

**APPROVED MINUTES  
NEW CASTLE PLANNING BOARD  
Wednesday, August 26<sup>th</sup>, 2020 – 7:00 p.m. (Recreation Building)**

**Public Hearing for a Design Review for a lot line adjustment for applicants Cynthia and Robert Durkee and Baker Family Trust of 2016, 51A and 51B Laurel Lane, Map 11, Lots 26 and 27.**

**Members Present:** Darcy Horgan, Chair, Lorne Jones, Rich Landry, Kate Murray, Margaret Sofio.

**Members Absent:** Tom Hammer, Bill Stewart.

**Others Present:** Jim Burns; John Chagnon, Ambit Engineering; Robert Durkee; Donna and Paul Urbanek.

Chair Horgan called the meeting to order at 7:00p.m. Noting a quorum, Chair Horgan indicated that the voting members are herself, Mr. Landry, Ms. Murray, Mr. Jones, and Ms. Sofio.

**1. Public Hearing for a Design Review for a lot line adjustment for applicants Cynthia and Robert Durkee and Baker Family Trust of 2016, 51A and 51B Laurel Lane, Map 11, Lots 26 and 27.**

John Chagnon of Ambit Engineering was present with Applicant Robert Durkee, who is proposing to relocate his lot line. Mr. Chagnon explained that the structure at 51A Laurel Lane was renovated by the neighboring Bakers, who subsequently renovated the home on Lot 27 and sold Lot 26 to the Durkees. The lot line adjustment would be an equal distribution of land and would not create issues with lot area, as that will be kept the same. A small triangular parcel of the Durkee lot along the frontage would be transferred to the Baker lot along the shore. An equal sized small triangular portion of the Baker lot would be transferred to the Durkee lot. The Durkees would like to put in a dock, and under New Castle Zoning Ordinance Section 6.3.2.2h Marinas, Docks and Piers, a property is required to have a minimum of 60 feet of tidal shore front in order to accommodate a dock. The lot line adjustment would enlarge the Durkee frontage from 48 feet to 60 feet.

Chair Horgan asked why the Durkees would come before the Planning Board for a design review before going to the ZBA. Mr. Chagnon explained that he wanted feedback from the Planning Board before going to the ZBA. He felt it was important to get the notice out to the public to hopefully address comments before going to the ZBA. Mr. Chagnon noted that the Durkees will need to get one variance from the ZBA for a nonconforming lot that would be more nonconforming in the frontage along the road. The land swap is of equal volume, which limits the number of variances needed. Then, the Durkees will need to come back to the Planning Board for subdivision approval.

Chair Horgan asked about the NHDES rules. Mr. Chagnon explained that there are no shore frontage requirements, but DES rules require that the dock be placed a certain distance from the

property line extended as the property comes to the shore. The Bakers have 268 feet of shore frontage and their lot goes upward. The Bakers have agreed to the Durkees' dock being within 20 feet of the property line extended. There would be eight feet between the dock and the property line extended, which Mr. Chagnon notes is sufficient space for a boat to fit into a slip. The Durkees currently have a dock permit in process with the State. Steve Riker of Ambit Engineering is handling this permit process. The Durkees previously came before the Planning Board for a Conditional Use Permit for their driveway and for stairs to go down to the dock.

Ms. Murray asked if the ZBA denies the requested variance, would this stop the process with the DES. Mr. Chagnon commented that the Durkees applied with the DES over a year ago and only after they submitted the application were they informed by Building Inspector Don Graves that they would need a variance. The abutting Urbaneks have filed an objection to the dock permit with the NH Wetlands Bureau.

Mr. Chagnon demonstrated the mean high water line and how it is sinuous. The shoreline is heading in a direction that adds the 12 feet of shore frontage, which is not a straight line. He clarified that the owners of Lot 26 own to the mean high water mark. Mr. Landry asked why the Bakers would swap land along the frontage. Mr. Chagnon stated that it would allow the Bakers a better shot at driveway access to Laurel Lane. Chair Horgan asked what the benefit of the land swap is to the Bakers. Mr. Chagnon was unsure, and Steve Baker could not attend this Planning Board meeting. He pointed out that the Bakers' lot size would not be diminished.

Chair Horgan opened the public hearing at 7:38p.m. Paul Urbanek and his wife Donna spoke in opposition to the lot line adjustment. They worry about unintended consequences of front yard changes. The frontage is supposed to be 100 feet, and was already allowed to be 82 feet when 51A and B were subdivided. Now the frontage is down to 77 feet, which affects the Urbaneks' ability to park. Mr. Urbanek also pointed out how the front setback is 16 feet from the front of the driveway to Laurel Lane, when it is supposed to be 20 feet. The Urbaneks did not oppose this, but are concerned about the safe navigation of their own cars and firetrucks, which would have to do a three point turn to get to the Urbaneks' house.

Regarding backyard changes, Mr. Urbanek expressed concern over the consequences on their view that would affect the use and enjoyment of their property and privacy. The proposal does not even show the dock that the lot line adjustment would allow, and Mr. Urbanek felt that before asking for a subdivision of a small lot, the Applicant should show the dock design and what effect this might have on the use of other neighbors' properties. Ms. Sofio asked if the DES has maps that show the position of the proposed dock. Mr. Urbanek replied that the DES has a map that shows the previous dock position, but not the newest plan. He also noted that the Durkees' previous CUP approval was for the driveway only and did not include the proposed steps. Ms. Urbanek acknowledged that she and her husband have a dock on their property. She emphasized concerns over their privacy and property rights.

Chair Horgan closed the public meeting at 7:47p.m. and reminded those in attendance that tonight's meeting is solely for a design review for the proposed lot line changes. The plans before the Board do not show a dock, and the Board is looking at a lot line adjustment for two points of land. Ms. Murray stated that from a Planning Board perspective, there is not much to comment on. Chair Horgan noted that when the time comes for a public hearing and vote, any waiver requests

should be put in writing when filing the application. Mr. Jones asked if there would be a public hearing if someone is putting in a dock that is nonconforming. Chair Horgan responded that it is dependent on the land impacts, which would go before the Planning Board for a CUP. She stated that the Planning Board would want to have a public hearing if the Durkees get the approval from the ZBA. Mr. Chagnon added that any dock requires a permit from the DES, who notifies abutters.

Mr. Jones pointed out that under Town Zoning Ordinance Section 6.3.2.1, in reviewing applications for special exceptions, the ZBA shall balance private property interests with public interests in the tidal shore. He noted that this could be a recourse for the ZBA if the proposed dock has a visual impact on the Urbanek property.

## **2. Review and approve minutes to the July 15, 2020 meeting of the Planning Board.**

Ms. Murray made a motion to approve the minutes as amended. Mr. Landry seconded. Motion carried unanimously.

## **3. Update on status of the Building Inspector position.**

Chair Horgan stated that Don Graves has already had his last day as the Town Building Inspector. Iain Moodie has been filling in, but put in his resignation for various reasons, citing the difficulty with living in the same town where he is the Building Inspector. Mr. Moodie has expressed interest in serving on a Town Board. Chair Horgan announced that a new building inspector with experience in other towns has been hired and will start soon. He will be part time and work about 20 hours per week. Ms. Murray asked if the new Building Inspector could come to a Planning Board meeting so the Board can meet him. Chair Horgan confirmed that this could be arranged.

Ms. Murray also asked about consulting with the Rockingham County Commission on bigger projects in town. Chair Horgan replied that Keriann Roman, Town Counsel, has been assisting with coordinating bigger projects.

Jim Burns asked who hired the new Building Inspector. Chair Horgan explained that the Select Board hired him, with Dave McGuckin as the lead person spearheading the hiring process.

## **4. Old Business.**

Town Counsel Keriann Roman emailed Chair Horgan with a request from Stephen Eldred's attorney to revise the Planning Board's Notice of Decision dated July 16, 2020. Mr. Eldred's attorney wanted the Notice of Decision on the Conditional Use Permit to address the additional time factor needed to finalize plans that accommodated the Board's request to move the septic tank back 75 feet. Chair Horgan explained that the 30 day period to file an appeal would be from the date of the Notice of Decision, not from the date the finalized plans are submitted.

Mr. Landry motioned to clarify the Planning Board's Notice of Decision dated July 16, 2020 on the Eldred Conditional Use Permit as follows: inserting the following words at the end of the sentences in #5 and #15 "as such plans may be amended pursuant to condition #2 above" and by

revising the second sentence of the last paragraph of the Notice of Decision to state “This decision shall become final after thirty (30) days have elapsed from the date of the Planning Board’s vote to approve the CUP and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, at which time, this decision notice will be recorded at the Rockingham County Registry of Deeds.” Mr. Jones seconded. Ms. Murray abstained. Motion passed with four votes in favor and one abstention.

**5. New Business.**

None.

**6. Correspondence.**

None.

**7. Adjourn.**

There being no further business, Chair Horgan moved to adjourn the meeting. Ms. Murray seconded. The motion carried, unanimously, and the meeting adjourned at 8:06 p.m.

Respectfully Submitted,

Meghan Rumph  
*Recording Secretary*