

# **PLANNING BOARD**

## **Town of Waterboro**

**REGULAR MEETING**

**MARCH 13, 1996**

**Meeting called to order by Chairman, Cindy Allen at 7:10 p.m.**

**I ROLL CALL:** Present were Roland Denby, Larry Jacobsen, Everett Whitten, Judi Carll, Dwayne Woodsome and Cindy Allen, Chairman.

**II MINUTES OF PREVIOUS MEETINGS:**

January 25, 1996 & February 22, 1996

Judi Carll moved and Roland Denby seconded a motion to accept January 25, 1996 with correction to Page 3 Paragraph 1 as noted. Vote was 4-0-0 in favor.

Roland Denby moved and Judi Carll seconded a motion to accept February 22, 1996 minutes as written. Vote was 3-0-0 in favor.

**III COMMUNICATION AND BILLS:**

1. Minutes of Alfred Planning Board Re: Maine Cranberry Company
2. Maine Assoc. of Planners Membership Dues
3. Letter from Maine Cranberry Company Re: Status of sand pit
4. Notice of Intent to File an Application from Saco River Corridor Commission
5. Memo from Road Review Committee
6. Letter from Attorney Re: Kim Janotta's Proposed Splitting of Map 6 Lot 29

Tim Nelson indicated that after a quick review of the attorney's opinion he misunderstood the concerns that the Planning Board needed addressed. He will contact him as soon as possible to discuss this issue.

**IV REPORT OF OFFICERS AND COMMITTEES:**

**V APPOINTMENTS:**

7:15 P.M. Dave Roubo Map 42 Lot A264 R Zone  
7:30 P.M. Rideout & Turner Map 42 Lot A219 R Zone  
7:45 P.M. Richard Boissonneault Map 35 Lot 1 AR  
8:00 P.M. Norma Lambert Map 8 Lot 12 AR Zone

**7:15 p.m. Dave Roubo Map 42 Lot A264 R Zone**

Mr. Roubo has purchased a lot in Lake Arrowhead and is requesting permission to construct a cape style home meeting the required setbacks in the Residential Zone. This is a non-conforming lot by our ordinance and requires Planning Board review prior to issuance of a Building Permit. Judi Carll moved and Everett Whitten seconded a motion to allow construction of the home provided all setbacks can be maintained, noting that steps, deck and eaves should maintain the setback, under section 2.08 and 4.02 of the Waterboro Zoning Ordinance. Vote was in favor 4-0-0.

**7:30 p.m. Rideout & Turner Construction Map 42 Lot A219 R Zone**

This application is made by a construction company and they are requesting permission to construct a home on a non-conforming lot in the Lake Arrowhead subdivision and have indicated all setback requirements can be maintained. Larry Jacobsen moved and Everett Whitten seconded a motion to approve as presented allowing construction provided all setbacks are maintained, it was noted that the setbacks include steps, decks, eaves and chimneys, under Section 2.08 and 4.02 of the Waterboro Zoning Ordinance. Vote was in favor 5-0-0.

**Kim Janotta Map 6 Lot 29**

Kim Janotta has requested placement on the agenda as a follow up to the February 22, 1996 meeting. Tim went to the attorney's office and we have requested a letter of opinion for the meeting on the 13<sup>th</sup>.

The Board asked for Kim Janotta to come forward since the next appointment was in twenty minutes. A copy of the letter from the Town's attorney was given to Mr. Janotta and Mr. McCullough of Sebago Technics, Inc. and each Board member had been provided with a copy of the letter. It was noted that the Board and Mr. Nelson had just reviewed the letter and they were unsure if the issues that the Board had were properly addressed by legal counsel. It would appear that the concern over the right-of-way potentially splitting the lots creating more than two forty plus lots and one 7.5 acre lot was addressed by legal counsel and he indicated subdivision statutes defined this situation in Section 4401(6) which states:

"Tract or parcel of land" means all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

Mr. McCullough asked what type of approval would Kim be required for further subdivision of this tract? Would this be an amended plan? Would a hydro study be required?

It was noted that the lots are very large and the board members didn't see a need for a hydro study. If the need for subdivision due to the two forty acre plus parcels about the shoreland zone and therefore were countable lots requiring subdivision approval what paperwork would be required? Fees assessed? The Board indicated concern over the length of the road? It was noted that the Cross Road is accessible by four wheel drive and the road through the lot would go to the Cross Road that is noted as being abandoned on the West Hill Subdivision Note #9 and #10. The road essentially loops. Kim has a 75 ft. section of land that goes to the West Road since Kim owns to the center line of Cross Road.

Judi Carll asked if lots were divided as shown on the plan who would be responsible to make the road passable, who would be the responsible party?

Kim would like clarification regarding the construction of the road denoted on the plan as a fifty ft. access and utility easement to be created over existing clearing and future roadway to benefit all lots.

Roland Denby indicated the need to have surveyors research thoroughly the status of roads that are noted on subdivision and the legal status. Road can be discontinued maintaining passage or not allowing passage.

The Board asked Mr. Janotta to allow them to continue with their appointments and they would bring him back under Old Business.

#### **7:45 p.m. Richard Boissonneault Map 35 Lot 1 AR Zone**

Mr. Boissonneault is requesting permission to expand an existing cottage located on Ossipee Lake and the entire cottage falls within the first 100 ft. from the normal high water mark. The Boissonneault's are proposing a 16' x 24' addition to the structure. The Boissonneault's have indicated they have use of the basement of the existing cottage therefore the addition as proposed with a basement would appear to be over the allowed 29.99% expansion limit. I have enclosed a copy of what has been provided for this meeting. As proposed Tim has calculated this to be a 55% expansion by adding 768 sq. ft. The Planning Board could grant 414 sq. ft. as a 29.99% expansion by Tim's calculation. Tim calculated this by both volume and sq. footage. Mr. Boissonneault indicated the foundation is to be a crawl space not a full basement. After recalculating Tim Nelson found the request to comply within the Board's authority for the 29.99% expansion. Roland Denby noted that on the Tax Map it appears that the lot is dissected by a road. The Boissonneault's indicated that this road is non-existent. This lot is a portion of the Bradbury Park Subdivision noted at the York County Registry in Plan Book 11, Page 25. Mr. Boissonneault asked if it mattered if the floor of the crawl space was cemented or left gravel. Not in the calculation figure more for personal preference. It was also noted that no future living space was intended as a lot for living space and no cathedral ceiling.

Larry Jacobsen moved and Everett Whitten seconded a motion to allow a 16' x 24' addition on rear side of cottage facing away from the lake, going no closer to sidelines than existing structure, basement to be a crawl space with no more than a 4 ft. height, soil and erosion methods to be used if applicable and a Class "D" Mortgage survey to be presented upon completion, approval granted under Section 2.08, 4.02 and 7.01, 2.B.1.B. of the Waterboro Zoning Ordinance.

**8:00 p.m. Norma Lambert Map 8 Lot 12 AR Zone**

Ms. Lambert is requesting permission to add a two story 24' x 24' garage to an existing structure. The lot is a grandfathered non-conforming lot located on Route 5 in E. Waterboro. The Planning Board granted permission for the construction of the original structure granting relief of the required setbacks. The requested addition would still meet the setbacks granted by the Planning Board for the house in 1986. Since this is a non-conforming lot this is before the Board for review. Dwayne Woodsome had a question regarding access to Route 5. He believed that the board had previously restricted driveway access onto Route 5. This might have been a subdivision or an approval granted previously by the Board. Records immediately available show no such record however further research may show differently. What would this have to do with the request? Garage doors are planned on both sides of the structure for a drive through garage. Larry indicated that at some time this drive might have to be closed off. Could the Board give some deadline for research of this questions so Ms. Lambert would know prior to placement of this addition? Generally the board saw no harm but the recollection of board members indicated that this had previously been requested as no entrance onto Route 5.

Judi Carll moved and Everett Whitten seconded a motion to allow construction of garage as long as they maintain the forty ft. setback from the section of old route 5 and 75 ft. from existing Route 5 as previously approved on April 10, 1985 under Section 2.08 and 4.02 of the Waterboro Zoning Ordinance. Vote was in favor 5-0-0.

**VI OLD BUSINESS:**

**1. Kim Janotta Request to split lot**

Mr. McCullough asked if they were to proceed with a subdivision for this remaining 99.5 acres what would the procedure be?

A completed subdivision application should be submitted and proceed in the usual manner. Mr. McCullough felt that sketch plan requirements have already been met. Would Preliminary and Final Approval be considered by the Board. It was noted that there may be a need for additions to the Notes on the Plan. Mr. McCullough indicated he could make the necessary changes and return the plan for signing at another meeting.

Kim indicated the need to clarify what upgrades if any would need to be made the proposed right-of-way and whose responsibility it would be to make the upgrades prior to him continuing with the project. Private versus public was discussed. Could the road been constructed in stages by each future owner or would Mr. Janotta need to complete the road?

The 60 ft. wide reserved strip ends at the section of the remaining 99.5 acre parcel this might have to be continued to meet the proposed right of way easement so the road would be a continuous loop.

Concerns to be researched and information to be forwarded to Owen McCullough and Kim Janotta.

## **2. Thyng's Mill Subdivision Map 13 Lot 17 F & A Zone**

Road Review Committee report was reviewed. Mr. Butterfield and Mr. Speed both indicated to the Board that the stone wall noted in the Road Review report is not owned by the developer. Mr. Speed indicated that if the town removed the stone wall the developer would consider allowing the rocks to be relocated onto the parcel owned by Burrows and Butterfield.

Dwayne Woodsome noted that the Road Review Committee intended the developer move the wall. Mr. Butterfield noted that the problem with the road is a pre-existing problem - the town has no impact fees - how and why is this being asked of the developer when this is not the developers land?

Neighbors indicated a problem - Developer is adding five lots why would the developer be the person bear the cost for a pre-existing problem?

Dwayne Woodsome indicated that the developer had started development on one side of Thyng's Mill Road and is now developing on the other side and indicated if the developer wanted to subdivide the property then you'll have to move the wall.

The developer indicated that the surveyor indicated on the subdivision plan that the developer does not own the stone wall.

Roland Denby asked if the wall had been in place for a number of years? Would the wall be the property line? Roland also asked Dwayne Woodsome about the money that was appropriated at town meeting for the Thyng's Mill Road. Dwayne indicated that the money was appropriated for the Clarks Bridge Road. The accuracy of the surveyors placement of the right-of-way was questioned. It was noted that the surveyor would have researched this from deeds that would call for the location of the road and width.

Neighbors concerned that something be done about the problem with the road. Dwayne Woodsome noted to the developer that if he found the request cost prohibitive he had the option of not continuing. If the developer is not willing to put \$2,000 to move the stone wall then the maybe the subdivision should not be completed. Mr. Butterfield noted his concern with the developer moving and cutting within a Town way. Board members noted if it is town property would this be the town's responsibility. Can the board hold the developer responsible?

Mr. Speed indicated that this is a quality subdivision going in. Why should the five lots pay for an existing road problem. How could the board make five people pay for an existing problem. Developer has indicated to the Board that the stone wall and trees are on town's property.

Larry Jacobsen noted that he drives a school bus on the Thyng's Mill Road and basically it is a dead end road and most traffic is directly related to the residents that live there.

Dwayne Woodsome noted that the plows cannot wing the snow back due to the stone wall being higher than the road. It was asked if the board had ever asked a private property owner to move a stone wall that is located on town property? It was the suggestion of the Road Review Committee to have the contractor push the wall back onto the developers property.

Dwayne Woodsome indicated that the town could push the wall back but the rocks from the wall would probably be hauled off site and crushed. Mr. Speed noted that Fred Fay had indicated to haul the rocks off site would be more costly. Also Mr. Woodsome indicated that the conservation easement could not run to the road due to the fact that cutting within the easement is restricted.

Mr. Speed indicated that he has spoken with a representative from DEP and they have indicated that this would not be a problem as long as the portion is exempted and the purpose of the exempted area is delineated. The developer noted he would bear the cost of drawing the contract up and completing the survey work. The developer indicated he was not in agreement with the Road Review Committee report noting it does not seem right to shift the burden onto the developer.

The developer indicated that maybe the residents in the area could consider sharing the cost (\$2,000 figure suggested by Mr. Woodsome as the cost to have this project completed) and have this done. The developer noted that there is 50 ft. width between Old Mill Grove Subdivision and the proposed five lot subdivision. Cindy Allen noted her personal feelings were that the wall is in the Town's right-of-way and that the board doesn't have the right to ask the developer to move the stone wall. Judi Carll noted that the problem might be solved if the developer provided a place for the wall to be pushed which would be about 25 ft. from the

existing stone wall in on the property for approximately 200 ft. as indicated in the Road Review Committee Report. The developer noted he would work with the Road Review Committee to define on the plans the area needed to fix the problem. Dwayne Woodsome asked if the developer would cut trees in this 25 ft. swath and the town take care of the wall? Dwayne felt that it would possibly be both town property and developer property and Dwayne indicated the town would grant permission to the developer to do this. Mr. Butterfield noted he would not be willing to do that.

Dwayne Woodsome noted the board might consider approval. Dwayne also indicated that the Planning Board was rude to the neighbors and had pushed them off. Roland Denby noted he felt the board had spent quite a lot of time. Roland noted that a Public Hearing was held and other business on the agenda needed tending to. Although meetings are open to the public they are open for viewing. Most of the time the Board recognizes people. The Chairman most of the time allows an open forum style atmosphere. The Board has an obligation and rules to go by and sometimes the public and the board are distanced.

Dwayne Woodsome noted the conservation easement would have to go through Town Meeting and it could be March of 1997 before the Town voted and possibly the fall of 1997 which would be about 18 months before the work would be completed. Everett Whitten noted that he did not think the developer would want to wait 18 months before he could sell the lots. It was asked if the developer had an contracts on the land. The developer has no contracts. Dwayne Woodsome noted approval of the conservation easement and road work took 18 months then maybe the developer would cut the trees to get the development through approval.

Ten to fifteen feet behind the wall is town property. People in town have greater knowledge of who would cut wood maybe the town would allow someone to have the wood. Possibly the neighbors could have trees for fire wood. It was noted that 2 to 3 pine trees would not need cutting. One by lot 5 of the proposed subdivision and two down by the lower end by "Chadbourn lot" one in the orchard. Developer does not own the orchard. The orchard has a small piece of road frontage.

Stone wall and travel way was noted on shaded plan given to Planning Board members. Red area is town way. At current status the developer has no rights to the orchard. If rights were transferred to the developer the developer was in agreement to sign off, but at this time no direct rights are shown. The developer will need a parameter for the stone wall to be relocated. Mr. Speed indicated they were about one month away from presenting a Preliminary Plan .

Judi Carll moved and Everett Whitten seconded a motion that an easement deed noting 25 ft. from the property line as noted on Sketch Plan into the property of development starting from the northeasterly pin of lot #5 (at big old pine) to the corner of the so-called "Chadbourne Orchard Lot" be presented to allow the town access. Vote was 5-0-0 in favor. Easement would spell out the activity to take place on this 25 ft. strip.

## **VII NEW BUSINESS:**

Dwayne Woodsome had a questions regarding the hiring of the Town Planner. The rest of the Board was not invited or notified and it was a surprise to go to Town Meeting and hear that someone was hired? General discussion followed. Dwayne also indicated he had a problem with the way this was handled. It was noted that during the interview Planning experience was not a primary issue.

Larry Jacobsen brought up the Legislative Bulletin regarding proposed changes to expansion within shoreland zone. Larry felt the board should send a letter of opinion to Willis Lord.

Larry Jacobsen moved and Judi Carll seconded a motion that the Board notify Willis Lord of the Planning Board's concern regarding LD 1672 that it was poorly thought out and inconsiderate of other people who had abided by the rules set forth in 1989. Vote was unanimous in favor 6-0-0.

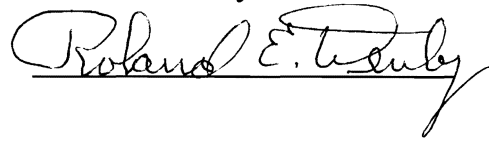
Dwayne Woodsome moved and Judi Carll seconded a motion that Larry Jacobsen take care of the drafting of the letter. Vote was unanimous in favor 6-0-0.

Larry Jacobsen suggested forwarding a copy of the letter to the Portland Press Herald. Dwayne Woodsome suggested this be done by each person if they so chose.

## **VIII ADJOURNMENT: Meeting adjourned at 10:15 p.m.**

Respectively,

Dwayne Woodsome  
Secretary/Treasurer

  
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