

PLANNING BOARD MINUTES

9/8/2022

PB members present; Dave Bower, Gordon Peery, John Wengler and Ethan McBrien
Also present; John and Anne Cucchi

Meeting called to order at 7:03 PM

Anne stated the reason they came before the board was for them to sign a letter drawn up by Attorney Bentley confirming Anne and John Cucchi had come before the Planning Board and there were no applications or approvals needed for their condominium project. Anne went on to say there is nothing in the Zoning Ordinances referencing condominiums and they came before the previous board a few times last year as a courtesy to explain their project and make sure there was nothing they needed to do. Mary Cornog, chair at the time, consulted with the town attorney. He spoke to the question in non-specific terms and gave the advice that the board address a checklist for condos in the near future. Gordon and John asked about the buildings on the property and if there was enough land and Anne said their house has been there since the 1700's and the cottages were constructed in the 1940's long before the Zoning Ordinances were established.

Ethan questioned the building permit for the ranch that had been demolished. John said he had DES approval and a building permit that expires next year and it is to be rebuilt before then. Gordon asked if the building permit was in his name or the condominium associations. John said he believed it was in his name. Gordon thought it may be possible for the selectboard to simply transfer.

David asked if John had a certified plat. He brought a draft as a courtesy as the certified plat and by-laws had been filed at the registry of deeds. David asked if the draft was close to the certified plan and Anne said for the most part but there have been a few changes. David looked at the draft and said it looked like the stone wall and septic were in the town's right of way. David said there have been issues where people have installed septic that were not according to the plans. John said he went to the DOT and got permission for the location of the stone wall as there was already a telephone pole in the same line. Anne pointed out that the right of way goes further out than David was pointing to and David said so that means your stockade fence is in the right of way. David said there are issues here and wanted to see a stamped plat. Gordon said we are not being asked to approve anything here so we don't need to see a stamped plan. Anne added the project has left the station and they came to the PB already last year and were told nothing was needed. David kept referring to the draft plan and the septic looking like it was not in the right place. David said they are trying to fix these kinds of problems. John Cucchi said the septic has DES approval and has always been in the same place. He added he is adding a separate septic that has approvals for the one big house only so it will be better for the lake. John C stated we are not here for any approvals, we already have the approvals we need.

John W wants to know why the lawyer is asking the PB to say something if it absolutely has not authority. John W also questioned grandfathering on the lot line infringements. John W wonders if the State cares about lot lines like the town does. Anne states the septic was there in place when they bought the place in 1999. Gordon states again none of this is our issue, is anything it's a selectboard

issue. Karen added they came last year with their plans and were told after Mary Cornog consulted with the attorney that nothing was needed because the town had no ordinances on condos. John Cucchi was told by Mary that she talked with the town attorney and he didn't want to talk specifics so he just advised the board to make a checklist as there were no ordinances. John Cucchi – this is already a done deal, you can't make new rules now that we have a buyer and think we can wait until after a vote at town meeting next March. John W asked if the units were all winterized and Anne replied they are and have been rentals for the last 20 something years. John W remembers hearing something about grandfathered being able to remain unless plans for the lot change. Gordon said no plans here which make it less compliant. Dave asked if the neighbors had been notified. Gordon says again we are talking about things that maybe interesting but is no concern of the planning board. John C explained that Edie had mentioned in town there being some instances of houses built on the land of another which is basically the same thing as a condo. Gordon says condos will become relevant in the future but for now we need to deal with what was presented to us. John W mentioned the meeting last week with the selectboard and how the PB was told they are responsible for things that are happening and they want us to do things correctly. John asks if we don't have authority in any of this shouldn't the letter be signed by the selectboard. Gordon replied that the PB is autonomous entity and what the attorney is asking for is the PB to say they have no authority over condominiums. If the town attorney says this letter is okay to sign then that should satisfy the selectboard. John Cucchi said the minutes requested were insufficient and they wanted to see an application of which there is none so we couldn't produce one. Gordon says he will email the attorney in the morning and try to get an answer asap. At that point John and Anne leave.

Gordon said he is sure that in the future they will be having discussions on condominiums but for now does any board member see any reason not to sending this to the attorney. DB thinks they need to review with the selectboard. Gordon insists we are not approving anything or making any decisions but he would be glad to run it by the selectboard even though John and Anne went before the board with all of this last year. Dave B says he pointed out things he has questions about in this meeting like the stone wall and the septic looking like they are in the right of way. David thinks the Cucchis will come back in a few years saying their property goes to the stone wall. Gordon again says this has nothing to do with what is being presented. David thinks as town officials when people bring a draft drawing and the board sees issues then shouldn't we be concerned. David says isn't it our responsibility to bring it to the next level and asks if anyone else is concerned. Gordon says no. John says yes but am I concerned to the point of doing something, I don't know. John says it's my first time on this board and it seemed like there was a lot of jumping around in the things that John Cucchi were saying but it could be explained as personal style or nervousness. John W says everything David is concerned about he is also concerned about. John W asked Ethan if he was concerned and Ethan said he has similar feelings to Dave and John but to Gordons point that while there maybe these inconsistencies we have to know the right forum to deal with them. Ethan added the fact of the matter is we don't have regulations for condos. Can we just say now that we have no condo regulations but we do have other concerns? Probably not. David B said knowing the individuals and the way they operate, just trying to ram things through because there are no regulations feels like Lehi Lane part 2. Dave said when they put a plan down and we see inconsistencies are we just supposed to look the other way? John and Dave asked if they can add to the letter that they are not approving lot inconsistencies? Ethan says maybe if we can dial in our concerns. Gordon rereads the lawyer letter of request and says it is so simple saying no permits or applications are required but building permits may be. Gordon says he will also send to Edie for red flags. Dave asks if we can just ass in regard to condominiums? As it just feels too wide open. Dave B should we put in lot number to define better and Gordon says the address of the property is on the letter. Ethan asks Gordon why does he think they came here today? Gordon said they are selling and they buyers asked

for this. Gordon purposes we have the attorney and Edie look it over and if no concerns we have done our due diligence. Dave again asks if we can put stipulations on it and Gordon says no we can't because we are not making a decision. John asks if we can say we are not approving the plat. Gordon says they are not asking for plat approval, they didn't have to bring it. Dave says he is ok to go ahead with what Gordon wants. Ethan says we don't have regulations so we can't let what might happen cloud our thoughts right now. Ethan asks what happens if we don't sign it does the sale not go through? How binding is this letter?

John finds something on page 4 of the subdivision regulations. It is under definitions and reads- 1. The division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. **Gordon says that is not regulation specific to condos, its just referring to that as a form of ownership.** John said isn't the lot effectively being subdivided? Gordon says if we had condo regulations maybe but we don't so no subdivision is taking place. Gordon said if it were a new project it would require permitting accordingly- this is an existing situation of buildings that have been there for years and rented out and the only thing changing is ownership. Again, we are not approving anything and there's nothing to approve because nothing is changing. John W says John Cucchi said the neighbors haven't been notified so maybe we are on the hook to do something because this is a condo conveyance. Gordon asks how the sentence starts? John says the division of the lot. Gordon says that's already occurred. John asks if you can have a condo association where the lots are divided into individual lots owned by condo owners. Karen says that's not the way condos work. The land is always owned only by the association. John says condo conveyance should be cut. Gordon says maybe it should and we can discuss when we review the subdivision regulations. John says he's having a hard time wrapping his head around this. He thinks the neighbors may feel differently if they know it was becoming condos instead of rentals. Karen said it's not a requirement to notice. John says if in fact this article does apply then we do and if it doesn't then we don't. Karen explained condo common areas as she has lived in a condo. There was then a discussion on grandfathered and Gordon explained it may not be a legal work but the concept is. If something is there before regulations are put in place it makes them exempt. John then pointed out III of the subdivision definitions, the division of a parcel of land held in common and subsequently divided into parts among several owners. John thinks we need a subdivision and would like a lawyer to say I and III don't apply. Ethan says we are confused if this is something we have to approve. He says we have to approve a subdivision right? Yes. Dave B says a subdivision applies to multiple owners. John says someone in 2005 included these works for a reason and as long as a lawyer says this doesn't apply then we're good John says the buyer's lawyer may have read this and got nervous. **Gordon says it would be tricky if they do need a subdivision because we don't have regulations regarding condo ownership. Dave says at least they would have to notify the neighbors. Gordon says if current subdivision regulations do not provide for a condo form of ownership then what they present would not be viable in the legal sense. John W says if the attorney says we do need a subdivision, then they would have to submit a plat. Dave B says and then I could bring up the stone wall.** Ethan says they are selling as condos because they can't divide into smaller lots to sell. All agreed. John says if they have figures put a way around subdividing is a condo it's Lehi Lane all over again. If they apply for a subdivision then we would deal with it on its own merits. Dave says in the future it would be good to require people to come with accurate plans and we can make sure things like aren't too close to the road. Ethan says he is coming to the realization people are figuring out a way to sell when they don't have enough land to subdivide. This is the kind of thing the community is going to want to consider. John W says if it needs a subdivision, we could look at it as an alternative development and it doesn't mean the deal is dead.

Gordon wanted to move onto the Planning Board Policy Book and Johns Looking into funding to help with updating the Master Plan and Zoning Ordinances. Gordon said the PBPB is fully revised and wanted everyone to check it over and have a public hearing next month. Gordon later emailed that a hearing was not necessary, only a vote of the board to adopt it.

John gave his report on funding. He said is was based on increased housing through regulatory change. He stated there are 3 phases of the Housing Opportunity Program referred to as HOP. The first is a needs analysis with a max of \$25,000- the second is a regulatory audit with a max of \$50.00 and the third is regulatory change with a max of \$100,000. There was a discussion on Nelson residents wanting more housing or not. What would the community engagement look like. The grants require a lot of time and effort and would they be worth it. John says affordable or work force housing weren't mentioned. It was discussed if taking a section of town and making different zoning rules for that area were a possibility. Gordon said in the 80's people in town feared more housing. Gordon thinks it maybe a good opportunity to see how people feel now. Ethan said- what kind of town does Nelson want to be and we shouldn't prioritize the PB needs for the money. John thinks we need to share with the community but need to start drafting the application asap. Gordon said he wouldn't mind looking at more affordable housing and Karen mentioned detached ADU's which the selectboard is in favor of. Gordon asked John to take the bull by the horns on this as he will be away until the middle of October.

The meeting was adjourned at 9:00 PM. Respectfully submitted.

Karen Castelli, Planning Board Clerk

Gordon Peery _____ Dave Bower _____

Ethan McBrien _____ John Wengler _____

Mike Blaudschun _____