

NORTH HAVEN PLANNING BOARD
MEETING MINUTES
MARCH 14, 2018
TOWN OFFICE 5:00 PM

Present: Pat Curtis, Jamien Shields, Emily Greenlaw, Doug Record, Jeff Crawford, Tammy Brown (associate CEO), and Paul Quinn (CEO)

Guests (on the phone): Stacy McCline, Becky McKenna

1. Call to Order: at 5:00 p.m.

2. Approve Minutes of Feb. 14, 2018 and Special Meetings Minutes of Feb. 28 and Mar. 7, 2018:

Feb 14: Moved by Doug and seconded by Jamien, approved 3-0, 0 EG, JC

Feb 28: Moved by Doug and seconded by Jamien, approved 3-0, 0 EG, JC

Mar 7: Moved by Jamien and seconded by Doug, approved 3-0, 0 EG, JC

3. CEO Report:

New Permits Issued:

02-18 Christopher Stone

Map 13 Lot 06, Rural District

Re: Wrecking Storage Building

03-18 Ned & Ann Lamont

Map 25 Lot 25, Shoreland District

Re: Addition

Denied Permits:

None at this time

Pending Permits:

North Haven Sustainable Housing is planning to cut in the Shoreland Zone to clear a view at the Elder Care Facility, a grid for cutting needs to be established.

Potential Issues:

Cutting at Moller's property on Crabtree Point Road (Map 15,lot 6A) They plan to replant and Paul will visit the site.

4. Update: Packer Property (Map 6, Lot 4):

Phone conversation with Stacy and Becky. The Town attorney shared his opinion. Tammy read the memo (the memorandum is attached). From the memo: "The land that Wendy is going to buy is created by devise from this trust. This necessarily means that this lot of land is not counted for subdivision purposes even though Wendy is paying the fair market value of the lot."

Wendy has expressed interest in purchasing the land. The Planning Board needs to see evidence of the sale of one lot to Wendy before the remaining land is divided into two lots.

5. Updates: Land Use Ordinance Revision Shoreland Zoning Ordinance Revision:

Subdivision Ordinance draft amendment has been sent to the Select Board for their review. The other Ordinances are in the hands of the Mid-Coast Regional Planning Commission (MCRPC). Jeff will follow up with MCRPC to make sure that the new contract has been signed.

6. Other Business:

Discussed the possible division of a property and the location of structures.

7. Reminder - Next regular meeting, April 11, 2018:

8. Adjourn: Moved by Jamien and seconded by Doug to adjourn at 6:27, approved 5-0

Respectfully submitted: Jeff Crawford

MEMORANDUM

**TO: NORTH HAVEN PLANNING BOARD
AND TAMMY BROWN**

FROM: PAUL GIBBONS

**RE: WHETHER LOT CREATED UNDER THE WILL OF RONA
PACKER SHOULD BE COUNTED FOR SUBDIVISION PURPOSES**

From Tammy's email I understand the facts to be as follows:
Before her death, Rona Packer owned 18.90 acres of land in North Haven.

Discussion

If the lot sold to Wendy is counted, then a subdivision created. The question is whether the lot to be purchased by Wendy at fair market value is exempt and therefore not counted as a lot for subdivision purposes.

Title 30-A 4401 D-4 concerns gifts of lots of land among living persons to certain classes of relatives. If the following requirements can be met, then the lots are exempt for subdivision purposes are exempt.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of

the real estate.

This exemption does not apply because Wendy must purchase the property at fair market value, and it is not a gift among living relatives-it is a gift from an estate.

Paragraph D-1 of 30-A M.R.S.A. 4401 provides that a devise of land does not count as a lot for subdivision purposes.

“D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.”

The land that Wendy's going to buy is created by devise from this trust. This necessarily means that this lot of land is not counted for subdivision purposes even though Wendy is paying the fair market value of the lot.

Of course, if Wendy does not buy this lot, and the 18.9 acre parcel is divided into 3 lots by the trust, then it creates a subdivision. These lots are not being devised to anyone and as a result they are not exempt subdivision purposes.

If you have any questions concerning any of this, please give me a call.