

**APPROVED MINUTES
Planning Board Meeting
7:00 PM New Castle Town Hall
Wednesday, March 4, 2020**

Work Session for a proposed subdivision for the Palmer property, 34 Oliver Street, Map 16, Lot 40, Applicant Amy Gworek to divide one lot into two.

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

Members Absent: Tom Hammer

Others Present: Amy Gworek, Sam Palmer.

Chair Darcy Horgan opened the meeting at 7:00 PM, stating that this is the Board's February Meeting, and the March meeting will be held at the usual time, the fourth Wednesday of the month, March 25 at 7:00 PM. Noting a quorum, she indicated the voting members: Darcy Horgan, Kate Murray, Margaret Sofio, Rich Landry and Bill Stewart.

1. Approve Planning Board Minutes of January 22, 2020.

After review, Lorne Jones made a Motion to Approve the Minutes as amended. Kate Murray seconded, and the Motion carried unanimously.

2. Work Session for a proposed subdivision for the Palmer property, 34 Oliver Street, Map 16, Lot 40, Applicant Amy Gworek to divide one lot into two.

Chair Horgan recognized Ms. Gworek and Mr. Palmer, and stated this was a work session. Consequently, abutters had not been notified. Ms. Gworek stated she wasn't certain as to what a Work Session was, nor what the objective is. Chair Horgan explained the parameters of the informal session, indicating the applicant would have to come back before the Board for a Public Hearing. This evening is designed to familiarize the Board with the scope of the application and the intentions of the applicant and for the Board to give its feedback on the application.

The property is owned by a trust, with the three children of Bert and Agnes Palmer being the beneficiaries. (Amy Gworek, Sam Palmer and John Palmer). Ms. Gworek stated the property is a large parcel, with the current home way in the back, a barn, and a tennis court. She referred to an updated site plan of January 22, 2020 by Ambit Engineering. The original plan is dated August, 2015. A wetlands delineation has been done by Ambit.

Chair Horgan asked about the existing driveway and the applicant confirmed this is where the applicant would create a new road to provide adequate frontage. This would give access to the existing back lot and provide the necessary 100 feet for frontage.

Chair Horgan asked about the tennis court plans. The intention is to erect a new building on that site. Chair Horgan wanted clarification if this is a buildable lot.

Sam Palmer explained the purpose of the subdivision plan is to have Ms. Gworek own Lot 1, he would own Lot 2, and buy out the other brother, John Palmer.

Chair Horgan asked if the Board had any questions or issues. Bill Stewart stated he would like some clarification on the private road/right of way issue, stating the Board had previously dealt with a similar issue fairly recently. He had spoken with the Town Counsel who provided a memo on the subject. Bill felt it would be helpful for the applicant and Ambit Engineering to have this memo in finalizing proposed plans for this subdivision.

According to how Bill reads the plan, he believes the right of way would remain part of Lot 1, and that piece of land is not going to be part of Lot 2. Town Counsel said one option is to make this a traditional subdivision with its own street. The applicant would need to comply with the subdivision section of the Zoning Ordinance and get waivers as deemed necessary. The Planning Board could approve the subdivision right of way as a street under RSA 674:1 and no further BOS action would be required.

Town Counsel advised the Board to ask the applicant if the right of way is going to be a separate parcel. If so, it is substandard and requires a variance, which in her opinion would be difficult to obtain. There is not enough frontage. To remedy this, Counsel suggested the applicant could make the right of way part of Lot 2, and get the needed variances from the ZBA.

Bill Stewart reviewed the document by Town Counsel which stated her opinion and options for the applicant. Chair Horgan promised to forward the document to the applicant.

Chair Horgan stated that the next time the applicant comes before the PB it will be for a Public Hearing. Chair Horgan would like to be provided with a list of any requested waivers the applicant intends to present in advance of the Public Hearing date.

Chair Horgan referred to a proposed memo which she had intended for the applicant to sign. This involves agreement by the applicant to pay for a legal review for a maximum of two hours estimated to cost approximately \$600.00. After discussion, the applicant stated she would prefer to go back to her engineer prior to authorizing legal review costs.

Bill Stewart reiterated the need to review State RSA 674:41 and to be sure and reference that to Mr. Chagnon of Ambit Engineering. There was further discussion about creating proper access to the subdivision as proposed. Bill explained they could also ask for waivers from the subdivision rules. He talked also about lot coverage and pervious/impervious surfaces, and asked that the applicant address these issues with Ambit. The Work Session came to an end.

Bill noted that the subdivision might require a Class 5 road. Discussion continued among the members concerning general subdivision issues and the difference between state statutes and local regulations.

3. Discuss Public Hearing necessity for lot line adjustments. Revise Subdivision section of the Zoning Ordinance?

Chair Horgan stated that as of now, a Public Hearing is not required by our Zoning Ordinances for a lot line adjustment, but we still notify abutters and post the hearing on the agenda. After discussion, the PB members concluded there is no reason to revise our ordinances to require a Public Hearing for a lot line adjustment.

There being no further business to come before the Planning Board, Margaret Sofio made a Motion to Adjourn, which was seconded by Rich Landry. Motion carried.

Meeting Adjourned at 8:05 PM.

Attachments: E-Mails from Town Counsel to Bill Stewart Re. Palmer Subdivision

From: Keriann Roman

Sent: Wednesday, March 4, 2020 1:58 PM

To: 'Bill Stewart' <bill.stewart21@gmail.com>; 'Bill Stewart' <bill.stewart@newcastlenh.org>

Subject: RE: Palmer sub-division - Mar 4, 2020

Bill,

I cannot determine what exactly they are proposing with the Right of Way. So, please ask the applicant to explain if they are proposing that the "Right of Way" is going to be a separate parcel (that is what the Subdivision Plan seems to indicate as presented) or part of Lot 1 or Lot 2. If they are proposing that the ROW is its own separate parcel, it is substandard and would require a variance (which would be nearly impossible to get).

Here are the other options (any of which will require the applicant to fix the subdivision plan to reflect what is proposed):

1. Make the ROW area part of the fee simple ownership of Lot 2

- a. Will need a frontage variance for Lot 2 for 30 feet of frontage where 100 feet is required.
 - b. The ROW would then just be a driveway for Lot 2.
 - c. No further approvals needed for the access/ROW
- 2. Make the ROW area part of Lot 1 with an easement over Lot 1 for access to Lot 2
 - a. This would not comply with RSA 674:41 though and would require the process in RSA 674:41, I(d):
 - i. Identify it as a private road on the subdivision plan
 - ii. PB reviews and provides comments to the BOS about allowing buildings on Lot 2 with this private road as the sole access
 - iii. BOS discusses and votes to allow building on Lot 2 provided the applicant signs and records a Waiver of Liability document
 - b. PB discusses this access issue, then subdivision approval would have to be continued until applicant goes before the BOS to get approval
- 3. Make this a traditional subdivision with its own street and comply with (or get waivers from) all of the Street requirements of the Subdivision Regulations in Section 7.2.1, 7.2.2.
 - a. The PB could then approve this subdivision and ROW as “a street on a subdivision plat approved by the planning board” under RSA 674:41, I(b)(2) and no further BOS approval is required

I am also attaching a memo to use generally going forward.

Keriann Roman

Attorney

Drummond Woodsum

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