

St. George Public Planning Board Meeting

7:00PM at Town Office and via Zoom

March 12, 2024

Minutes

The Planning Board meeting was called to order at 7:00 pm. Planning Board Members present were Chair Anne Cox, Richard Moskowitz, Michael B. Jordan, Jane Brown, Alison Briggs and Elaine Taylor. Also present in person were CEO Terry Brackett, Jonathan Gilbert, Shirley Cline and Wendy Carr.

Quorum:

A quorum was present. Cogger was absent. Dolly Taylor was elevated to voting status.

Conflicts of Interest:

There were no conflicts of interest.

Adjustments to the Agenda

There were no adjustments to the agenda.

Minutes

Jordan moved to approve the February 27, 2024 Planning Board Meeting Minutes, as corrected, seconded by Moskowitz, and by a unanimous vote, the minutes were approved.

Public Comment

There were no public comments.

Dividing Property 113 Cline Rd. Map 229 & Lot 054

Chair Cox

Are you here to speak to an application?

Jonathan Gilbert

Yes, for the subdivision. I'm Jonathan Gilbert. I just moved here and built a house. I just finished it in November. Shirley is my neighbor. I'm looking to purchase a lot from her, so we're talking about a subdivision and going through the approval process for that.

Jordan

If you could speak up a little bit so that that gets recorded for the minutes. Thanks.

Chair Cox

It is a little sketchy, what we have here. You are looking to buy that lot marked with the "X"?

Jonathan Gilbert

Yes. Correct.

Chair Cox

And you currently own this lot right here?

Jonathan Gilbert

Correct.

Chair Cox

And Shirley lives over here?

Jonathan Gilbert

She lives right here, off the map.

Chair Cox

She also owns this section down here.

Jonathan Gilbert

Yes. (Inaudible) Right of way.

Chair Cox

Terry, do you want to give us your sense of what is going on here?

Brackett

We have had some discussion in the office about this and because he wants to buy this lot and leave it as a separate lot, I feel that it needs to go to subdivision. The other thing is that Shirley has not owned that property for five years. It was deeded over to her in 2020. Because he is not buying that lot and combining it with his separate lot, I felt that it needed to go to subdivision.

Chair Cox

Could I ask why you are not buying the whole rest of the property?

Jonathan Gilbert

I think she can later on, after five years or whatever with the subdivision laws. She could essentially have another acreage parcel down there.

Chair Cox

I am a little confused in this. Our ordinance doesn't say anything, even though our application for a minor subdivision and the notes for a subdivision say it's to comply with all major subdivision developments.

Brackett

I read that also.

Chair Cox

The only thing connecting where her house is to the other sides of this property is the right of way?

Brackett

No. There is a tract of land that goes down through there. I copied these town maps that might be a little clearer.

Jordan

I've had trouble reconciling.

Chair Cox

Lot 53 has this really weird shape, right?

Jonathan Gilbert

Yes.

Chair Cox

These two lots have been divided?

Jonathan Gilbert

They haven't. Are you talking about the proposed lot?

Chair Cox

Your lot and then the proposed lot.

Jonathan Gilbert

The proposed lot has not but mine has.

Jordan

Which lot is yours, 53A?

Jonathan Gilbert

Mine has a dwelling. Lot 49.

Chair Cox

As I read this, though, the only thing that connects to the property on the western side of the "X" is the right of way.

Brackett

Yes. You are right. It was more of a piece of land.

Dolly Taylor

It was a right of way down the road, so she must have a right of way on Cline Rd. down to the yellow house.

Jonathan Gilbert

Yes, she owns it.

Jordan

I don't understand something about this. I'm looking at the Gartley & Dorsky drawing and it does not match.

Brackett

I see a discrepancy between the Gartley & Dorsky one which I don't think this is actually a formal surveyed document.

Jonathan Gilbert

It is.

Brackett

It varies quite a bit from our tax map.

Jordan

Including the shape of the coastline. What happened a couple of years ago? You purchased a portion of what had been lot 53 and that became lot 49. Why would it have a lower number?

Brackett

It should have been 53A.

Jordon

There is a 53A marked on the tax map. It's quite different.

Chair Cox

The Gartley & Dorsky thing is very different.

Jordan

Much larger.

Chair Cox

This doesn't work at all. Which one is real?

Jordan

What would have caused the tax map to change to reflect the 53A? Does that come from the Registry of Deeds?

Brackett

When a property is divided, it usually picks up an A or B or C.

Jordan

Yes, but how does the Town find out about it?

Brackett

I guess the assessor would give it that designation?

Jordan

How does the assessor find about the conveyance of the land?

Brackett

We get it from The Registry of Deeds.

Briggs

Do they just give it to you?

Brackett

They mail them to us periodically but in a regular manner, but when they get recorded.

Jordan

I just did not know how that worked.

Chair Cox

I have a technical question. We have not dealt with anything quite like this. Imagining that the Gartley & Dorsky plan is accurate, the only thing connecting her lot 53E to 53W is a 50-foot right of way. Is that really contiguous?

Brackett

It probably is. In our subdivision guidelines it says the right of way will be 50 feet. I guess that would make it contiguous.

Jordan

I didn't quite get your question.

Chair Cox

If we go with the Gartley & Dorsky plan, it looks like there is just a very thin 50-foot strip that connects the two parcels, if we call it 53W and 53E so that the lot would end up being a lot that would have a bulge here, a skinny bit there and then a bulge at the other end down the road.

Brackett

Down the road, she could sell this lot that's beyond and it could be a separate lot.

Chair Cox

I think I get this but if we are doing subdivisions, don't we have to do the full Subdivision Ordinance for this?

Jordan

What we need is a professionally done subdivision plan that shows exactly what is on the ground and where their current boundaries are. Somebody has to look at the requirements of the Subdivision Ordinance. Somebody like Gartley & Dorsky will help you comply with it.

Chair Cox

It is a process. It has to show where the road is and the utilities.

Jordan

Existing structures and proposed.

Chair Cox

The lot lines.

Jordan

Right of ways, deeds, etc.

Jonathan Gilbert

On this map, I know it is hard to see. David Star did this survey.

Brackett

Do you have a tax map number?

Jonathan Gilbert

No. I don't.

Brackett

You might have him compare these.

Jonathan Gilbert

What needs to be on it.

Jordan

There are about five pages of requirements. I do not think we can do a tutorial here now. You have to get help to do it.

Chair Cox

Terry can help you get the Town of St. George. Subdivision Ordinance. It is on our website. There is a lot there because the Town has traditionally taken it as a serious thing.

Jordan

A lot of it is dictated by state law. We have to have that kind of Subdivision Ordinance. There is not much we can do about it.

Chair Cox

Don't you agree Terry?

Brackett

I do. I was just hoping this was more minor; it is similar to what we just went through. So, we have to do very much of the same thing. I have another question that I have been thinking about. Our subdivision says that there will be a fire pond there. Shirley does have a fire pond. It is on the other side of the road on our property, but it does not say where the fire pond is going to be. Theoretically, it is going to be in the subdivision but that is pretty close.

Chair Cox

I have a feeling because the purpose of a fire pond is to provide water for putting out a fire, so I have a feeling that that kind of thing probably would work.

Shirley Cline

Hi, I am Shirley. I put a well in on Jonathan's side of the road and we have seventy gallons a minute. Now, I only have a 12-gallon minute pump in there but the person that put the well in said that I could have pump over pump which would be like having a shared well, and the last time I talked to Tim Polky he mentioned they don't like the way Shirley's fire pond recharges. I'm thinking closer and power driven maybe. I feel safer just having my twelve buildings in close proximity to that well.

Chair Cox

I think that is the kind of issue that we are going to have to get into with the whole Subdivision Ordinance. We must look at it and decide whether it meets the requirement. We will get our current Fire Chief to look at it and advise whether it seems to provide enough water. You are adding more houses and more possibility of needing to use that to draw on. That is what all this subdivision stuff is about. You are adding more houses, so it is more of a burden and more stuff. There needs to be appropriate roads, utilities, and all of that.

Dolly Taylor

I have a question. How come you don't just add it to the lot that you already have?

Jonathan Gilbert

My plan for the lot is to have something next door that I can just rent out to help supplement my mortgage and help pay the bills. If I had it connected to my lot, and somebody slipped and fell, or an accident happened, they could sue me for both of the properties because they'd be one.

Chair Cox

Is that true?

Briggs

You would be the property owner though of the second property. If somebody slipped and fell on your second property...

Jordan

Whether it's connected or not.

Jonathan Gilbert

If you put it under an LLC, then it separates your liability. So, if somebody sues you, they can only go after the LLC, not you personally.

Chair Cox

I am not going to quibble with that. That still may be your easier route once you look at what is involved. We just did a subdivision that had a stack of stuff like that. It is going to be a six month or more process. It is a detailed process. It is not impossible. It could be done but you might think about it.

Jonathan Gilbert

Later on, down the road, and I think I have three years left Terry because I bought that two years ago, if I wanted to subdivide it, then I could do that process.

Briggs

How much acreage total if you had the whole combined piece.

Jonathan Gilbert

This new proposal is 1.41 and mine is 1.23. So 2.64, roughly.

Chair Cox

He could do that. If he bought that and had a combined lot and then decided that he wanted to sell that one lot, then that would not be a subdivision.

Jonathan Gilbert

I'll have to look at the ordinance and decide if I'm willing to, and if Shirley is willing to move forward.

Shirley Cline

May I ask a question about my side of this? I've been thinking about this also. I inherited that property and went through the estate planning. I have two homes on the land. At one time, they were separate. But when I inherited them, they had been one lot since the late 70s. So, I'm thinking about this whole thing. I am not sure if it was Terry or his predecessor that said, if you have 1000 feet of shore frontage, you get five houses. That would be a good thing. And so, I'm saying I've got my house that I live in that my husband built. I've got the homestead. Jonathan has his house and wants to do another one. And there's one more lot on either end of the 15 acres. In total, I have two lots that don't have adequate water frontage because Jonathan got 250 and he's going for another 250. And on the other end, if you go by the crow flies, instead of having 200 feet, we will have 300 feet on the road, but when I get down to the water I only have (inaudible) so I said no water frontage with this lot. Where do I stand?

Chair Cox

If you decided that you know that you want to be able to subdivide your property, then you can do a subdivision plan that would delineate your two different house lots, Jonathan's lot and the other lots. It would need to be a complete plan to decide we are going to do this. This is the road we are going to do, this is how the utilities are going to get there, etc.

Shirley Cline

If Jonathan subdivides in three years does that preclude me from dividing the remainder?

Brackett

It all depends on when each one is done. It must be a five-year differential. If you do a large subdivision plan now, it takes care of all that.

Shirley Cline

But it also costs money and I understand that every parcel is under a subdivision umbrella as far as rules and regulations.

Brackett

What do you mean by a subdivision umbrella?

Shirley Cline

A fire pond would be one example.

Brackett

If you do a subdivision now, you are under that fire pond issue. If you wait for five years or he buys it and combines it with his lot, you are not.

Shirley Cline

I have just done this in Waldoboro, but I realize all the towns are all different. If he purchases it now and waits the appropriate time so that he can divide his own parcel, can I do my thing on my remainder parcel?

Jordan

If he purchases what?

Shirley Cline

If he purchases another house lot amount of land as an abutter and absorbs it, am I free to then say I'm ready to sell; I think I've got a year.

Brackett

It goes back to the mother lot.

Jordan

My understanding regarding your question of what can you can do with your remaining land, if he buys another lot adjacent to his lot that requires a subdivision application at this time, you can subdivide it if you comply with the Subdivision Ordinance.

Shirley Cline

So, I am into a subdivision whether or not he buys that.

Jordan

Once it has been your primary residence for five years, and you've owned it for five years, then you can sell off one lot without it being a subdivision.

Chair Cox

If you're going to have two lots, then it becomes a subdivision.

Shirley Cline

What about the exemption for the primary residence?

Jordan

That is the exemption for the primary residence.

Chair Cox

You can do two lots.

Jordan

That's right.

Shirley Cline

There is something about selling my property or my original house last.

Brackett

If Jonathan buys this lot now and it is combined with his lot, you cannot sell another lot for five years.

Shirley Cline

So, if I sell to Jonathan, as a separate lot that doesn't combine with his own, or just that I've sold more land period.

Chair Cox

If he doesn't combine it with his own, then that needs to be a subdivision.

Brackett

If he combined that with his own, it would sneak by the subdivision.

Shirley Cline

My plan has always been that I would get my house that I am living in livable, and basically, I'm close to accomplishing that. Then I wanted to either rent that house, fix up the homestead house and live in that. There's part of the Subdivision Ordinance that talks about renting, leasing, selling which is all considered the same subdivision.

Chair Cox

I think the Subdivision Ordinance doesn't make a distinction between whether you're renting or selling.

Jordon

It does not. She is dividing lots. It is a separate issue.

Brackett

If you have three apartments on that property, then you are in a subdivision.

Jordan

If you keep it as one lot and build two more houses, that is a subdivision.

Shirley Cline

I already have these two houses.

Brackett

With two houses, you can fix them up and live in them.

Chair Cox

It is all the same lot. You do not have to divide it. You can rent one and live in one already.

Shirley Cline

Could Jonathan absorb more land, aside from the insurance thing, because obviously (Inaudible). He could own enough land to at some point divide into two lots. But could he build a guest house?

Chair Cox

If this is where he is now and he buys the parcel next to him and combines it into one lot, he can build a house because there is enough acreage on that lot. He can live in it or rent it, and then within five years, he can subdivide it if he wants to. He could also decide he is happy with this and to buy this parcel as well and combine all of that into his property, but if he decides that he wants to divide it into three lots then he is a subdivision.

Shirley Cline

Can he build a third house?

Chair Cox

If he buys enough acreage, or another lot.

Jordan

This is the Shoreland Zone, so it's not one acre zoning, it's about 50,000 square feet.

Shirley Cline

An acre and an eighth, I think.

Chair Cox

If he bought buys another lot and combines it so that he now has at least 150,000 square feet, then he can build three houses on that. Two in addition to his the one that he lives in.

Jordan

If you do that, after you have lived there for five years, that is not a subdivision. You are exempt from the subdivision.

Jonathan Gilbert

After five years, I can split the lot without subdividing.

Brackett

You can build three houses on it after five years.

Jordan

If you wanted to do it for rentals, you would not have to divide up the lots, but you could. The five years starts from when you bought the house in 2022.

Jonathan Gilbert

Three more years. If I subdivided those lots, let's say hypothetically, would I need a fire pond.

Jordan

If you are not under the Subdivision Ordinance, you do not need a fire pond.

Chair Cox

If you are under the subdivision, then you would. You either need a fire pond or sprinklers in each house.

Jordan

That is a requirement of the subdivision. If you wait for three more years and do it, none of that applies.

Jonathan Gilbert

Because I can split a lot and have five years.

Shirley Cline

Getting back to the mother lot, which I guess is the 17 acres, his two and my 15, would I have to put sprinklers in my house?

Chair Cox

If he subdivides, then he does not. Whatever he does has nothing to do with you. He bought the property. You have nothing to do with it once he has done that. If you do a subdivision, then we will have to determine whether the fire pond is sufficient or whether you need to put sprinklers in, if you do that on your remaining 12 acres.

Shirley Cline

So basically, Jonathan and I are separate.

Brackett

I am not sure if it does tie back to another lot for the five years once that is over, (Inaudible).

Chair Cox

Once the five years are gone, because basically what the ordinance as I understand it is trying to do is to keep you from getting around the subdivision rules. That is what the ordinance is trying to get at with this five-year requirement.

Jonathan Gilbert

Would I have three years left because I bought it 2022.

Chair Cox

Yes. I would suggest that you decide what you want to do and look at the Subdivision Ordinance. It will require some professional expertise, good maps and an engineering drawing that can be registered.

Shirley Cline

This is probably a draft. It is accurate.

Jonathan Gilbert

They surveyed it and that is the map they gave me.

Brackett

They will probably end up talking with Gartley & Dorsky and our mapper to get that straightened out. Obviously, our map is messed up somewhere.

Shirley Cline

The original dogleg was narrow and 200-300 feet wide.

Chair Cox

It might be worth doing.

Jonathan Gilbert

If I just extend these lines out, we skip subdivision, and I get enough acreage, can I start building this year or do I have to wait?

Chair Cox

If you bought the land and added it to your property, you can build with proper permits and 75 feet from the water.

Shirley Cline

I have one more question. Jonathan and I have talked about this. We kind of talked with Gartley and Dorsky. That last lot does not have 200 feet of water frontage. It has 96 feet. Does it need it?

Jordan

How long has the lot existed as a separate lot?

Chair Cox

It is not a separate lot. It has been all one contiguous thing.

Jordan

Then, I do not understand the question.

Chair Cox

It is not yet a lot. In your mind, you imagine that it could be a lot. You cannot make a new lot without the appropriate footage.

Shirley Cline

So, Jonathan could not have three separate lots there. He could only have two separate lots.

Brackett

You said he is proposing to buy 250 and he has 250.

Shirley Cline

And again, Terry, I don't know if I talked to you, Dusty or someone else. But yes, there are 92 surveyed feet. I thought it was 50 but that is based on the tax. Can that 96 feet and another 104 feet on the other side (Inaudible) qualify as 200 feet or does it have to be contiguous?

Chair Cox

It has to be contiguous, but if there is enough square footage in all of that land, and Jonathan decides to buy all that land, and if there is enough square footage there, and he puts in his one lot, then he could have three houses if there is enough square footage there.

Shirley Cline

200 per house.

Chair Cox

If it is all part of his one parcel. You are thinking of this piece as a separate lot, but it is not yet. Is that right, Michael.

Jordan

In the Shoreland Zone, if you have a single lot and you are putting multiple dwellings on it, you have to satisfy two problems. One is 50,000 square feet for each, and another is that you have to have the shoreline separate for each. The only place in the Shoreland Zone you do not have to do that is in a CFMA district. You would need the full 200 feet.

Chair Cox

Basically, that lot is not a lot.

Jonathan Gilbert

I did talk to David Starr from Gartley & Dorsky and he said that you would just make a lot in that back lot, an acre. That waterfrontage Shirley would own.

Shirley Cline

Can I own a nonconforming amount of land?

Jordan

I do not think you can divide it into a non-conforming lot.

Shirley Cline

It is non-conforming now.

Chair Cox

It is not a non-conforming lot now because it is not a lot.

Chair Cox

It is the end of the same lot; it is not a lot. You have been thinking of it as a lot, but it is not a lot. It is part of the whole parcel property. That is the problem. Essentially, you need to decide that Jonathan must buy all of this land or to have this strange little piece that is connected by a right of way to your larger lot. Are we good?

Jonathan Gilbert

We are good. It's very complicated, but it's interesting.

Chair Cox

The whole intention is to preserve the integrity of the water and to pay attention to the safety of residents as things are developed. That is the intention behind it all. That is where all these rules get made in trying to figure out how to do it.

Chair Cox

Steve Cartwright is not here, so we will hold off on that until the next meeting. Just a reminder that the public hearing is going to be Thursday, March 21st at 6:00pm in this room and we'll hear what people have to say. I guess we have to have this kind of setup because of the owl. This isn't really a workshop. It is a hearing to hear what people have to say as opposed to other formats.

Adjournment

On a motion by Jordan, seconded by Brown, the Board decided by a unanimous vote to adjourn the meeting and at 7:47 p.m. the meeting was adjourned.

Respectfully submitted,

Tammy Taylor
Recording Secretary
Town of St. George, Maine