

TOWN OF WATERBORO
PLANNING BOARD

WATERBORO, MAINE



MINUTES
SPECIAL MEETING
MARCH 24, 1976

Meeting called to order by Chmn. Foglio at 7:35 p.m; others present were Sheryl Smith, Raymond Kellet, Ronald Dyer, Frank Goodwin, Stephen Kasprzak, and Phillip Gardner.

BROOKSIDE SUBDIVISION

In the way of explanation, Nolette & Payeur Associates had, earlier, presented an application to the Waterboro Planning Board, and with it a Preliminary Plan, for approval of a proposed subdivision off the Old Buxton Rd. and, supposedly, on land then owned by Mr. Peter Harriman. The Preliminary Plan was accepted by the Planning Board, since it was made by a reputable surveying firm on behalf of an also reputable land development firm, and, all other requirements of the Board having been met, approved. However, Land Management, Inc. represented by Mr. John Fallon of Waterboro, challenged the validity of the survey and the plan, contended that the application was sought on "knowingly" erroneous data, that the approval should never have been given without a complete and accurate survey of Mr. Harriman's property, evidence of a contract between the prospective grantor and grantee and concrete evidence to the Board that all abutters had, indeed, been duly notified, and, therefore, the approval should be rescinded. This meeting was being held to learn the reaction of applicant and to consider whatever explanation he saw fit to make and what, if any, revisions he felt compelled to make in any submissions made with the application; also to hear whether or not any such explanations and/or proposed revisions would be acceptable to Land Management, Inc. or, if not, to hear the latter's objections.

The Chmn. ascertained that all visitors present were there because of thier interest in this matter and, due to the large number, stated that each would be allowed only ten minutes to present his comments. Mr. Fallon addressed the Chair and, referring to a purported animosity between him and the Chairman, suggested that, in order to have an impartial hearing, the Chairman relinquish the Chair to some other member of the Board. The Chairman avowed that he could conduct the meeting impartially but, if the Board agreed with Mr. Fallon's suggestion and so voted, he would step down. Mr. Kasprzak, an associate member, attempted to declare his confidence in Mr. Foglio whereupon Mr. Fallon declared that Mr. Kasprzak was not only an associate member and, therefore, without privilege, but he was one who had had a long professional relationship with both the surveying firm and the applicant's attorney and, such being the case, that anything Mr. Kasprzak might say relative to this case he (Mr. Fallon) would seriously object to. Mr. Dyer moved that Mr. Foglio retain the Chair; the motion was unanimously voted.

The Chmn. asked each to identify himself starting with the Board. The abutators present were: Mr. Theodore Plummer, Mr. Peter Harriman, and Mr. Smith. Nolette & Payeur Assoc. were represented by Attorney Peter Plumb, Mr. Haynes, Planner and Mr. Flynt, Surveyor.

The Chmn. asked Mr. Plumb to describe what changes, if any, had been made in the original plan and to state the reason. Mr. Fallon rose to object stating that, since it was Mr. Harriman's land that was being subdivided, Nolette & Payeur's attorney had no standing to make any presentation. The Chmn. noted the objection and asked Mr. Plumb to proceed.

Mr. Plumb presented a copy of a contract between N.& P. and Mr. Harriman and also a contract between N.& P. and Mr. Smith. He then stated that there had been an inadvertent encroachment upon the land of Smith and that agreeable changes in the plan had been made. Mr. Plumb attempted to explain the changes that had been made to avoid any conflict with Land Management, Inc. but Mr. Fallon's objections and comments, as valid as they may have been, were so vigorous and unrestrained that they interrupted the continuity of Mr. Plumb's presentation to the point where progress was at a standstill.

(None of the abutators raised any objections to Mr. Plumb's status or presentation, in fact, Mr. Plummer indicated his satisfaction and departed, and Mr. Harriman indicated his full endorsement of the revised plan.)

Any attempt to continue seeming useless, Mr. Goodwin moved, Sheryl Smith seconded and the Board voted ~~no~~ affirmative with one abstaining, that the consideration of this matter be deferred until the Planning Board could have the Town Counsel in attendance.

Mr. Fallon felt that he should receive copies of any and all correspondence on the matter in the meantime. Mr. Plumb stated that he thought that it would save time if the Board got Atty. Elliott's opinion relative to the necessity of a perimeter survey. He also stated that he does not intend to send to Land Management, Inc. copies of every submission to the Planning Board or to the D.E.P. since the Registered Surveyor assures him that L.M.I. is not an abutator. He requested the Planning Board to approve the revised plan as quickly as possible saying that N&P. had requested the D.E.P. to hold up consideration of their application until this revised plan is approved by the Waterboro Planning Board. The D.E.P.'s next meeting is on April 14, and Mr. Plumb's wish was that the Plan would be approved in time to be on the agenda of that meeting.

Upon Mr. Kasprzak's suggestion, a print of the revised plan was given to Mr. Fallon. The representatives of N.& P. and Mr. Fallon departed.

Upon Mr. Kasprzak's suggestion, Mr. Dyer Moved, Mr. Goodwin seconded and the Board unanimously voted that Nolette & Payeur be requested by letter for an itemized list of all the respects in which the revised plan which Mr. Plumb presented at this meeting differed from the Preliminary Plan submitted with the application.

Mr. Goodwin moved, Mr. Kellett seconded and the Board unanimously voted that the Chmn. request Town Counsel Elliott to meet with

the Board, at his earliest convenience, to discuss the Brookside matter and other matters if time allows.

SNOWMOBILE CLUB

Mr. Kellett, representing the Snowmobile Club, displayed a sketch showing Henry's parcel off Ossipee Hill Rd. and a lot which the Club proposed to buy from him and asked the Board's opinion as to whether or not the sale would place Milne's lot in subdivision status. It was the opinion of the Board that it would not, since it would be the second lot sold from the original parcel and the remainder was being held by Milne as a residence.

APPROVAL OF MINUTES

Mr. Kellett moved, Mr. Dyer seconded and the Board unanimously voted to approve the minutes of the Jan. 7, Feb. 4 and March 10 meetings.

SELECTMEN

At their request, the three Selectmen, John Monteith, Daneil Willett and Daniel McCarthy joined the meeting to discuss the choice of planning consultants. Mr. Willett said it was his opinion that that the Board should consider, along with other possible choices, the Southern Maine Regional Planning Commission for doing all or parts of the planning and zoning study and that the Board should discuss this possibility with them. It was explained that, prior to Town Meeting, the Board had, by vote, chosen Land Use Consultants, Inc. to assist in this undertaking. Of the several firms considered S.M.R.P.C. was among them because of, in essence, a "no-confidence" vote of the March, 1975 Town Meeting refusing to appropriate the membership fee thus rendering Waterboro a non-member. The feeling expressed then was that the Commission was regressive and too dictatorial. When it came time to consider prospective Planners the Board had no reason to suppose that the Town had changed or would change its mind. Since the Board deemed it necessary to have some definitive material to show the Town Meeting, it had to make a choice in time for the chosen Planner to get it ready and to discuss his plan of approach in order to be conversant enough to reply to such questions as might be asked at the Town Meeting. L.U.C. has agreed to make use of all suitable material that is or will be available from both the S.M.R.P.C. or the Soil Conservation Service, in the interest of cost saving. The time spent by L.U.C., after they were chosen, in discussion and providing display material was with the agreement that, if the money was voted, they would get the job. Now that the money has been voted, The Board feels that it should stand by its agreement, for to break it, which might lead to a lawsuit costing more than otherwise might be saved, would be to disregard a mutual agreement and poor ethics. Mr. Monteith asked if the contract is for a firm figure or a cost-plus figure. He was told that there were two alternatives: one, a firm \$16,000, the other a cost-plus not to exceed \$17,500. Mr. Willett urged the Board to, at least, consult S.M.R.P.C. to ascertain what of the required material they have available.

Respectfully submitted.

Frank R. Goodwin
Frank R. Goodwin, Secy.

See "over" for approvals

Minutes March 24, 1976

Approved by:

Douglas C. Taylor, Ch.

Donald Gee

Steve Kuy

Philip D. Johnson