

TOWN OF CENTER HARBOR
PLANNING BOARD
Zoom Meeting
Tuesday, April 6, 2021 @ 6 p.m.

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, in attendance with no one else in the room.
 Vice Chair, Peter Louden, 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, Mark Hildebrand, in attendance with no one else in the room.
 Member, Rachel Xavier, in attendance no one else in the room.
 Alternate Member, David Nelson, in attendance with no one else in the room.**

Kelli Kemery was absent for this meeting.

Voting Members: Charles Hanson, Peter Louden, Bill Ricciardi, Harry Viens, Mark Hildebrand and Rachel Xavier.

Public attendance: David Dolan, Mr. Devereaux Barker, David Harrington, David Krumsiek, Kaylon Sweets and Dan Andersen.

I. MINUTES:

Chair asks for a motion on the April 6, 2021 minutes. Peter Louden motions to accept the April 6, 2021 minutes as written. Bill Ricciardi seconds the motion. All were in favor.

Roll Call Vote by Clerk:

**Chairman, Charles Hanson, yes
Vice Chair, Peter Louden, yes
Secretary, Bill Ricciardi, yes
Selectmen’s Rep, Harry Viens, yes**

**Member, Mark Hildebrand, yes
Member, Rachel Xavier, yes**

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

(Continued from March 16, 2021) The proposal is to subdivide a portion of land from map 218 lot 003 located at 132 Whittier Highway 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.

Site Walk at property: The Board conducted a site walk at the property location (132 Whittier Highway) at 4:30 p.m. along with the participation of David Dolan. The Chair reminds the Board Members there is to be no talking amongst members and there will be no deliberating. The purpose of the site walk is for the Board Member's to ask questions of David Dolan to gather information. Questions about the boundary markers along the driveway, whether to driveway was maintained during the winter, answer was yes. The location of where the driveway to the new lot would split off, the width of the current driveway (measurements were taken of the existing driveway (12' wide)). Discussion regarding creating a new driveway off of Rte. 25 to only serve this lot. Question was asked if there was a plan for the new structure, David Dolan responded not that he's aware of. David Dolan points out the pins for the easement. Board stops at the location where the proposed new driveway would be built, Chair asked if the property owner had committed to that location. David Dolan said they referenced this general area because it's level. Board discusses the length of the current driveway from Rte. 25 to where the new driveway would be cut in approximate measure was a 1400' with an additional 400'-500' to the existing dwellings. Chair asks if there are any other questions for David Dolan, hearing none the Board concluded their site walk at 4:55 p.m. The Board will reconvene their meeting at the 6 p.m. Zoom Meeting.

Reconvene Zoom Meeting 6:00 P.M. – Continued hearing for Barker

Chair provides a quick review of the site walk stating the big issue as mentioned the last time potentially a town standard road may be required, the driveway that accesses the property is 12' wide and it would need to be improved to the Town standard from Rte. 25 down to where the new driveway will be cut in. We do have a provision in our ordinance that allows the applicant to request a variance. Unfortunately, our Fire Chief was called away on a family emergency, I suggest we continue this hearing to our next meeting so we can get some input from Chief Manville but I thought we could use this portion of the meeting to discuss and raise questions we might want answers to and to give Mr. Dolan some guidance on the formal request for a variance.

David Dolan states he had issues getting into the Zoom meeting. Clerk states she double checked the meeting links due to the Board having two separate hearings the links were generated separately. Clerk apologized and stated she corrected the links so anyone trying to access the meeting can do so. David Dolan continues, he was interested in hearing what the Board thought. Chair, the properties running down that stretch of Rte. 25 are unique to a certain degree, they all access waterfront but they also have a lot of old growth pine on them. It definitely strikes you as a wooded corridor coming down Rte. 25 which I think our Master Plan talks about meaning the rural character of our community. One thing I thought would be would a narrow road be more appropriate here and after walking down through there and seeing the number of trees that would need to be cut to get to the appropriate width, it would be significant I believe you said close to 50 trees, correct? David Dolan confirms. Chair, from a public safety standpoint we need to look at. The distance where we come in from on Rte. 25 to where we would enter onto the new proposed driveway is approximately 1400'

and so the rule of thumb from our Fire Chief based on the most recent subdivision that we dealt with is a 1000' and you need some sort of turn around structure for staging emergency apparatus.

Bill Ricciardi, my feeling from the site walk is that the driveway is very narrow and it's currently serving two houses our ordinance requires anything more than that it be brought up to a road standard. It's beautiful in there and I hate to do anything in there but from a life safety issue, access for the Fire Department to get anything in there in my opinion the driveway really needs some work. I think that that's the only way to do that without making a brand-new driveway coming directly off of Rte. 25 for this new parcel. I think the best option would be to work with the current driveway but bring it up to town standard. I don't think you can even get a fire truck through the granite pillars at the entrance of the driveway. It would be helpful to have the Fire Chief review.

Peter Loudon, Bill covered most of it but I'm inclined to wait to hear what Leon says about the access before forming any real hard opinion.

Chair, to that end David Dolan, we would need a formal request from you requesting a variance from our road standard. From an administrative standpoint for the Board, we have a number of members that will not be available for a second meeting in April therefore, we need to continue this hearing to May 4th at 6 p.m. which will work out well so we can iron out some of these issues that have come up with both the Fire Chief and Jeff Haines the Road Agent prior to our next meeting. The other thing I thought about if we were to allow a substandard road would be that there is a condition that there would be no further subdivision on the remaining acres unless the road was revisited and brought up to Town road standards. That would be a condition that would be written into this approval should we go down that path.

David Dolan, back to the variance request, that may be best handled once I have had a chance to meet on site with the Fire Chief and Road Agent. We would like to request a waiver knowing there will have to be some improvements made but hoping to minimize the impact to preserve as many of the mature trees and the character of that property knowing that any future subdivision is going to require a trip back to the Planning Board.

Chair, if the Board is ok with this approach, I will coordinate a meeting when Leon gets back and have him and Jeff summarize the details in an email and get that to the Board before the next meeting on May 4th.

Mr. Devereux comments, I also had internet gremlins this evening and apologize for the way I intruded when I did connect. One thing I heard that I would like to comment on is that we realize we have to widen those stone pillars and Dave and I already discussed that so that is no impediment for us. Thank you for your kind attention.

Chair, great thank you. Any other comments hearing none Chair states he will be in touch with David Dolan for the site visit.

III. HEARING – NRSR COE WINNERS, LLC 18 MAIN STREET MAP 102 LOT 060-014

Proposal is to change the positioning of the outside seating depicted in the August 7, 2014 PB Approval and construct a new graded, leveled and ADA compliant patio in the open space to the right of the building. Speaking on this application will be David Harrington, Chair turns the discussion over to David. David Harrington states, his Architect Dan Anderson and the Operator Kaylin Sweets will also be participating in the discussion.

David Harrington, we put together a plan to expand the patio seating that was approved in 2014 through PB. The existing patio is on the alcove side entrance and although it's charming, it really doesn't allow for social distancing that well. We came up with a plan to have a more formal patio area. We hired Dan Anderson and we tried to figure out how do you serve the guests on the patio how do you station the patio so that you can socially distance. We came up with a plan and had a walk through with Dave Driscoll about a month ago. The Coe House is a special place in the community and I think I want to give Kaylin the best opportunity to make it through some pretty hard times.

Chair asks for questions, Bill Ricciardi can we see the plan? Dan Anderson displays the plan, Bill said he is confused about the portion of the plan labeled Coe House See SK-3, is that the main door? Kaylin responds yes. The patio would be on the main lawn area as you come into Heath's plaza from the main entrance. It's a safer way for people to eat, we are working to make sure it's level because it will be ADA compliant. There will be a nice retaining wall, the proposal was submitted to the Association and they were supportive. Bill asks if the ADA access on the backside is existing or will it be added? Dan Anderson states it will be added. Dan Anderson continues, the elevation of the retaining wall will be approximately 4' and will have an exposed face of about 30". There will not be a need to fencing from a building inspection stand point. Chair asks if you are going to serve alcohol on the patio do, they need to have some type of fencing? Kaylin responds, it has to be a definitive partition or definitive line that cannot be crossed by using a rope, a chain a fence etc. just something that indicates you can't walk past that line. Chair, and how would you be doing that here assuming you are going to be serving alcohol. Kaylin, right now we would probably be extending a chain or rope around the patio area. The liquor commission would be the ones enforcing that and that patio that exists right now, that has a chain around it and that was required by the liquor commission. Dan Anderson, the retaining wall is to keep people in the 1500 sf patio area.

Peter Loudon, how many additional people will you be seating here and will it impact the noise level because that is a concern to the neighbors. David Harrington, by pure code of a patio of 1500 sf, that could accommodate up to 150 people. However, we are not changing any of the requests for additional seating we are just talking about replacing the existing patio with a nice esthetically, safer place for dining. I think the space is allowed 149 seats inside in total the capacity outside is 50 seats. There is nothing that we are doing to change the use or capacity seating we just want to replace the patio.

Kaylon adds that when it comes to noise, he's been operating there for 3 years and last year due to covid they had 80 people outside at max. We've never had a noise complaint the most noise we get are from the big tractor trailers that come up that road. The patio is meant to serve not just through covid but into the future, the ability for us as a restaurant to operate at the capacity we are allowed to

with the ability to maintain in the safety of the town and the people that come to our establishment that's the main goal. I haven't let anyone in the building in a year in a half in order to be part of the solution and not part of the problem. We are just trying to figure out a way to keep business going while keeping everyone safe and allowing people to come hang outside to eat.

Bill Ricciardi, the current patio where you were serving, is that going to remain there or are you moving everyone to the new area. Kaylin it would be spread out our actual capacity is outside and inside. We would like to be as close to 100% of outdoor dining we are allowed 50 outdoor seats but we had 80 people outside last year and that was something I had to have approved by the Board of Selectmen due to the circumstances of Covid.

Chair, with the Covid situation the Town has been working with the businesses in allowing some things outside that would typically be held in doors due to the Covid-19 pandemic, but this is purely a temporary measure at this point. If the only change you are requesting is to change this patio which is pretty straight forward, so long as those conditions from 2014 area met and remain in place which Mr. Harrington indicated would be the case. Recognizing that this summer because of Covid-19 may be a little different in terms what the selectmen will do and may go ahead and allow them to have more people outside because that is still a guideline from a public health stand point, but once we are finally through this tunnel it's back to 50 outside. Is that consistent with your understanding Mr. Harrington? David Harrington states yes, it's one of those things where we are going to get through the current situation and then we can re-assess things and if it's as well received as we anticipate, then we may revisit the approval and ask the Board to potentially expand the capacity outside but that is a whole separate issue down the line.

Luke Dupuis, I wanted to clarify a couple of things the way I understood them from the condo association. First and foremost, we are all on board 100% with this. We truly feel this will add an awful lot to our area and I think these guys will do a great job. The way I remember the conversation, I feel anybody on the Board would be in agreeance on what Mr. Harrington just said and that is to take it one step further and get them that seating they need right now. As long as they don't exceed what they are allowed for seating overall, would it really make a difference whether they were seating inside or out? It would make it easier for the condo association then if they felt they needed more seats they could come back to you for more seating but still have the flexibility when they needed it or the inside when they needed it rather than having them as two separate entities. David Harrington, yes from my perspective, 149 seats is the capacity of the facility so that is within the condo for parking. Luke Dupuis, no you have 200 seats so why couldn't you use those seats anywhere? Chair, I will tell you this, what you have in front of us tonight up until tonight has been pretty straight forward and I could see getting this approved this evening and if you start adding stuff...Luke, ok I don't want to screw it up I wanted to make it better I don't want to do that for them so forget what I said.

Clerk offers information based on her discussion with David Harrington and it was determined the easiest and quickest way to get through this process in order for them to utilize the space they need would be to keep the capacity numbers and allocation the same as the 2014 approval. We would revisit the capacity outside and perhaps the overall capacity at a later date. David Harrington agreed although he likes Luke's idea but time is of the essence so we want to get moving on this and the

quickest way was to move forward was with the existing approval and adding a new patio, I don't want to jeopardize what we want to do at this time. Chair, in my opinion what you said originally was reasonable and made a lot of sense which this is an opportunity with Covid to see how things can work and if goes well I could see it being a straight forward meeting when you came in next winter to go ahead and make that change. If you want to make those changes now, personally we would have some homework to do and we would unfortunately have to kick this out to May 4th. David Harrington, let's not let's keep what we have. Chair asks any other Board members. Peter, I can see what we have in front of us right now moving forward but making any changes at this time would just muddy the waters because there are things involved other than parking in what Luke was describing, not that it's a bad thing, but we would need to do our due diligence. Bill Ricciardi, I agree I believe we would be ready to approve this now.

Chair asks the Clerk if the application is complete. Clerk responds, yes, the application is complete.

Motion: Bill Ricciardi makes a motion to accept the application. Seconded by Peter Loudon.

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, Mark Hildebrand, yes
Member, Rachel Xavier, yes

Motion: Chair motions to approve the plan as proposed tonight with the new patio area with all the conditions as outlined in the 2014 approval the same as they were. Seconded by Peter Loudon. Any discussion. Clerk provides clarification of the 2014 approval. (2014 PB approval contained in this set of minutes).

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, Mark Hildebrand, yes
Member, Rachel Xavier, yes

IV. PERMITS:

Stefano, Xavier, Nelson, Griffith and Dupuis.

V. OTHER BUSINESS:

Chair announces to the Board that former Code Enforcement Officer Ken Ballance unfortunately passed away last weekend. David Driscoll was hired to fill in but unfortunately, he had to resign because his business just got crazy and the Selectmen have no hired Bill Doucette and the Code Enforcement Officer. Chair adds that we had a meeting with the applicant for the Bickford property which was approved by the Town of Meredith to have a Wedding Venue. The meeting involved the Road Agent, Building Inspector and EMD representation. Board will be updated as soon as more

information becomes available. The Attorney that will be assigned to this case if needed will be Laura Spector-Morgan.

Hearing no other questions or comments the Chair adjourns the meeting at 7:06 p.m.

IV. ADJOURNMENT:

Next PB Meeting is scheduled for May 4th at 6 p.m. via Zoom unless noticed otherwise.

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 by visiting the Town's website 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

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.

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.