

APPROVED MINUTES
Planning Board Meeting - 7:00 PM New Castle Town Hall
Wednesday, January 22, 2020

Public Hearing for a lot line adjustment for applicant Joan J. Brillhart, 1985 Revocable Trust, 6 Steamboat Lane, Map 18, Lot 19 and BT Hernn Realty LLC, 12 Steamboat Lane, Map 18, Lot 25.

Public Hearing for a Conditional Use Permit for applicant Porthaw Trust, 129 Wild Rose Lane, Map 3, Lot 1 for site improvements within the wetland buffer to include an enclosed porch, open porch, deck, stairway, generator, new septic system, stone walkway and footbridge.

Members Present: Chair Darcy Horgan, Kate Murray, Rich Landry, Bill Stewart, Lorne Jones(Alt)

Members Absent: Tom Hammer, Margaret Sofio.

Others Present: Corey Colwell, TF Moran, Caitlin Campbell, John Chagnon, Ambit Engineering, Betty Tamposi, representing BT HERRN Realty LLC.

Chair Darcy Horgan opened the meeting at 7:02 PM, noting a quorum, and indicated the voting members: Darcy Horgan, Kate Murray, Rich Landry, Bill Stewart, and Lorne Jones.

Chair Horgan stated the Board had advertised the following Public Hearing for this evening.

1. Public Hearing for a lot line adjustment for applicant Joan J. Brillhart, 1985 Revocable Trust, 6 Steamboat Lane, Map 18, Lot 19 and BT Hernn Realty LLC, 12 Steamboat Lane, Map 18, Lot 25.

Chair Horgan asked if this was going to be a Public Hearing or a Design Review. John Chagnon responded on behalf of the applicant indicating that when he filed the paperwork he marked the box as a preliminary, and considers tonight's presentation as a preliminary design review. The lot line adjustment will result in a non-conforming lot and will need relief. His intent is to come back before this board for a public hearing after the sought for relief is granted from the ZBA. He has submitted a lot line relocation plan. Abutters were notified for this evening's hearing, and Chair Horgan stated that the Board would be re-advertising the public hearing. If there are abutters present this evening, she will hear from them as part of the design review. Abutters will also be notified of the next public hearing.

Mr. Chagnon began his presentation. He introduced Betty Tamposi, representing BT HERRN Realty LLC, 12 Steamboat Lane. The property to the west is 6 Steamboat Lane, the Brillhart Property. Mr. Chagnon pointed out the location of the current lot lines on the plan, and the proposed location to carve out and create another parking spot for 12 Steamboat Lane. The property is adjacent to and borders the Piscataqua River, pointing out the 100-foot tidal buffer zone. Chair Horgan noted that was not on the submitted plan, but Mr. Chagnon submitted a revised plan to the Board. The creation of the parking lot will

require a Conditional Use Permit (CUP) from the Planning Board, so he plans to come back to the Board.

Bill Stewart asked if the driveway was within the 50-foot buffer. Chagnon replied it was. He went on to describe the parking spots, areas, and the easements which currently exist. He referred to a plan from 1989, showing existing lots affected by easements. It was recorded at the registry but not as a subdivision. He pointed out parking areas 1, 2 and 3. Parking area 3 is appurtenant to 12 Steamboat Lane. Area 2 is appurtenant to 6 Steamboat. Parking area 1 is the Flaus Family Trust property on Piscataqua Street. There was a discussion about pathways shown on the plan. Chair Horgan asked about the walkway to the water. The recorded easements allow all parties(2) including Flaus to walk across 12 Steamboat Lane to the water. Further discussion ensued regarding location and rights of existing easements. After questions posed by Ms. Murray, and not receiving complete answers, it was agreed that further clarification needs to be done in regards to the easements. In further discussion of the easements, Chagnon referred to Note 8 on the plan regarding Lot 25's rights to Easement 2. Chair Horgan strongly reiterated the need for more easement documentation. Rich Landry suggested that the owners work out the details of the easements and do their own due diligence, prior to coming back before the Board.

Chagnon continued with discussion of the proposed lot line relocation. It will be 111 square feet from the Brillhart property to BT HERRN Realty Inc. LLC. This will make the lot more non-conforming. He talked about the construction of the parking space and will be needing a waiver from Subdivision Reg 3.18.

Bill Stewart asked if there was an opportunity to relocate the parking space. Chair Horgan asked about the garden area. Chagnon explained the difficulties associated with any other proposed area. Chair Horgan noted that the Board has to view the area proposed for the lot line relocation as vacant land. If the vacant area involves fill, they would have to come back for a CPU for approval.

Chair Horgan outlined a list of items she would like addressed prior to the next hearing:

- Put the setback lines on the plan.
- When they submit the coverage statistics, please note pervious and non-pervious surface calculations.
- With regard to fill: Are they planning to bring in any? Chagnon noted there would be a grade change, and he agreed with the Chair they would most likely need a CUP.
- Chair Horgan confirmed that they would be going to be ZBA prior to returning to the Planning Board.
- She asked if the bulkhead was going to be impacted, and noted there are two trees in the area which appear to be in bad condition and asked if they were planning on removing them. They should address that when they come back before the Board. She noted they should probably get something in writing about the status of the trees. She stated the Conservation Commission would want detail on this issue.

- She asked they address the frontage for 6 Steamboat Lane. (Map 18 Lot 19). Chagnon replied the frontage is bifurcated by a private right of way. Bill Stewart asked how wide the road/right of way is. Chagnon thought 12 feet, and noted it is Town maintained, not Town owned. Chair Horgan stated they should address frontage issues and may need a variance from the ZBA.

Chair Horgan stated if they put in a totally pervious parking space it wouldn't affect lot coverage. Chagnon said the owner prefers cobblestones, and there is ledge to deal with.

Rich Landry suggested doing an easement as opposed to doing a lot line change. Chagnon replied that it was cleaner to do the lot line change. Lorne Jones asked about excavation.

Chair Horgan asked if anyone in the audience had any questions. Jeff Flause just wants to make sure the easements are clarified and maintained.

Chair Horgan closed the public comment section, and brought it back to the Board at 7:40 PM.

She asked that her list of issues be addressed prior to coming back to the Planning Board.

2. Public Hearing for a Conditional Use Permit for applicant Porthaw Trust, 129 Wild Rose Lane, Map 3, Lot 1 for site improvements within the wetland buffer to include an enclosed porch, open porch, deck, stairway, generator, new septic system, stone walkway and footbridge.

Chair Horgan asked Mr. Corey Colwell TF Moran to begin his presentation. He introduced owner/applicant Caitlin Campbell, and her father. The applicants are proposing some building and site improvements, some of which are included in the 50-foot wetland buffer, requiring a CUP. The drawings submitted show the existing conditions of the site, along with two landscaping plans. Other drawings are a septic system design. He referred to an abbreviated site walk last week (due to weather), so the Board would be familiar with property. He noted there is a drainage ditch which does a pretty good job of getting storm water out. During a storm event, flooding of some of the property occurs, so the applicant wishes to improve this situation. He brought a new plan, which is slightly different from the one he handed out to members during the site walk. The only difference is a minor adjustment to the path. The packet has the correct drawing.

They propose construction of a 270 square foot porch. The proposed enclosed porch is 66 square feet. None of the porch is located within the buffer. The third item is construction of a new pervious pathway from the deck stairs to the waterfront. The fourth change is grading changes to the property. The leach field will be removed, as right now it is trapping storm water. The new leach field will be at grade. The decks, stairs, path and bridge are within the 50-foot buffer. He noted that they have been before the Conservation Commission in October. On November 5, 2019, the Commission approved the request with three conditions:

1. A planting plan showing buffer planting will be submitted to the Commission.

2. A performance bond (the amount to be determined by the Planning Board) will be posted to assure the landscape plan is executed as diagramed in the plans.
3. Commission members be permitted to return two years after the completion of the house to evaluate the landscape plan.

He stated that on December 17, 2019, the ZBA approved a new septic tank, deck, stairs and to allow 13,250 square feet of buffer impact to the grade along with other relief from 9.241.

Bill Stewart asked about the berm. The new 1-foot berm will prevent storm water along the ditch from getting into the yard. It's a safety issue. The 1-foot berm will prevent any additional storm water from going into the wetland. Bill Stewart asked more about the berm. Colwell believes it will be an improvement. It will be made of sod, clay and soil. The purpose is to prevent the storm water from the ditch from getting into the yard. He pointed out on the plans how the berm will contain the water, but not so much that it would create an increase in wetland.

Lorne Jones asked if there were any impediments to animals as a result of these proposed improvements. Mr. Colwell believes it will be of benefit to them. He stated the owner wants "deer-loving" plants. There are no railings on the walkway to pose a barrier for wildlife.

Bill Stewart asked about the impact on the road or the culvert. Mr. Colwell explained how there would be no impact. The generator will be on a pad. Bill asked about calculations for pervious and impervious surfaces, and lot coverage. Mr. Colwell referred him to Note 1 Sheet 2 on the submitted plan. Maximum lot coverage is 20 %.

Post construction, between the home and the wetland will be well vegetated. He explained how the sump pump discharge process will work, and how the berm will wrap around the swale. He referred them to the grading plan for further information.

Mr. Colwell next went through the criteria as described in in Section 9.25 of the ordinance.

With respect to the use provision, the septic system is being removed out of the wetland area. The deck and the path are the only structures which will be within the wetland buffer. He explained the barriers to placing the deck outside of the buffer, including ledge. The plantings will help the yard. Chair Horgan asked about what was under the deck. He replied it would be just ground and stone. He counted the deck as impervious surface. Underneath, the storm water goes through it, so that can be counted as pervious.

He explained why the path is within the buffer. It is the edge between the landscaping and the lawn. He noted he has enhanced the buffer by reducing the lawn and putting in plantings. According to Mr. Colwell, the buffer enhancements make it a better wetland. The buffer post construction will be better than the buffer presently.

In response to Bill Stewart's question, Mr. Colwell stated the wetland is Class B. He also stated there were no significant salt water problems evident as there are a number of

phragmites, which do not like salt water. Bill spoke about the contamination issue (water fowl, etc.) and possible issues the Town may have. The water will take longer to get through the pipe, possibly allowing for more contaminants to get into the water at point of discharge. There was also discussion about effects of a King tide or storm.

Mr. Colwell noted that all necessary permits from DES, wetland and shoreland permits will be in place. There is no requirement for setbacks for freshwater cases. There was brief discussion on the difference between jurisdictional wetland versus surface water.

Maximum lot coverage is 20%. There will be no ground or soil disturbance for the deck. There will be 1100 square feet of groundcover plantings. He noted that no trees would be cut. There will be removal of toxicants. The landscaping plan mitigates any disturbance to the wetland and the Conservation Commission agrees.

Mr. Colwell concluded his presentation.

Lorne Jones asked about the septic. Mr. Colwell said it is gone.

Chair Horgan opened the Public Hearing at 8:44 PM.

The applicant asked about the performance bond process. Bill Stewart said escrow would be done, and Chair Horgan stated she would explain the whole process. Hearing no other comments, Chair Horgan closed the Public Hearing at 8:46 PM.

She went over the conditions established by the Conservation Commission in its Notice of Decision of November 5, 2019. She feels comfortable with the application and stated she has walked the site two times. She then called for a Motion. Prior to the Motion, she and the Board discussed the performance bond process. She would like to come up with a reasonable amount to bond the portion of the landscaping plan that is protecting the wetland. She gave some examples of prior escrows and the consequences of default. The Planning Board needs to have enough money held in escrow to go in and install the plantings if the owner defaults. She does not want the amount to be onerous, but stated it must serve the purpose. The applicant does not have any idea at this time how much it will cost. Discussion ensued on the amount to be set for this application. If they can't come up with a number tonight, the Planning Board could make it a contingency to any approval. Rich Landry pointed out that a Building Permit couldn't be issued until receipt of the escrow amount. This amount hinges on the cost estimate from the landscaping company. Consequently, he suggested postponing naming an escrow amount until that amount is determined. Ms. Murray feels this make sense and is reasonable. Most likely, sometime in the Spring 2020, there will be a determination made. Chair Horgan explained she would contact the owner in several months' time.

Rich Landry made the following Motion:

- *To approve a Conditional Use Permit for applicant Porthaw Trust, 129 Wild Rose Lane, Map 3 Lot 1 as depicted in the plan set by TF Moran, Inc. for site improvements within*

the wetland buffer to include a deck, stairway, generator, stone walkway, footbridge and buffer planting plan. This approval is conditioned on the following:

- *The submittal of a performance bond/escrow that shall be determined by an estimate from the landscape designer and submitted to the town before the issuance of a building permit.*
- *Conservation Commission is allowed to return up to 2 years after the issuance of a building permit to evaluate the installation of the planting plan.*
- *Receipt of all State and Federal permits that may be required.*

Kate Murray seconded the Motion. Motion carried unanimously.

3. Review and Approve minutes to the meeting on December 18, 2019; Review and Approve minutes to the Executive Session on November 20, 2019.

After discussion and edits, Kate Murray made a Motion to Approve the Planning Board minutes of December 18, 2019 as amended. Lorne Jones seconded, and the Motion carried unanimously.

Kate Murray questioned the purpose of the Executive Session meeting minutes. Bill Stewart suggested inserting the name of the Subdivision and the Map and Lot Number. After review and discussion, Bill Stewart made a Motion to Approve the minutes of the November 20, 2019 Executive Session as amended. Rich Landry seconded, and the Motion carried unanimously.

4. Confirm attendance at next month's meeting.

After discussion, it was agreed to hold the next meeting March 4, 2020.

5. 158 Portsmouth Avenue.

To finalize the file, Chair Horgan was advised to write a letter to the Select Board regarding this matter. After discussion, Kate Murray made the following Motion:

To have Darcy Horgan, Chair of the New Castle Planning Board, write a letter to the Select Board indicating the agreement with the proposal as outlined in a memorandum dated December 31, 2019 from NC Town Counsel, Keriann Roman, regarding issuing building permits for a single family residence on Map 15 Lot 9-1 abutting a private way between Map 15 Lot 9 and Lot 8.

Rich Landry seconded and the Motion carried unanimously.

There being no further business to come before the Board, Kate Murray made a Motion to Adjourn, which was seconded by Lorne Jones. Motion carried unanimously.

Meeting adjourned at 9:30 PM.

Respectfully submitted,

BJ Riordan, Recording Secretary