

TOWN OF RUMNEY
PLANNING BOARD MEETING
MINUTES
January 26, 2021

The January 26, 2021 Planning Board meeting was a Zoom meeting hosted by Tara Bamford.

Meeting was called to order at 7:00 pm

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

Also Present: Tara Bamford, Ed and Jan O'Brien, Blake Allen, Michael Donahue, Sue Abott Bartolomei and Scott Bartolomei, and and Janie Morey

1. The minutes of December 29, 2020 and January 12, 2021 were discussed. Isaac DeWever made a motion to accept the minutes. Don Winsor seconded the motion.

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

2. CNHA – The State of NH has requested additional time to finish their review of the application. Isaac DeWever made a motion to continue the public hearing. Armand seconded the motion.

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

3. Donahue/Currier Lot Line Adjustment TM# 11-06-05 and 11-06-06. Jacob Burgess Surveyor. Jacob Burgess presented a preliminary plan for a lot line adjustment between lots 11-06-05 and 11-06-06. He was looking for guidance from the Board about what was required on the plan and if the plan looked like it would be acceptable. Lot 11-06-06 is currently 0.36 acres. The 0.31 acres from lot 11-06-05 will be added so the total would then be 0.67 acres. Board members felt this improved the Currier lot. The Board requested the addition of the locations of the septic systems and the wells. Burgess will try to get the plan updated and submitted for the February meeting.
4. Selectmen's report. Isaac reported that the Selectmen made an offer to the State on the Rest Area. The offer was rejected. However, the Selectmen have put together a warrant article for the town meeting to gauge support of the town and what price the

town would support.

Not much movement on the website right now. Joe Chivell is really busy getting ready for Town Meeting.

Town Meeting is set for Thursday March 9. Jim Buttolph has talked with the Selectmen about how to run the meeting. Jim has been attending meetings for Town Moderators on how to safely hold the Town Meeting. The two options are to hold a virtual meeting or to have an in-person meeting. The recommendation is to have the in-person meeting. Things could change as we get closer to that date.

There is a warrant article on the addition to the Town Hall. A final design has been decided on.

Brad asked how far apart the Town and the State are on the price of the Rest Area. Isaac said the State wants to put it out for private sale. The Town has asked the State to hold off on that until after town meeting. The current asking price is \$159,000. The town has \$65,000 in the Conservation fund for projects like this. That is what the Selectmen offered. The Warrant Article will determine if the Town is willing to come up with a matching amount and if this is a project worth pursuing. DeWever said he thinks would be a positive step for the town.

5. Fatherland Family Trust TM# 02-02-01. Continuation of Public Hearing. Jack McCormack agent. Jack explained that the Memorandum he sent to the Board this morning is a recap of FFT's request for subdivision and summarizes their position. The plan has been relabeled and the surveyor signed off that the units were complete as of September 20, 2020. The second driveway was relabeled on the plan as "boat access." Jack cited the case "Cohen vs. Henniker." The court ruled that this was a paper change only and had no effect on the land despite it being a non-conforming lot. Jack argued that this is an example of a paper change with no effect on the land. Two separate ownerships is really no different than a building with two apartments and should be treated the same. With no zoning ordinance Jack said we have no choice but to grant the conversion.

Brad asked the Board if they felt the application was complete. Armand said he was satisfied that all of the documentation had been submitted and the application is complete. Brian Flynn also agreed. Sarah Rubury also agreed and made a motion to accept the application. Armand seconded the motion. Brad called a roll call vote.

Armand – aye
Brian – aye
Sarah – aye

Brad – aye
Don – aye

Judi – abstain
Isaac – aye

Brad opened the Public Hearing for comments. He asked that questions be kept short and to cover new questions rather than rehash questions and comments from last

month.

Jan O'Brien asked how the second driveway came to be labeled "boat storage". Jack answered that it was relabeled that way on the plan. Joe Carter said it would be used only to load and unload boats. Ed O'Brien asked how it would be changed. Jack said it would not be used as a driveway and was not a concern here.

Brad asked if the "boat storage" area is over the leach field. Judi asked if overflow parking would use this area. Jack said his plan is rather small and hard to read but he believed it was okay. Jack also said the Joe has stated the second driveway is for boat loading and unloading only.

Jack wanted to harken and note that he put forth in his memorandum that this should not be treated differently than a two-unit apartment. He then lectured the Board on zoning and said if we really cared about how land is used in Rumney we would adopt zoning. With no zoning in play there is no issue about it being a small lot.

Sue Abbott Bartolomei is a neighbor. She stated her family has been associated with Rumney and Stinson Lake for several generations. She feels that allowing this subdivision is a dangerous precedent and threatens the beauty of Stinson Lake. Scott Bartolomei stated he disagreed with the applicant citing RSA 356 B5. He feels that this clearly gives the Board the right to regulate this issue. He went on to say the site lacks the required 200' of lake frontage, the well and the septic system are both closer to the lake and to each other than is generally permitted although they are permitted. The lot is much smaller than the required minimum of one acre. This is in all ways a nonconforming lot and should not become a condo.

Jack asked to answer these objections. He said the size of the lot was existing. This has been here since 2016. If we say no to this it is still a two-unit dwelling. Nothing changes. This simply a title issue. Jack then suggested the Board consult Town Council, the State Planning Commission, and the Municipal Association to be schooled in understanding the law and realize that all things we find offensive are totally irrelevant. We need to keep in mind this is not a 100-unit condominium. The Board needs some clarity on this. We are all volunteers and we need help to make the right choice.

Ed O'Brien wants to be assured that the boat access so called will not be used for parking. He has seen cars parked there overnight. Jack said he cannot answer that comment.

Mike Donahue believes that this is a subdivision and does need to be regulated. This would be setting a precedent for all other properties around the lake. He also added that the second driveway is being plowed.

Jack said precedent was set by Cohen vs Henniker and the Town needs to follow precedent not set it.

Mike asked that the Board discuss this with the Town Attorney. Brad responded that we had planned to do that but needed to wait to vote on this as a Board during a meeting.

Jack asked that we have our Counsel reach out to him ahead of time rather than spring something on him at a meeting. Scott Bartolomei asked whether we will share what our Counsel has advised with the public. Tara stated that the Board may elect to do that but is not required to. Scott said he hoped the Board would be willing to share information with town residents and land owners.

Janine Morey lives across the lake and does not want to see this condo. She thanked Scott and Mike for their input.

Brad closed the public hearing and asked if the Board wanted to vote on getting the advice of an attorney. Armand asked to speak. He stated that we compare the current state of the property with our current subdivision regulations. This property does not meet our current regulations therefore it is imperative that we seek Counsel. Brian Flynn said that this is an important decision and we want to get it right. Therefore, it is important that we have a lawyer help us to understand and to get this right.

Brad said we might want to get the opinion of the Conservation Commission. Also, our regulations allow us to have the applicant to pay the legal fees. The estimate we have is for \$1200 – 1500. Don said he believes it is imperative to hire an attorney.

Brian made a motion that we hire an attorney to help us with this. Don seconded the motion. Brad asked for a roll call vote.

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

Armand asked if we should ask whether the applicant was agreeable to paying the legal expenses. Jack argued they were only responsible for an appropriate allocation not the total amount. He would like to talk to Joe Carter about this before agreeing. There was discussion about whether this request for counsel was specific to this case or whether there were more general questions involved.

Judi will write to Christine Fillmore to set up a meeting. We need to have an initial meeting to talk about whether we can have any ground to stand on. Also, to obtain an estimate of the cost involved.

Judi feels that the ADU law makes the issue of when it became two units a moot point. Brad stated that is what Jacks argument is based on. That it is two units and this is only a paper change. Judi thought DES issues may be a better path to follow.

Armand asked if we need to adjust what is in our subdivision regulations. Tara said we adopted verbiage directly from Bernie Waugh our previous Town Attorney. We should ask Christine if she agrees with this and if she comfortable standing behind it.

Armand also asked that now that we know the state of the property if we should be only looking at what it is now, not what it was. Tara said her question is whether the DES permits apply to a duplex when they were granted for a single unit and perhaps this is an avenue to research.

Brian asked about the fee for the attorney. Tara suggested we wait to see if they are willing to pay and ask for money upfront. Judi will contact Christine for an estimate of the cost and if she agrees that we can ask for the entire cost.

6. Judi reported that the survey results have been posted on the website. The amount of the information that is posted is limited by the current website. Armand thanked Judi for the amount of time she spends working on Planning Board issues. Brad asked if Monday is the best day to have PB hours. The Town Hall is open Mondays until 6:00 PM making it the best day for office hours. Judi said she does a fair amount of work at home. The office situation can be quite distracting as it is now but it is important to be available to the public at given hours. If the new addition is approved for the Town Hall the Planning Board will have a separate office at the end of the hall, part of what is now the Police office.
7. Brad thanked the people who showed up for their support. He said this is a perfect situation to show why zoning would benefit the Town of Rumney. The attendees thanked Brad and the Board for listening to them.
8. Armand made a motion to adjourn and Isaac seconded it. All voted in favor. The meeting adjourned at 8:45 PM.