garage on it. The Barker property has an existing house with its own septic and well. These two properties (218-003 & 218-004) use an existing gravel driveway which is a 50-foot-wide easement. Utilities travel along that gravel driveway and travel north onto the Dane property.

We did request a waiver for the requirement of a complete boundary survey for the remaining fifteen (15) acres. We are proposing a 2-lot subdivision. New Lot 1 is about 5 acres and the remaining lot is about 15.5 acres. We did ask for a waiver of a boundary survey of the entire property as well as a topography survey of the remaining land and the entirety of Lot 1. Chris Williams will be involved in the future development of the property on the shorefront.

To access, it will come down the driveway and turn behind the garage to the new lot. When the ground thaws, we will have a wetlands scientist there to determine whether or not there are wetlands on the lot. Test pits will be done for Town purposes as well as for the septic design.

Chair asks if there are any questions from the Board. Bill Ricciardi asks for clarification regarding the new lot. David Dolan states the lot will meet the requirements for road and lake frontage and the plan is to use the existing driveway to access the new lot. Bill asks if the Lot 1 was part of Lot 4? David Dolan responds no, Lot 4 was subdivided out some time ago, Lot 1 will be coming out of Map/lot 218-003. Bill states that Lot 4 is less than 5 acres so he was wondering if that was created before we required a minimum lot size. David Dolan states that lot was carved out back in 1989 and he doesn't believe that was in the ordinance or if it was, they must have received a waiver.

Harry Viens asks a procedural question on whether or not we are just acting on a subdivision tonight. Chair states no, this is a boundary line adjustment. Harry Viens, ok so they will come back with a plan showing where the house will be. Clerk responds this application is for a subdivision, a new lot will be created. David Dolan confirms, yes creation of Lot 1. Harry Viens, so we will see a site plan of the proposed dwelling? David Dolan, you do not need to see a site plan for a residential development. Clerk responds that would be dealt with on the building permit.

Harry Viens, I'm curious of what would happen on the shorefront. Chairman, this raises an interesting conundrum in the sense that you are looking to use the existing driveway for more than 2 dwellings and it may very well mean that you may need to make this a road. David Dolan, correct and that is a concern and it was unclear. I would need to go back and find what it says. Harry Viens adds it may also be a NH regulation as well. Harry Viens explains that a property that was subdivided years back (Smith/Mulcahey) they redeveloped the lay out and we allowed 3 lots to be on

a driveway instead of a road. Harry Viens continues, I'm also worried about the shoreline. Chairman, well that would be addressed through having to follow the Shoreline Protection Act and the Water Resource Ordinance but I think the access off R25. If they put a new driveway with direct access from R25 I think this would be a done deal but to use that existing driveway may require that be built to road standards. Chair asks if anyone else sees that differently. Harry Viens states he does recall the PB did allow a third house off of a shared driveway but that his recollection was the other property owners using that driveway had to have the access clearly written in their deeds and that there would be no further subdivision. Chair indicates if you look at the map the driveway comes down to service the existing structures on these 2 lots and then it turns to the north and continues onto the abutting property where there are more properties so this just isn't a driveway for those 2 houses this is a road, in terms of on paper. David Dolan, this does loop around so there are 2 points of entry for these water front parcels however, there are no cross easements in any of the deeds that specifically allow that although, it is available of the need arises. David Dolan continues, I'm not sure if it's maintained but I certainly have used it. A tree came down across the road so I went and accessed through the other way.

Chair, this comes at an interesting time, we just dealt with a significant road issue in town and so to be honest I personally don't feel comfortable about us making a decision tonight. I think we need to do a little bit of homework just to make sure whatever route is the right one. Board agreed.

Peter Loudon, for what we are doing today does the driveway even matter because we are not talking about a building on the new lot we are just talking about a new lot. Chairman, but a building could be placed there. Peter, I understand that but would it be prudent to talk about the driveway at the time they are ready to build and for now they could just put a tent for camping there or something. Chairman, I think I understand what you're asking so basically in my mind if they said we are cutting this lot off and putting a driveway to the house location directly from R25 would that be ok and could we grant this subdivision and I would say yes at that point. Harry Viens, that would make sense actually but from a practicality standpoint, we are dramatically increasing the expense of development of this lot if they cannot access through the existing driveway. This is already in violation, I should point out Charley, it's already feeding another house so it's already at least 3 houses. Harry Viens continues, looking down the road that big lot potentially could create a few more building lots and then we have a neighborhood down there so I think we may need to talk to Chris about this. Chair, I don't think we have to talk to Chris just yet. I think this could be straight forward for our new planner at LRPC. Aimee and I had a conversation with her and she had already given some review to our ordinance. We could do a little of our own research and determine what territory we shouldn't go in and get her involved.

David Dolan found the section in the subdivision regulations and he states he's not sure how to interpret shared driveways. Chair, states if I'm not mistaking what you're saying let's assume we can interpret that to mean there can be a total of 3 dwellings on a driveway which I think is what you're suggesting. David Dolan, correct. Chair, then we would have to put a limit on the remaining 15-acre parcel that no more subdivision would be allowed without putting a road in. David Dolan, correct. David Dolan, right now the end of the driveway ends at the property line the fact that the gravel driveway continues through, there is another access in to service the dwellings on that property to the north. Chair, yes that's sort of the grey area, it's still a driveway. David Dolan, the

new parcel would have the required frontage on a road we are being upfront and saying we don't want to use that if we don't have to if we can use the already existing driveway. We would make sure the modifications would allow emergency vehicles to safely access and turn around.

Peter Loudon, I still would like to move this to the next meeting so we can do some research and make sure we are covering this correctly by our rules. David Dolan, I understand. Chair asks if that is the general feeling of the Board. Board agrees. Chair lets David Dolan know we are going to research and continue the hearing to March 16<sup>th</sup> at 6 p.m. Clerk lets the public know the zoom access link will be on the Planning Board page of the Town website.

### **III. PERMITS:**

Whittmore, Hooper, Marino. No discussion.

### **IV. OTHER BUSINESS:**

**LRPC** – Contract has been signed by the Selectmen; the Board received a copy. Budget amount needs approval at Town Meeting. Chair states he believes Susan Slack, our Circuit Rider Profession Planner will be a good fit. Susan is also an attorney. Chair and Clerk had a zoom call with Susan to fill her in on some of the items we may need assistance on. This should help circumvent requiring legal input from the Town Attorney. Chair continues, to put things in perspective to date on the last project we did for Kline, which does not include the invoices for the month of February, we are over 12K on that one issue and that's a lot of money. Another thing that came up because of this, in the future when we do our terms and conditions of a subdivisions plan, we need to think more broadly than just engineering fees. If we had put in a condition at that time that legal fees were recoverable, we could have gotten those back. At this time that ship is sailed so it is what it is and we will just have to respond until that issue continues to develop in the manner it is currently.

Kelli Kemery asks from a budgetary perspective will be increasing the budget to cover both the LRPC contract and legal fees? Chair, short answer is yes but the Selectboard, who I just reviewed the Town Warrant with last Wednesday, are going to propose to increase the legal line item. Our legal fees come out of that general fund line item for legal. There will be an amendment to increase that an additional 10K dollars to bring it up to 30K dollars for this fiscal year coming up just because we don't know where this issue is going to end. The BoS have already approved our circuit rider contract, assuming it passes Town Meeting then we are good to go. So hopefully it will pass and then we will jump right in with Susan regarding this subdivision for Barker.

### **IV. ADJOURNMENT:**

Chair states the next PB meeting will be March 16<sup>th</sup>. Next week is Town Meeting. Tuesday, March 9<sup>th</sup> is the written ballot to be held in the Cary Mead Conference room and then the Business Session scheduled for March 10<sup>th</sup> will be held in the Fire Station at 7 p.m. Covid-19 protocols are in place for both sessions. Kelli Kemery asks for Ken's phone number. Chair asks the Clerk to send Ken's number to the Board.

Next PB Meeting is scheduled for March 16, 2021 at 6 p.m. via Zoom.

Chair adjourns the meeting at 6:42 p.m.

## 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.<sup>1</sup> 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 by visiting the Town's website [www.centerharbornh.org/planning-board](http://www.centerharbornh.org/planning-board) and following the directions as outlined.

*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](http://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 by telephone, the meeting will adjourn and be rescheduled. Said adjournment would only be in the case of a complete system/platform failure NOT for individual user issues.**

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.

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<sup>1</sup> 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.