

## TOWN OF CENTER HARBOR

### PLANNING BOARD

Tuesday, April 18, 2023

Meeting @ 6 p.m.

Chair Charles Hanson called the meeting to order at 6:00 p.m. Present were: Selectmen's Rep. Bill Ricciardi, Members: Mark Hildebrand, Rachel Xavier, Kelli Kemery. Alternate Member: Alan Rilla, and Clerk Linda D'Auria. Absent: David Nelson, Peter Loudon and Steven Brown.

**Voting Members:** Charles Hanson, Bill Ricciardi, Rachel Xavier, Mark Hildebrand, Alan Rilla and Kelli Kemery

**Public Attendance:** Brandon Mitchell, Steven Mitchell, Edwin Kline, Derek Kline, Carl Johnson (Surveyor), Philip Turner, Helen Heiner, David Patz, Susan and Lauria Patz, Bill Doucette, (Code Enforcement Officer), Kristine Arcant, Gracie Running Fisher, Sheila Mohan and Kirk Maloney.

**MINUTES:** Alan Rilla made a motion to accept the April 4, 2023 meeting minutes to be accepted as read. Bill Ricciardi seconded the motion. All were in favor.

#### **HEARINGS :**

- **CASE - 2023-0316.A / 23 DANIEL WEBSTER HIGHWAY / Non-Residential Site Plan Review / BKM REALTY HOLDINGS, LLC / Map 227 Lot 017**

Chair directs the meeting to Steven Mitchell regarding the Non -Residential Site Plan Review.

Mr. Mitchell stated he wanted to change original site plan for the outdoor display area, delete it and use it for equipment sales.

Chair: asks board if there are any questions or comments on this request. There was some discussion on location and parking.

Mr. Mitchell stated it would be located along the front of the property along on the road. He was told he needed to apply for the change of use of the original plan and that is why they are here.

Chair thanks him for doing this and asks if anyone has any questions or comments on this case. He directed questions to the board. Room for parking was addressed.

Brandon Mitchell stated there was plenty of parking as it is for large equipment and won't have a large volume of traffic.

Chair asks if anyone in public have any questions or comments? No one replied.

Chair: We need a motion to accept the application as complete. Bill Ricciardi made the motion to accept as complete. Kelli Kemery Seconded the motion. All were in favor.

Chair: is there anyone who wants to approve the Site Plan Amendment?  
Bill Ricciardi made the motion to accept the Site plan Amendment. Mark Hildebrand seconded the motion. All were in favor.

Chair informs the Mitchells to please note that any party to the action or any person directly affected has a right to appeal this decision within 30 days.

- **CASE - 2023-0316.B / KLINE RD (PVT) / BOUNDARY LINE ADJUSTMENT**  
MAP 212 LOT 031 & 032

Chair next directs the meeting to Derek Kline regarding the Boundary Line Adjustment.

Mr. Kline asks to have Carl Johnson (Land Surveyor) present the case.

Mr. Johnson: after surveying the two lots at the end of the road, the smaller lot needed a portion of the larger lot in order to have room to build a home and a 4-bedroom septic system, due to the new wetlands criteria and because of the new wetlands rules, in order to put in a septic system on the small lot, a small portion of the larger lot needed to be moved in order to make the lot have sufficient space for a house and a septic system.

Chair, it takes it to the wall...

Mr. Johnson: it's not uncommon to use rock walls when that are there to use them as an identifiable feature. From an environmental stand point it's much better if you have a lot that's a little bigger to build on and from an environmental standpoint it's not taking enough away that it will not matter from the larger lot.

Chair: asks the board, is there anyone who wants to approve the Boundary Line Adjustment as presented? Mark Hildebrand made the motion to accept as complete. Rachel Xavier seconded the motion.

Chair: there is only one thing, there is another Boundary Line Adjustment that has not been done yet, and this may be an opportunity to combine them and get them done at the same time. The one that s on the Storms house right now.

Mr. Kline: We'd like to keep those two separate, it was contingent on the road construction.

Chair: we appreciate this, we have discussed with our attorney and correct me if I'm wrong, we can request they be done at the same time. We would just like to see this done.

Bill Ricciardi: to clarify it's been approved but it hasn't been registered yet.

Mr. Kline: It hasn't been registered because it's a land for road settlement agreement.

Bill Ricciardi mentioned there was another Boundary Line Adjustment we previously approved and that hasn't been registered yet

Mr. Kline: Its being held up because we can't build the road. Because you guys (the town) are holding up the building of the road.

Bill Ricciardi: But you can't build the road until the boundary line adjustment has been registered.

Chair intervenes, let's go back to the motion to accept the boundary line adjustment as presented. Mark Hildebrand motioned to accept. Rachel Xavier seconded. All were in favor.

Chair recognized Derek Kline regarding the next order of business, the Waiver of the Bond request.

Mr. Kline: Explained he is still unable to obtain a bond and wants to work with the town and settling this matter, he asked if Carl Johnson could explain it to the Planning Board.

Carl Johnson: the length of that roadway is too long and would be too expensive for anybody to build a road of that length to access two lots. Essentially, it's a common driveway servicing two lots.

Bill Ricciardi: Are you suggesting that it doesn't become a road, it becomes a driveway?

Carl Johnson: it is more like a common driveway than a road, because of the wetlands issues we are trying to minimize the wetlands impact. Essentially in my mind it just serves two residential home lots.

Bill Ricciardi: again, I was under the impression that the larger lot was to be further developed, which is why we needed a road which is why we have a plan for a road.

Mr. Johnson: Any further development of this property will be subject to Planning Board review. And if at that time the board feels the road is not of sufficient width. What I believe what we want right now is to resolve the issue.

Bill Ricciardi: again, I'm not really trying to be difficult if we are struggling to build even this part of it, in the future, in effect if we can't build it once, how are we going to build it twice. I want you to get there, I just don't understand some of the methodology.

Carl Johnson: the only thing I can add to that was It wasn't easy to get wetlands approval for this roadway, they have certain standards, we are right at the limit of their minimum standards.

Chair opened up the meeting to questions or comments to the public.

Mr. Maloney – spoke up in the Kline's defense that it was time to find some compromise with this applicant. It felt it was time to move forward with this idea and the irrevocable letter and

mentioned that he has known the Kline's most of his life in Center Harbor (since the 70's) and feels the Kline's are very trusting.

Sheila Mohan – Asked the size of the large lot and wanted to know how many lots could be divided out there. If you waive the bond, we need to plan for the future. Why doesn't the town take a deed on the big lot. The Kline's have given a deed previously.

Chair asks if there are any other comments. No one came forward.

Chair stopped public input and went back to the board.

Chair: Bill and I both discussed this request with our attorney in an effort to try to move things along...this could be a reasonable proposal to have an Irrevocable-Letter of credit, it would be contingent on attorney review, because the devils are in the details in this type of instrument.

Chair Hanson makes a motion to grant a waiver to the bond and in lieu of that, accept a fifty-thousand-dollar Irrevocable-Letter of credit pending the town attorney review and it would have to be acceptable to the planning board and the town attorney. And if we approve such a thing to get those mylars signed both the Boundary Line Adjustments need to be done. And we need to have the letter of credit in place.

Bill Ricciardi seconded. Do we want to discuss any further? All were in favor. No one was opposed. "We will wait for your letter of credit."

**PERMITS:** There were no questions or comments on the permits received this month.

**Other Business: None**

**Adjournment:**

- Chair adjourns the meeting at 6:32 p.m.
- Next meeting scheduled for **May 2, 2023** at 6:00 p.m.

*Respectfully submitted:*

*Linda D'Auria, Clerk*