

TOWN OF RUMNEY
PLANNING BOARD MEETING
MINUTES
December 29, 2020

The December 2020 Planning Board meeting was a Zoom meeting hosted by Tara Bamford.

Meeting was called to order at 7:03 pm

Present: Brad Eaton, Brian Flynn, Armand Girouard, Isaac DeWever, Don Winsor, Sarah Rubury and Judi Hall. Sarah was appointed to sit for David Cook.

Absent: David Cook

Also Present: Tara Bamford, David Saad, Bill and Eleanor Hall, Tony Randall, Cindy and Robin Reed, Karen and Samuel Trajano, Jack McCormack, Joe Carter, Blake and John Allen, Anita Kraemer, Tim and LeeAnn Lewis, Renzo and Janine Mori, David Kraemer, Maureen, Joe and Leo Ebner, Steven Kraemer, Janette and Edward O'Brien, Jayne Abbott, Mark Mucciarone, Anne Murphy, Scott and Susan Bartolomei, Greg Englund, Mike Donahue

1. November minutes were reviewed and approved with a minor spelling correction. Isaac made a motion to approve the minutes as corrected and Armand seconded. The minutes were approved with a roll call vote.

Armand – aye	Judi – aye	Sarah - aye
Don – aye	Isaac - aye	
Brian -aye	Brad – aye	

2. CNHA have again requested that their hearing be postponed. The State has requested an additional 45 days to complete their review. The hearing will be continued until the January 26, 2021 meeting.
3. Subdivision/Lot Line Adjustment TM# 11-02-26&27 Reeds on Will Colburn Road. Tony Randall, Surveyor, presented the application for the Reeds. Tony was asked if this was a subdivision and a boundary line adjustment. Tony argued that it does meet our definition of a boundary line adjustment and is not a subdivision. Brad asked if Tony had looked at the information from Neil McIver about the physical features of the lot and the letter from the selectmen granting a tax abatement. Tony stated he had not looked at it. Tony was then asked about the configuration of the lot. He explained that there is a woods road that comes off of Will Colburn at the north end of the property it provides the best access to the remaining land that would then be part of TM#11-02-27. Reed stated that he had cleared part of that area to give him a place to pile snow and that it gave access to the rest of the lot. He stated he had gotten title to the land after his mother passed away sometime in 2008-2012. Tony stated that both lots would be retained by the Reeds. Brad asked about a merger rather than a lot line adjustment. Reed stated he still wanted to retain two lots. It was agreed that both lots should be non-subdividable. Tony shared a document that showed that both lots met the town's requirements for a lot. It was questioned whether the TM# 11-02-27 lot could be built on. The Feb 28 1977 minutes show that the town had some reservation about where a leach field could

4. be located but did pass the subdivision. In 2003 the town realized that houses were being built illegally on Class VI roads. The Selectmen passed an ordinance regulating building of houses on Class VI roads citing the State's RSAs. Houses built prior to the passing of that ordinance were granted an exception. There was a question about whether lot 11-02-27 was even buildable. Tony argued that if the town allowed the subdivision in 1977 adding extra acreage to it would not change its status. Armand Girouard added that labeling both the plan and deeds with "not subdividable" was in keeping with the letter from the Selectmen granting a tax abatement that stated, "no further subdivision."

Brad asked if abutters had comments. Karen Trajano stated that she had no objections. Brad asked if members felt we had enough information to accept the application. Brian Flynn stated he felt the "no further subdivision" should be on both plan and deed because it might be difficult for anyone to find the letter from the Selectmen. He also noted that this application agreed with our definition of a lot line adjustment. Girouard made a motion to accept the application as presented. Isaac DeWever seconded the motion. Eaton called a roll call vote:

Armand – aye	Judi – aye	Sarah - aye
Don – aye	Isaac - aye	
Brian -aye	Brad – aye	

The motion to accept the application passed.

Brad asked for any further discussion. Girouard restated that the plat and deeds need a note saying that these lots are not subdividable. The Reeds are agreeable. Hall said she would like to see a note stating that Select Board approval was needed to build on lot 11-02-27. Reeds agreed to this. Tony will add notes to the plats. Brad suggested the note about building on a Class VI road should reference the town ordinance. Tony will write up the notes and send them to us prior to finalizing the plats. Hall will send Tony a copy of the town ordinance to be sure that the notes reflect the Board's requirements.

Brad asked whether we could proceed. DeWever said he would make a motion to approve with the caveat that the notes were included on the final plat. Hall said that the plats could not be recorded until the deeds were presented to the Board. Don Winsor seconded the motion.

Armand – aye	Judi – aye	Sarah - aye
Don – aye	Isaac - aye	
Brian -aye	Brad – aye	

The lot line adjustment was accepted with conditions.

Tony will send Judi the verbiage before finalizing the plat and sending it to the lawyer for the deeds.

Condo Subdivision TM# 02-02-01 Fatherland Trust - Jack McCormack representing Joe Carter, Father Land Trust. This is a condominium conversion of a home at Stinson Lake. The property is owned by Fatherland Trust, Joe Carter trustee. The cabin was built in 1926. Over the last four years Joe has applied for and been granted permits and waivers from NH DES to expand the footprint. McCormack stated the property has been two dwelling units for at least four years. The property is not changing physically. Carter plans to create two parcels to gift to his children. Jack gave a definition of what a condominium is and cited the state statute RSA 356-B.

5. He explained the extents of ownership and common area. Jack argued that the law gives Father Land Trust the right to have a condominium. Brad asked about the floorplans and what the rooms are as they are not labeled. Judi said that the septic approval was from June 2016 and was for three bedrooms. Jack said it was not necessary to show us how what the rooms are but that no overbuilding occurred. Judi asked about the "second driveway." McCormack said this wasn't really a driveway but rather a way to load and unload boats. It had been graveled but was not intended to be a separate driveway. Hall asked about the reason Carter is seeking a condominium conversion. McCormack answered that was not relevant but then explained Carter wanted to gift it to his daughters before he died. Hall asked why the property couldn't just be deeded to both as a single property. McCormack said that was not relevant and once divided the owners could sell, rent, or otherwise use their share as they wanted. The Town has no say in this. McCormack insisted that there is no change in use and that two units have existed since 2016. He then suggested we continue this until next month when Mr. Carter and the surveyor could be in attendance to answer questions.

Eaton asked if any abutters had comments. Edward O'Brien questioned the location of the dock. He said the location could lead to contamination of his water as he draws water from the lake near that. McCormack said that the dock is in the same location it has always been and that no change has been made there. O'Brien also questioned location of the second driveway stating that it is less than the ten feet from the boundary line as the Town Driveway Regulations require. Hall said that Stinson Lake Road is a State road and therefore regulated by NH DOT and their rules would apply. O'Brien says that the gravel in the "driveway" is close enough that it is being washed down to his property.

At this point Mr. Carter joined the conversation. He stated that the dock is in the original location but has been recently rebuilt. He has used that dock for his own boats. Jannette O'Brien say "And every time you used that dock it knocked our water out." Carter told O'Brien the property line stops at the water. McCormack stated that this is not the issue before us and we should move on.

Eaton then asked Carter what his lake frontage is. Carter said he though it was about 112'. Eaton said the tax map shows 100' and Carter said the tax map is a good picture but not perfect. Carter then volunteered the number of bedrooms. The units are for his two daughters who are each married and have no children. There are three bedrooms, two over the garage and one on the main level. Eaton asked about the guest cottage. Carter said it was already there and there are no bathrooms in the cottage. Carter went on to explain that the road was just a cart path when the house was built and that he lost acreage when the town made it a 50' road. (It is a state road, not a town road). Carter said he wasn't dividing the property just turning it into a condo. Eaton asked about what Carter had done to change the building. Carter said the previous owner had done some work and all he did was to add a garage. Mrs. O'Brien said Carter has also added a basement to the original cabin. Carter responded that he had to lift the cabin due to rotting foundation and he had permission from DES to do the work he did. Eaton then asked for other comments. Scott Bartolomai pointed out that as he understands it the property is broken up as two parcels or units as it is and there is no reason two people can't exist with it as it is. His second point was that naming it a condominium would go with the land and it could be sold to different people from two different states and would create a hardship from the Lake Friends standpoint. His third point is that by agreeing to this the Board would be setting a precedent on the lake and that any property could do the same thing and do it more egregiously, going higher and/or wider which not benefit the Lake or the Town.

McCormack asked to address this issue. He said the Board cannot judge based on need and yes the property can be sold just as any property can be. In terms of precedent the Condominium Act establishes the law which gives Carter the right to convert this to a condominium. Hall

asked again about why the property can't just be shared. McCormack stated that the property can certainly be sold, and town has no say in that. Disputes between condo owners do arise but he added that in his experience there has never been a dispute between condominium owners that involved the town.

Brian Flynn asked if an abutter had stated that this was already two parcels. McCormack said that although the person had said "two parcels" he probably meant two units which is what it is. Flynn asked if the two units were the guesthouse and the main house. Carter said there are two units in the main building which each have kitchens and a total of three bedrooms. The guest house is separate and does not have a kitchen or bath. Flynn then asked about the number of bedrooms the septic system was approved for. Carter said it was approved for 3 bedrooms. He also added that he installed a well 500' down. Carter said that Ames Associates from Meredith designed the system. Carter then went on to say that his dock was grandfathered, and he could put in another dock if he chose to.

Eaton asked Carter for the documentation from DES. Carter said they are posted on the building and we could look at those. Eaton said that he thought that as the applicant Carter could provide those for the Board.

There was a conversation about the abutter to the north of the property. The name on the plan is wrong, the O'Briens are the abutters. Richard Martin, who is listed as an abutter is Mrs. O'Brien's brother and did not own the property.

Eaton asked us to move on. Maureen Ebner stated her opposition to this application. The original cottage had one room, and this would set a precedent for other properties around the lake. Jane Abbott asked if the tax bill is currently for one piece of property. The answer is yes. She also asked about parking and traffic on what she described as a dangerous curve. Abbott then stated her opposition to this proposal. Tara Bamford asked a question as a member of the public "When was it approved to be two units?" Eaton asked for the total frontage and said our regulations require more frontage than the lot has. Carter stated that he is grandfathered and not subject to the current frontage requirements. Eaton that is true for his lot but not for subdivision. McCormack said these are zoning issues and since Rumney does not have zoning we can't discuss these issues. Eaton said these are subdivision issues to which McCormack again stated these are zoning issues.

Isaac DeWever asked how this would be taxed. McCormack said there would be two tax bills and the total value would go up. Eaton told McCormack that Rumney considers condominium conversion to be a subdivision. McCormack stated that this has been two units for four years, there is no change in use therefore the law says that Carter is entitled to a condo conversion. DeWever asked if that is the case why they were going before the Board. DeWever asked about the second driveway. Carter says it is for storage of trailers only. Carter claims he doesn't need permits because he is grandfathered. McCormack says this doesn't have anything to do with this issue. McCormack stated that the town will assess taxes based on the new designation. Hall stated that the current tax card lists the property as a two-bedroom and 1 ½ bath. McCormack stated he doesn't have answers about why it is listed as such. Mrs. O'Brien then said she has never seen anything parked in the lower "second driveway area" in all the years she has been going to the Lake. She also added that trees had been cut to extend the length of that area. Carter said three trees had been cut because they were rotted.

Eaton asked to move on. The Board needs to look over the application to determine if we have enough information. We would like to have DES information sent to us. Mark Mucciarone asked how the property was being assessed now. Hall said again that it is listed as a two bedroom, 1 ½ bath house. Eaton said the tax card has information that the owner has provided on the town inventory which is mandatory. McCormack said that is not true, you can refuse and pay \$50 which is what people in his town do. But he felt that Mr. Carter had been honest,

and the town was probably at fault for not having its records updated. He said that when he had been in the office and looked at the town records, they showed the cabin prior to renovations. Hall then said that the records are now online, and the current information shows the updated building. McCormack says that Joe did everything he needed to do, and the tax assessment is a red herring. McCormack said that if we want to enforce building issues, we need to have zoning.

Jane Abbott said that the property is beautiful but should not be allowed. Increased usage would cause dangerous situations.

Carter stated that everything he is doing is okay because he is grandfathered. Not everyone can do this, but he can because he is grandfathered.

Eaton asked the board what other information is needed adding that he thought we need DES applications. Don Windsor wanted to see driveway and septic permits. McCormack asked if he should send them to Hall. Sarah would like to have the abutter correctly identified on the map. Hall will send that information to McCormack.

The Board agreed to continue this until next month. The next meeting will be January 26. Hall will send notices out on January 25.

McCormack, Carter and several others left the meeting.

6. Flynn asked about getting information about the number of bedrooms. Sarah Rubury stated that she agreed with McCormack that the plans do not have to have labeled rooms, just square footage. Flynn wants to be sure that the number of bedrooms matches the septic approval. Girouard said the owner did get all of the DES required permits but if this is a change in use would we have to wavier all of these permits for setbacks, well and others. How would we deal with future owners who may increase the number of bedrooms? Eaton said that in the permit no expansion of bedrooms is proposed. Without zoning we have little recourse. If there was concern our option would be to send the Health Officer up to the residence to investigate. Girouard suggested that we have DES tell us if this system is acceptable for a two-unit situation. Girouard thinks we need to do what is right within our regulations, but this would set a dangerous precedent. Eaton asked Hall to have Carter get us information from DES.
7. Planning Board Survey Presentation. Tara suggested that it was late to start her presentation and asked if we could put it off until January 12. This would give members a bit more time to look over the report. Eaton agreed that it makes sense to wait. Bamford will present a power point and discuss the report. At that meeting she will present the draft report and finalize it. Armand suggested we ask the remaining public if they wanted us to proceed or if they had questions. Without the information in front of them it would be hard to comment. The Board needs a chance to look at the report and finalize it so that we can adequately explain it. Once that is done, we can post it on the webpage along with the PowerPoint. Hall had a request for a copy of the report but when she explained that we were just seeing it and would send out the finalized version the person said they understood and would wait.
8. Brad asked for a motion and Brian made the motion that we wait to review the report. The motion was seconded by Don Winsor. All voted in favor of waiting until January 12 to review the report.
9. Armand brought up the issue of our missing member. There is concern about why he is not participating or contacting us. Hall suggested that two members go up and visit him. She has

sent emails to all of his email addresses with delivery receipts requested. The messages appear to be delivered. Cook has posted on Facebook that he is not getting notices, but he is part of the Planning Board group email which he has responded to in the past. Hall has added the Barn Door Hostel email to provide one more way to contact him. Eaton has also emailed Cook and gotten no response. Flynn is from the same town as David Cook and has mutual friends. He offered to go up to speak with Cook. Hall will go up with him. Hopefully, we can find out what the problem is and why he is not coming to meetings.

10. Eaton asked if the meeting could now be adjourned. Don Winsor made a motion to adjourn. Armand Girouard seconded. All voted in favor. The meeting was over at 9:36

Respectfully submitted

Judi Hall