

## Minutes

### Planning Board Meeting

October 3, 2019

Members of the Planning Board in attendance were Charles Moreno, Chairman, Phil Auger, Terry Hyland, Scott Young, ex-officio member, and Donald Coker Alternate member. The Chairman called the meeting to order at 7:35 PM and announced the members present. The Chairman noted that Steve Leighton is absent this evening, and he designated Donald Coker as a voting member for this meeting. The closing date for applications to appear on the agenda for the November 2019 regular meeting will be 5 P.M. Tuesday, October 15, 2019; revised materials for continuing applications must be submitted by Tuesday, October 29th. The Chairman advised that the Board has a policy setting time limits for meetings and that the Board will not consider any new business after 10:30 PM and that the meeting will adjourn by 11:00 PM. Board members agreed to save review of the minutes until later.

The first item of new business was the application of O'BRIEN REALTY TRUST, John H. & Sandra S. O'Brien Trustees, 168 Caswell Road (Tax Map 6, Lot 2), J. COREY & DAHRIZ COLWELL, 1010 Province Road (Tax Map 6, Lot 2A-1), STEPHEN HODGES, 972 Province Road (Tax Map 6, Lot 2A), and DONALD I. STOWELL Jr., 960 Province Road (Tax Map 6, Lot 2) for boundary adjustment between their four contiguous properties located on Province Road and Caswell Road. The main objective is to add 10 acres from Lot 2 to 2A-1; it is proposed that the land will be subject to the same conservation restrictions as found in the conservation easement on the majority of the O'Brien property. In addition, 15 feet along the boundary between Lot 2A and Lot 2A-1 will be transferred to Lot 2A-1 per the purchase and sales agreement, and an even swap of 7,470 sq. ft. between Lot 2A-1 and 2A-2 is proposed to square up Lot 2A-1 and to insure that the well radius for Lot 2A-1 is located totally on the lot. Corey Colwell presented the plans; Steve Hodges was also present Sharon St. Onge, an abutter, was also present. Mr. Colwell advised that the proposal will not create additional building area due to the conservation restrictions, nor will the project create a new building lot. All four lots currently are developed with one single-family home. Lot 2 and Lot 2A meet zoning requirements, Lot 2A-1 is non-conforming, but will be gaining area, and Lot 2A-2, which is also non-conforming, will have the same area after adjustment. Therefore no exceptions would be needed to complete the adjustments. Mr. Colwell explained that when he sold Lot 2, he had reserved the right to regain 10 acres of the parcel if he purchased adjacent property. He is now exercising that clause in the sales deed to the O'Briens. Mr. Colwell has agreed that the 10 acres will be put into conservation with the same stipulations as the easement on Lot 2. As regards the proposed adjustment along the Lot 2A boundary, Mr. Colwell noted that his Lot 2A-1 is narrow, and the sliver of Lot 2A to be conveyed will allow him to remain in zoning compliance for setbacks with his generator and propane tank. This part of the proposed boundary adjustment was included in the purchase and sales agreement between the owner of Lot 2A and the Colwells when they purchased Lot 2A-1. As regards the swap between Lot 2A-1 and 2A-2, Mr. Colwell said that he is using part of the existing Lot 2A-2, and that Mr. Stowell is using part of his Lot 2A-1. The purpose is to put the entire well radius for the home on Lot 2A-1 on the lot. In summary, no new lots are proposed, and the 10 acres will be subject to conservation restrictions that do not allow homes, swimming pools, etc. The purpose of the entire plan is to satisfy the provisions of the original conveyances and to clean up setbacks so that zoning requirements have been met. Donald Coker asked for a clarification on the plans; the details on Sheet 2 were noted. Mr. Colwell advised that he has a release agreement with the O'Briens, and said that he would give the Board a copy of the agreement, which references the terms and conditions of the conservation easement on the O'Brien land (Book 2067, Page 2 SCRD). The proposed deed restriction on the 10 acres has no other named party, and the question of enforcement was noted. Mr. Colwell then noted that he has submitted a request for waivers to a number of items typically required on the plans because the land in the boundary adjustment can never be used for building.

Board members then reviewed the plans with the checklist. The following items were noted: the intent is to record both sheets of the plan set, monuments are to be set along with blazing of lines, and although the plan is dated back to 2017, the revision block is dated August 2019. The following items are missing and/or need clarifications: update the corner markers after approval to avoid confusion—add "IR to be set" on Sheet C-2 and "IR to be removed" on old markers. Add the existing well and radius, and indicate the septic system location on Lot 2A-1. Board members agreed that all four lots are already developed, so adding setback lines would make the plans too detailed to read. The Chairman suggested that he would entertain a motion to accept the plans as complete for consideration. Phil Auger so moved, and both Scott Young and Donald Coker seconded the motion. There was no further discussion and the vote was unanimous in the affirmative. The Chairman explained the process to the audience, noting that the Board would address the waiver request first and then open a public hearing.

Corey Colwell explained the waiver request. He is requesting a waiver to Paragraphs 2.7.1E, F, and M. Paragraph E requires the plans to show watercourses, topography, soils, test pits, perc tests, and septic setback lines. He noted that all four lots are already developed, with septic disposal systems in place. There will be no new buildable area as most of the land will be subject to the conservation restriction. He noted that these items are most important for subdivision plans, when it is important to show the buildability of the land. Paragraph F requires the plans to show water lines, culverts, etc. Again, he noted that the dwellings are existing and no new services are proposed. Paragraph M requires that the plans show wetlands delineations. As above, Mr. Colwell suggested that this item is typically important for undeveloped land, in order to determine buildability and setbacks. These lots are already developed. Donald Coker addressed Mr. Colwell, noting that it is Mr. Colwell's representation that the 10 acres will never be developed or subdivided. There followed a discussion of the protections proposed, and the difference between a conservation easement and a deed restriction. It was agreed that language is needed tying the conservation restriction to the Planning Board action. Mr. Moreno suggested notes on the plan saying no further subdivision of Lot 2A-1. Donald Coker agreed that a note on the plan would be helpful. Board members then returned to the waiver requests. Donald Coker said that if the land is to be conserved and there is no further subdivision, the waivers make sense. Charles Moreno agreed. Donald Coker then made a motion to grant the waivers as requested. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative.

The Chairman then opened the public hearing. Steve Hodges agreed that the 15 foot lot line adjustment between his Lot 2A and Lot 2A-1 was in the purchase and sale agreement, but noted that he had thought the intent was to come up with an even trade. It was noted that Lot 2A is large enough that Mr. Hodges could subdivide a lot off the rear of his land using frontage on Caswell Road, if Caswell Road ever became a town road. All agreed that upgrading Caswell Road would be expensive. Mr. Colwell advised Mr. Hodges that he has done the calculations, and Mr. Hodges would retain 4.94 acres after adjustment, so losing the 15 foot strip should not impact the developability of his lot. Mr. Moreno noted that he is concerned that Lot 2A-2 is being made more non-conforming because the area being added to the lot is narrow. However, it was noted that the front area of Lot 2A-2 is even narrower, and that the adjustment makes sense because of the well radius and because the rear area is contiguous with other land of Mr. Stowell. Terry Hyland noted that the 75 foot rule is most important for new subdivisions to prevent contrived lots. Donald Coker and Phil Auger agreed. In order to clarify the situation, Phil Auger then made a motion to waive the 75 foot requirement under Paragraph 2.6.2. Donald Coker noted that the concern is addendums to waiver requests, and he noted that the plan-link conversations indicated that across the state, it was agreed that as long as any amendments to the waiver were in the record, an amendment to the waiver request is fine. Charles Moreno said that he wants it in the record why a waiver would be acceptable here: 1) this is not a subdivision plan, it is a boundary adjustment of an already non-conforming lot by width, area and frontage, 2) they are not increasing the non-conformity as the lot is narrower in front, 3) the house and well on Lot 2A-1 exist and the adjustment will make it better regarding the utilities, 4) the proposal is for an even exchange of land between Lot 2A-1 and Lot 2A-2, and 5) this keeps the Lot 2A-2 lot line straight rather than contrived. Corey Colwell then asked the Board to amend his waiver request letter of August 11, 2019 to include a request for a waiver to Paragraph 2.6.2 to allow Lot 2A-2 to have a portion of the rear width less than 75 feet post lot-line relocation. Donald Coker made a motion to accept the addendum. Scott Young seconded the motion, there was no further discussion and the vote was unanimous in the affirmative. Steve Hodges asked for boundary markers along the new boundary, and Mr Colwell indicated where the new markers will be located. The Chairman then closed the public hearing. The Chairman then asked for a motion. Phil Auger made a motion to accept and approve the plans for boundary adjustment between the four properties with the changes as requested by the Board regarding the IP corner markers and including the note regarding no further subdivision and referencing the Planning Board action. Scott Young seconded the motion. There was no further discussion, and the vote was unanimous in the affirmative. The applicant was advised to bring the revised plans to the office for signatures along with checks for recording following the 30-day appeal period.

Board members then turned to the next item of business, a request for Voluntary Merger according to RSA 674:39-a from PETER and LENA BERUBE, TRUSTEES, Peter M. Berube and Lena Rachel Berube Family Trust of 2011 regarding two lots that they own (Tax Map 20, Lots 43-1B and 43-1C) off First Crown Point Road. The Berubes subdivided the lots back in 1996 and completed a minor boundary adjustment between their two lots and the front lot 43-1A in 2009. They now wish to merge the two lots that they still own into one approximately 10 acre property. There are no liens on the properties; neither lot is developed. Board members reviewed the proposal and noted that the merger would not create any zoning problems. Donald Coker then made a motion to approve the merger. Charles Moreno seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative.

Charles Moreno advised Board members that he had run in Greg Messenger and spoken to him about the culvert on Evans Mountain Road. Greg had said that he would try and put the stones back in after he put in a larger

pipe in order to keep the appearance of the original historic stone culvert. Board members then turned to the minutes of the September meeting. Donald Coker made a motion to approve the minutes as presented. Phil Auger seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative.

Donald Coker then moved to adjourn the meeting. Scott Young seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The meeting adjourned at 10:00 PM.