

TOWN OF HOLDERNESS
Planning Board Meeting Minutes: October 18, 2022

Angi Francesco called the meeting to order at 5:30 PM

ROLL CALL OF MEMBERS:

Members Present: Angi Francesco, Chair, Janet Cocchiaro, Member, Clayton Titus, Member, Carl Lehner, Member, Ron Huntoon, Member and Peter Francesco, Ex-Officio

Also Present: Lucinda Hannus, Land Use Assistant, Allen Howe

APPROVAL OF MINUTES: September 20, 2022

Angi Francesco asked for any corrections to the minutes.

A. Francesco requested that the spelling of her last name be corrected on page 1

MOTION: “To approve the minutes of September 20, 2022 as amended correcting the spelling of Ms. Francesco’s last name.”

Motion: Carl Lehner

Second: Clayton Titus

Discussion: None

Motion Passed: 6–Yes 0– No

NEW BUSINESS

There were no new applications scheduled for a hearing at this meeting.

OLD BUSINESS

The Chair re-opened the informational review of Case# 2022-08-23 - Stanley & Karen Graton, William Greene and Angela Howe Gaudet’s application for an Informational Review for property Map 239-012-000 and 239-012-001 in order to record plan of land indicating properties are two separate parcels as has been historically assessed and taxed. The applicants were not in attendance at the meeting, however Mr. A. Howe an abutter was in the audience.

Peter Francesco provided an update to the members of his discussion of this matter with the Select Board. The Select Board felt they could not have an opinion at this juncture since the matter may come forward to them at a later date as an appeal.

P. Francesco stated that he would like to discuss the matter, put the question to bed and recognize the parcels as two separate lots.

C. Lehner stated that he does not see any good reason to acknowledge anything different.

A. Francesco would like to close the informational review and rule on the request.

Mr. Howe asked to speak to the board and stated that there is no question that it is two lots, with special conditions and to ignore those conditions would be a mistake. They are stated on the 1983 subdivision, they were included in corrective deeds filed in 2011 and then newer deeds dropped the conditions.

C. Lehner stated that deeds are an agreement between the landowners and it would be a civil matter if there is a disagreement.

P. Francesco agreed that the injured or benefitted party would need to address the matter not the town.

A. Howe reminded the board that in 2011 the town did step in and take an action to defend the conditions the result being the corrective deeds. Mr. Howe presented a copy of said deeds to the chair. Mr. Howe continued by stating that subsequent deeds dropped the conditions but carried through the water line easement condition.

C. Lehner questioned if some of the covenants were dropped was this a result of negotiations between the buyer and seller?

A. Howe inquired if a current buyer could legally drop out conditions?

A. Francesco stated that the Planning Board has no control over what is in a deed.

A. Howe responded in his experience as a member of another town's Planning Board under certain instances there are examples of where a Planning Board can require and has the authority to mandate inclusion of conditions within a deed. He stated he felt this was the ethical thing to do, so that buyers are aware of the conditions, and although others may think that it is difficult to administer, he did not feel that it was.

P. Francesco inquired as to where this authority is.

A. Howe stated that the conditions were a part of the 1983 subdivision approval. He has no doubt that they are two lots and feels that something down the line will happen at that property.

C. Titus stated that it was important that the Planning Board is saying that there are two lots, and not waiving any conditions.

A. Howe asked what if I came to the Planning Board and asked if there were any questions of conditions applied to a subdivision versus Mr. McCormack asking if there were two lots.

P. Francesco stated that you would need to take it to your attorney, what authority does the planning board have on the matter?

C. Lehner reiterated that it is not the boards responsibility to check titles on the property and that if you wanted to hire an attorney you could.

A. Francesco stated that when granting a subdivision approval there is no input from the board as to granting easements for ROWs, the board does not put conditions on lots and only on the subdivision itself like state approvals.

A. Howe stated that he did not know who came up with the conditions or why, most likely not the planning board but more likely his grandmother at the time. His Uncle benefited from access to the farm. He speculates that the lack of zoning at the time, concerns with maintaining the look of the town, he could see reasons why they were not merged.

P. Francesco stated that in 1983 there was no zoning, planning board had regulations, and in 1985 the zoning ordinance was enacted creating grandfather rights for non-conforming uses, did not want to be accused of snob zoning or strict regulations that could be interpreted as a public taking.

A. Francesco stated she would like to close the informational review and acknowledge that there are two lots.

A. Howe acknowledges that there are two lots with conditions.

A. Francesco stated to allow the subdivision.

L. Hannus read the minutes of the planning board in regards to this subdivision from October and November 1983.

A. Francesco stated that the attorneys can sort out with deeds, a lot of things could happen and asked for a motion to close the informational review and acknowledge that there are two lots.

J. Cocchiaro moved that motion.

R. Huntoon seconded

There was no further discussion

Motion Passed: 6–Yes 0– No

A. Francesco asked for a statement from the board.

C. Lehner made the motion **“The Planning Board recognizes that these are two separate lots”**

R. Huntoon seconded

There was no further discussion

Motion Passed: 6–Yes 0– No

A. Howe stated that he felt it was not a coincidence that the lot just recently has been clear cut, that he doesn’t know what will happen next but more than likely it will not be in compliance.

OTHER BUSINESS

A. Francesco opened the discussion as to a fireworks ordinance.

J. Cocchiaro stated that the White Oaks Pond Watershed Association is interested in working out a proposed ordinance, located all within the town and this may be a place to try a new ordinance.

A. Francesco felt that it would be hard to only apply to a portion of the town.

R. Huntoon stated that we could start the work with this group and then apply it town wide.

A. Francesco would like that the first place to start is to require a permit and base it on health and safety perspectives. Include the police and fire department in the discussions. She had talked to the Police Chief and he stated that a call to 911 is not out of order, and violations of the noise ordinance would be addressed. Would require the signature of the land owner, have a nominal fee, require notification to police and fire and 2 weeks advanced notice that could be posted on the town’s website.

J. Cocchiaro asked if this would be similar to an event permit? That we should be clear on what is a firework under the ordinance.

Multiple discussions of the members on landowner’s responsibilities, property owner’s liabilities, place for people to lodge complaints, notification to renters that fireworks are prohibited or a permit is required.

A. Francesco felt that this would give the town a sense of how often and where they are happening and by receiving a permit, we can judge compliance levels.

C. Lehner does not want to see an unnecessary increase in the risk of fires, injuries etc. from the use of fireworks.

P. Francesco stated that many people applaud them in some areas and in other areas they become a problem.

A. Francesco stated she would send a DRAFT ordinance to all to review and comment.

A. Francesco reviewed the application for board membership from C. Renzi and the board agreed to request an appointment be made by the Select Board for her to be an alternate member of the Planning Board.

No other business

ADJOURNMENT:

At 6:45 PM, the following motion was made.

MOTION: "To adjourn."

Motion: R. Huntoon

Second: C. Lehner

Discussion: None

Motion Passed: 6–Yes 0– No

Respectfully submitted,

Lucinda Hannus

Land Use Assistant