

[Plan-link] Lot Line Adjustment Revocation
April 2013

Posting: A couple of years ago two property owners received Planning Board approval for a lot line adjustment where each owner conveyed parcels to the other. The lands in question were then legally deeded with the deed recorded at the registry of deeds. Now the same property owners want their land to go back to its pre-adjustment configurations. Can the Planning Board vote to revoke the original approval at the request of both applicants with a new deed recorded after the revocation is or since the land was deeded does it have to go through another lot line adjustment? Make sense? I hope so.

Benjamin S. Gaetjens-Oleson
Town of Lancaster

Reply: It would appear that the original approval could be revoked per RSA 676:4

Section 676:4-a Revocation of Recorded Approval.

I. A subdivision plat, street plat, site plan or other approval which has been filed with the appropriate recording official under RSA 674:37 may not be revoked, in whole or in part, by the planning board, except pursuant to this section, and only under the following circumstances:

(a) At the request of, or by agreement with, the applicant or the applicant's successor in interest....

Bruce Simpson
Dublin Planning Board

Reply: I would agree with Bruce if not but for the fact that conveyances occurred subsequent to approval and recording of the LLA plat. In order to avoid future land title issues for both owners, I recommend they submit an application for a second lot line adjustment and upon approval and recording of that plat, again convey land to one another in accordance with lines shown thereon. Although the recommended approach may be viewed by some as somewhat burdensome, the time and cost associated with doing this correctly would pale in comparison to that associated with the need to one day cure defective land titles.

Steven B. Keach, P.E.
Keach-Nordstrom Associates, Inc.

Reply: I didn't include it, but the referenced statute goes on to say:

III. A declaration of revocation, dated and endorsed in writing by the planning board, and containing reference to the recording information for the plat, plan or other approval being revoked, shall be filed for recording with the register of deeds, no sooner than 30 days after written notification of the revocation is served on the applicant or the applicant's successor in interest, in person or by certified mail, or 30 days after any public hearing, whichever is later. If only part of an approval is revoked, that portion of land subject to revocation shall be clearly identified in the declaration. The declaration shall be recorded under the same name or names as was the original approval, as well as the names of

subsequent owners, if any, of the land or part thereof subject to revocation, as identified by the municipality.

There's no question that the record in the Registry of Deeds needs to be updated to prevent future title problems, but one could argue that recording the revocation is less confusing than recording a second LLA.

Bruce

Reply: Bruce

Again I would agree with you from the perspective of land use planning and regulation but not from the perspective of title or owner value. Presumably the two land owners paid a land surveyor to create a proper plat of each of the two parcels in question as part of the previous LLA action. That survey information has value with or without the subsequent LLA. If the previously approved LLA plan was simply revoked and a notice of the same recorded at the Registry of Deeds, it would have the net effect of invalidating what amounts to two perfectly good boundary surveys of the subject parcels leaving the respective owners with nothing to show for their past expenditure. Remember, if a plan is revoked, it is revoked and may not thereafter be used for any purpose. If it is the owners desire to simply "undo" the prior LLA, the same surveyor that prepared the original plan should be able to cause a new LLA plan to be drawn through what amounts to nothing more than a drafting exercise thus preserving the value paid for the original parcel surveys. From the perspective of title, the fact that land has been transferred requires that it be transferred again if clean title is to be preserved. While a revocation notice will extinguish the original LLA plan, it will not have the effect of extinguishing deeds the two parties exchanged with one another, thus creating a title defect.

Steve K.