

NORTH HAVEN PLANNING BOARD
SPECIAL MEETING MINUTES
JUNE 15, 2017
TOWN OFFICE 4:30 PM

Present: Pat Curtis, Jamien Shields, Becky Bartovics, Doug Record, Jeff Crawford, and Paul Quinn (CEO)

Absent: Tammy Brown (associate CEO).

Guests: Charlie Pingree, Merton Howard, and Hannah Pingree

1. **Call to Order:** at 4:50 p.m.
2. **Change of Use Application, Eldercare Facility:** Motion to approve the application from North Haven Sustainable Housing (NHSH) based on the State of Maine Shoreland Zoning Ordinance Table 1 Land Uses in the Shoreland Zone, Section 15B (multi-unit residential), contingent upon approval of our legal counsel. Moved by Becky, seconded by Jamien, approved 3 - 0 with 2 abstentions.
3. **NH Sustainable Housing Subdivision Discussion:** NHSH would like to build some houses on donated property on the South Shore Road, for rent or sale to qualified buyers with covenants to keep the property in the year-round community. The amendment will need to clarify how many houses qualify as a small project. The Board is willing to review a draft document with amendments to the Subdivision Ordinance presented by NHSH. Moved by Becky and seconded by Jamien, approved 5 - 0.
4. **Finding of Fact Document re Caroline Bell Residence Condominiums:** Motion to sign the findings of fact presented by Caroline Minot Bell. Moved by Jamien, seconded by Becky, approved 5 - 0.
5. **Adjourn:** Motion to adjourn Becky, seconded by Jamien, approved 5 - 0 at 6:12 p.m.

Respectfully submitted: Jeff Crawford

FINDINGS OF FACT
OF THE
NORTH HAVEN PLANNING BOARD

In re: Caroline Minot Bell
42 and 46 Main Street
North Haven

Caroline Minot Bell owns one building that contains three residential units on her property in North Haven located in part on her wharf. She now wishes to convert these three residential units into a residential condominium containing three residential units for sale to the public. Before going to the expense of creating the condominiums documents, Caroline Minot Bell seeks the Planning Board to determine that the conversion of these three existing residential units into a condominium does not require subdivision approval.

This Board finds that Caroline Minot Bell owns property located at 42 and 46 Main Street shown on Map 30 lot 102. This property is also shown on a 1911 plan recorded in the Knox County Registry of Deeds in Plan Book 1 Page 58 a copy of which is attached here and marked as Exhibit A. There is also a more recent plan by Mark Ingraham III dated October 5, 2015.

As shown on the tax map this property is a horse-shoe shaped lot that surrounds lot 101 owned by others. Lot 103 where the wharf extends southerly is owned by North Haven Casino. As

shown of the plan these three residential units have existed at least since when the plan was first recorded in 1911.

The lot and the structure do not meet the requirements of the Town of North Haven Zoning Ordinance - Shoreland Zoning. Since this lot and the existing building with three residential units existed before zoning, they are lawfully grandfathered. The residential use here is a permitted use.

What is a subdivision is governed by State Law. Title 30-A M.R.S.A. 4401 (4) defines a subdivision.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

Here we have a single lot that contains three residential units. Single-Family Dwelling Use is defined in the North Haven Land Use Ordinance as follows:

“Single-Family Dwelling Use – A land use having its principal use that of a dwelling and its accessory uses, those incidental and subordinate to one customarily associated with the principal use, such as home gardening and home-occupations (e.g., doctor’s office, lobstering, crabmeat preparation and sale). The permitted structures for this are one principal dwelling unit and the appropriate structures for the accessory uses (e.g., garage, fish house, boathouse, tool sheds, workshop, studio, non-commercial entertainment barn, guest house).”

Since each of these three residence units contains a kitchen and a bathroom, they are each considered a single family dwelling. A subdivision can be created by buildings alone without a division of land. An owner of a lot of land, who constructs three separate single family units on this single lot, creates a subdivision by building even though there is no physical division.

Caroline Minot Bell’s lot contains three single family units without a division of the lot underneath. This creates a subdivision by building. But Caroline Minot Bell’s three single family units existed before zoning and before the State Subdivision law was created. This property, in its present condition, is not governed by the State Subdivision law since the dwelling units existed before the State Subdivision law was enacted.

Does the conversion of these three residential dwelling units into a condominium create a new subdivision requiring subdivision approval by this Planning Board under State law?

In a condominium all the land beneath these three units remains in single ownership. This means that there is no further subdividing here. The units would be owned as separate units but the land would remain in single ownership. The conversion of these three single family dwelling units into a condominium does not require subdivision approval.

WHEREFORE, this Board finds that Caroline Minot Bell's proposed conversion of three existing single-family units, in existence since at least 1911, into three residential condominium units does not require subdivision approval because these three residential units existed before the enactment of the State Subdivision law.

Dated

Pat Curtis, Chair

Doug Record

Becky Bartovics

Jeff Crawford

Jamien Shields