

Town of Nelson
Selectmen's Meeting
10:00 AM
&
Joint Meeting with the Planning Board
10:30 AM

September 20, 2022

Executive Board Attending: Brenna Kucinski, Al Guida, Edie Drinkwater, Admin. Assist.

Mike Blaudschun was absent

Others attending: J. Wengler, D. Bower, E. McBrien

Brenna called the September 20, 2022 meeting of the Nelson Select Board to order at 10:00 AM.

● Following a review of the Nelson Subdivision Regulations as well as RSA 356-B:5 of the Condominium Act, and the Nelson Zoning Ordinance, the Board felt there was insufficient evidence that a subdivision is required in the Case of the Cucchi Condominium form of ownership. Because no process has been developed or approved and no guidelines created for such a review, and given the fact that rentals, although also listed in the Subdivision definition, have never been required to apply for a subdivision, Al made a motion to submit a letter of recommendation to the Planning Board detailing the Selectmen's concerns and requesting a waiver of further action by the Planning Board in this matter until they have an understanding of their roll and authority to regulate.

Brenna seconded.

The motion carried 2-0 Letter attached to these minutes.

● At approximately 10:30 AM the Selectmen were joined by members of the Planning Board along with their Clerk. Each member was given a copy of the letter and a copy of RSA 356-B:5.

● Brenna reviewed the Selectmen's concerns over the lack of any related ordinance referencing the requirement of subdivision approval for Condominium style of ownership. She noted that although the general definition of "Subdivision" includes condominium conveyance it also includes rental and lease and none of these have been further developed into detailed ordinances clearly indicating the need to apply for a subdivision or if applied for what authority to regulate. In this case, there is no subdivision of the land, the buildings have existed since the 1940s as rental units and that is not changing.

● E. McBrien noted that at a previous meeting of the Planning Board, with the Cucchis, that G. Peery made it clear that there were no zoning ordinances but wanted legal counsel to be sure it was alright to sign a letter indicating the Cucchis needed no approval.

● D. Bower didn't necessarily have a problem with the subdivision but wanted some control or requirement to file a plat and any condo documents. He was nervous that signing a broad letter was too permissive.

● J. Wengler felt that if the State definition was used in the regulations, approved by the Town, and clearly includes the words condominium conveyance then it stands to reason that a subdivision is required but how to handle it is unclear.

● It was further queried, if it was not required why did the buyer's attorney request written confirmation from the Planning Board.

- Edie suggested that the buyer's attorney is exercising due diligence on behalf of his client. On a purchase over one million this kind of request is reasonable.
- Karen read aloud the letter submitted to the Planning Board for signing.
- Al reminded, all rules that apply to any resident will still apply and any request for changes would require a permit and the letter gives no such permissions.
- As discussion continued, the challenge pitted words stated in the definition against the clear lack of relative ordinances or detailed methods and guidelines for evaluation of such an approval.
- Although there is no application before the Planning Board at this time, questions arose regarding septic, configuration of units, building permits etc. although any permitting for those would come from either the State or the Selectmen and not involve the Planning Board.
- Still feeling uncertain, J. Wengler suggested that further legal consultation would be advisable.
- All agreed that there were no ordinances or details in the regulations for this type of subdivision and questioned if an application did come in how would it be fairly addressed. Karen reminded the Planning Board members that G. Peery, Planning Board Chair also stressed this point at their last meeting.
- Brenna expressed the urgency to clear this matter now and then address the details necessary to develop clearer ordinances and regulations for evaluating future applications of this nature.
- E. McBrien stated he was clear in his understanding of the issues and would sign a letter that waives the need for further approvals from the Planning Board.
- E. McBrien made a motion to sign the letter indicating no further approvals were needed from the Planning Board.
D. Bower seconded.
The motion was approved by the Planning Board 2-1.
- With nothing further, Al made a motion to adjourn.
Brenna seconded.
The motion carried 2-0.

Meeting Adjourned 11:14 AM

Next meeting: Sept. 21, 2022 at 3:00 PM

Minutes for September 20, 2022

Brenna Kucinski, Chair

Alexander Guida, Selectman

Absent

Michael Blaudschun, Selectman