

MINUTES
Planning Board
April 13, 2015
7:00 PM

Members Present: Bob Barnes, Ted Beckner, John Kimball, Jim Macklin and Lynne Potter

Members Absent: Stan Buchanan and Ray Grant

Staff Present: Donald Murphy, Code Enforcement Officer; James Seymour, Town Planner and Sandy Fredricks, Planning Board Assistant

Public Present: Barry Allen, Susan MacDougall, Tom Bossie, Brian Chamberlain, Beverley Chamberlain and Debby Webber

7:00 P.M.

Lynne calls the meeting to order.

Lynne states the Board's first order of business is approval of Minutes of the March 9, 2015 meeting.

John moves to approve the March 9, 2015 Minutes as written.

Ted seconds.

Any discussion? None.

All in favor? 4 yes – 0 no – 1 abstain (Macklin)

Lynne states the next item on the Agenda is a Sketch Plan Review submitted by Brian and Beverley Chamberlain for property known as Settlers Village, Map 8, Lot 14A. The owners would like to have the property zoned as a Cluster Development or Planned Residential Development.

Lynne asks The Chamberlains to explain their request to the Board. Brian states they purchased the property in 2007 and they were not aware of how the Zoning worked. He continued that it is no longer a Contract Zone as the conditions set out were never completed. Brian states the property meets all the requirements of a PRD or Cluster Development. He goes on that they have had the survey prepared with the proposed lot lines showing single family residences with two (2) bedrooms as they have always been.

Don states that The Chamberlains lost a few opportunities with people who where interested in purchasing the property because it is all one piece. They would like to be able to sell them as individual parcels. The Contract Zone called for two (2) additional buildings, a Community Center and a storage building which were not built by the date set out in the Contract Zone Agreement. These are the items that make the status of the Contract Zone unknown. The Chamberlains are trying to clarify the status with the Town. Don continues that when he spoke to them, he advised them to look at the PRD requirements.

Jim Seymour states that if the Contract Zone is expired, the property reverts back to a Residential zone. He continues that at this time we need to do the following:

1. Find out from legal counsel if the Contract Zone still exists even though it appears on its face that it is expired or if it is in fact deceased.
2. We need to follow the standards of the Planned Residential Development. In reviewing the PRD standards it is noted that three (3) of the existing lots do not meet those standards as they are under the required 50,000 s.f.
3. Another option would be for the property owner to pursue their own Contract Zone Agreement as the property is unique. Alternatively they could look into the possibility of meeting the requirements for a condominium.

Don states they could do the footprints for PRD.

Lynne states that it seems clear that the Contract Zone has expired.

Jim Seymour stated there may be some formal action by the Board of Selectmen to give a Consent Agreement or some other action to make that formal. He continues that it still will not meet all PRD standards.

Bob asks what makes it that it is expired. Jim Seymour explains that the Contract Zone Agreement contained dates showing expiration of time to do things.

Beverly states that there is no other property in the area to look at for comparables. She continues that when they had the potential buyers was when they found out about the expiration. She further states that if they are able to have the eight (8) lots it would not only benefit them, but it would also benefit the Town.

Discussions take place amongst those present as to how Point Sebago can have such small lots and they (Chamberlains) cannot have them larger. It is explained that the size of Point Sebago's lots are set forth in their Contract Zone Agreement.

Jim Seymour states we need to know if they can pick up and renew or amend the Contract Zone to fit their needs.

Jim Macklin asks if they can meet the requirements for a condominium.

The Board looks at pages of the drawings with the proposed lot lines.

Lynne states she thinks the Board needs to get some legal advice first to see where we are. She continues we need to know the status of the property since the Contract Zone expired.

Ted asks if they renew the Contract Zone would they have to build the other two (2) buildings. Jim Seymour explains that they would be able to amend the terms to fit their needs or they could start a new Contract Zone.

Debby Webber asks if they have a Contract Zone could they have the eight (8) residential lots. She is advised that they could as they would write their own terms to fit those lots.

Bob states that he doesn't want to over simplify things, but he feels it would be best to go as a Contract Zone.

Discussions take place among those present regarding the procedures for a Contract Zone and requirement of Town Meeting vote.

Don stated they can go to the Zoning Board of Appeals for a Dimensional Variance.

The Board advises The Chamberlains to retain legal counsel and get an opinion from them regarding the Contract Zone and how they should proceed regarding this property and have the attorney provide the information to them and the Town.

The Board discusses where they want to go on this matter.

John moves to have our attorney provide legal input to clarify status of Contract Zone for this property.

Bob seconds.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Lynne states the next item is a Sketch Plan Review submitted by Tom Bossie and Susan MacDougall regarding relocation of the footpath located on their property at 22 Leander Lane also known as Map 2, Lot 21-3.

Bob states before this matter begins he would like to disclose to the Board that he is a member of KCOA and sits on the Board of Directors. He further states that he cannot comment on behalf of the KCOA. He continues that he feels he is fine with sitting on the Planning Board and can answer some questions; however, he doesn't know how the Planning Board members feel about this. He is happy to recuse himself if that is the Board's wishes.

Jim Seymour states that Bob certainly couldn't vote on this matter, but for an informational meeting it is acceptable for him to remain seated. Lynne agrees. The remaining Board members present concur.

Jim Seymour states he provided the Board with a copy of his 2011 Memo when this issue was last addressed to assist the Board along with the current Memo. The original path cut through the septic location on the lot as the path was not built correctly so it was relocated to keep from the septic area and be more in line with the original plan. He continues that in 2011 there was

much discussion on the part of the KCOA wishing to use golf carts and shared the opinion received by the Board from Mike Morse of DEP at that time.

Tom states they are looking for information with an objective view. He continues that as Jim Seymour stated the path was relocated to accommodate the septic and leach field and we brought it back to the path's original location. We are seeking, on our own behalf, to relocate the path to the other side of our property, which we believe will be better for everyone.

Tom continues by showing the path on the map and explains it. He goes on that the green is the common land which is 13± acres plus the seven (7) lots consist of about 13 acres as well. Tom further shows the Board on the drawing where the docks are located and where they are stored during the winter.

Tom reiterates that they are seeking advice for their own information. He continues that the proposed relocation will give greater back lot access. He states some of the lots are located on the Point Sebago Road and accessing the path on the opposite side of our lot (#3) is not convenient for them.

Further, he states they own a right-of-way with the neighbor with 12-1/2 feet on each side. There is a 300 foot right-of-way with half of that in the Resource Protection Zone and Shoreland Zone. Tom goes on that they plan to relocated it to the other side which would provide Lots 1, 2, 5, 6 & 7 the ability to get to the water more quickly possibly not only on foot and are seeking your advice what is required by us to accomplish this.

Lynne asks Tom if they are looking for motorized access. Tom stated they are not asking for that, it isn't their issue. Lynne asks if that is the ultimate goal. Tom states it probably is.

Jim Macklin asks if the KCOA members are in favor of moving it. Tom states he hasn't spoken with everyone. Jim Macklin asks if the adjacent owner would be in favor of it. Tom states that he would think that Burton would not be in favor of it.

Lynne asks for clarification how the other owners access the lake. Tom shows her on the map.

Bob asks Don if there is any record of that being a paper street at anytime. Don states he doesn't know, but a lot of times culverts are put in for forestry reasons.

Tom again states that relocating it would allow quicker access to the other lot owners.

Jim Seymour stated that because it was on the original plan, it would be an Amendment to an Approved Subdivision and that is why it would require all lot owners to sign off on the relocation as it affects them as well. He continues that there is nothing being changed, it is still for access; it is buyer beware that this restriction is on Lot 3. He reiterates that it requires approval of all lot owners as well as an Amendment to an Approved Subdivision.

Tom states it shows the RP approximately 300' as it is; the new proposal would be approximately 150' or half of what exists. Jim Seymour states that this may also require DEP approval.

Jim Macklin asks why it was on their lot. Tom explains it was originally a partnership and the partners retained the two (2) best lots. He continues they were going to build a storage building and they had a shared driveway; things changed. Tom gives more details regarding the original partnership and how they came to own this lot.

Ted asks how Tom and Susan are protected legally if it's on their property. Tom states they are not if they can use carts, but he is partially protected for the walking path. Jim Seymour states that cart access just cannot happen.

Bob states that the KCOA has liability coverage for the common property.

Ted asks if motorized includes electric. Jim Seymour states that the walking path means human feet. Tom states as they understand it, it is for walking path, wheelchairs and bikes. Jim Seymour reminds everyone that per Mike Morse at DEP there is to be no more than the 6' cleared.

Don states he has been down there with the DEP guys, wetland associated with lake and where they begin to enforce is 250' from the lake; for environmental permitting standpoint, it could be permitted by the Town and DEP. He goes on to explain that existing trails are different that a developer built path.

Bob asks Jim Seymour if he understands correctly that the Planning Board requires all seven (7) owners to approve regardless of what the KCOA By-Laws say. Jim confirms that is correct and explains that it is because it is an Amendment to an Approved Plan.

Jim Seymour explains to Tom that the Board is not saying "yes" or "no" to the proposal; we are just advising what you need to do to have the Board consider it.

Bob states he is unclear on how the Town stands on the ADA issue. Jim Seymour states that ADA does not apply as it is a private subdivision. Don states that because it is a private subdivision it precludes the ADA standards. He continues that there are provisions in the Shoreland Zoning and would need a Zoning Board of Appeals Variance to allow it. Further, he goes on that if there were a maintenance aspect they could use a vehicle without leaving ruts. Don states that motorized vehicles could be used for maintenance.

Bob states that his wife is legally disabled and there is also another owner who has had knee replacement.

Susan states that is why she bought the lot because it was a footpath. Jim Seymour reiterates that it takes all owners to sign off and agree as well as new easements would need to be drafted and recorded.

Ted moves to close the meeting.

John seconds.

Any discussion? No.

All in favor? 5 yes – 0 no – 0 abstain