

PLANNING BOARD

Town of Waterboro

December 13, 2000

Regular Meeting

I. ROLL CALL.

Susan Dunlap called the regular meeting to order at 7:32 PM, in attendance are Roland Denby, Everett Whitten, Dwayne Woodsome and Tim Neill. Doug Foglio and Todd Morey were absent.

II. APPOINTMENTS.

7:33 Dorothy Ridley – Map 24, Lot 19 Mrs. Ridley and her contractor were present to request a setback reduction to construct a 24' x 12' carport on her property on the New Road. The lot size is approximately 3750 sq ft (75' x 150') (.39 acres per tax bill). It is a nonconforming lot. Mrs. Ridley's contractor indicated that Mrs. Ridley would like a carport in order to get her vehicle out of the weather.

Sue asked where the septic system was located – is it near the driveway? She indicated that the Planning Board tries to decrease a property's nonconformity, not increase it. She asked if it could be placed somewhere else on the property – believes the distance and leach field are problems. The contractor replied that it could not be placed elsewhere on the property.

Dwayne suggested that a onsite inspection with the CEO be done. Tim asked if the roof pitches towards Blue Road and the water and could it go on the opposite side. Sue asked what the sideline setback is – it is 14' or less. Roland asked if the expansion would meet the 20% density requirement and the 30% expansion requirement – the response was no. The contractor indicated that he could make it smaller.

Roland asked the contractor who made out the application for Mrs. Ridley and how did they arrive at the % figure. The contractor replied that it was derived from what Mrs. Ridley had told him. Sue indicated that the average width was 70' and that the issues of the septic and the proximity to the water of the proposed structure must be addressed. She indicated that the CEO should be sent to look at it. She further indicated that a new sketch would be needed indicating what has been told to the Board this evening. Roland stated that he believed the application should be withdrawn until accurate figures could be ascertained.

Everett asked if this was a corner lot – the contractor indicated that it was not – Sue indicated that it was her belief that it was sort of a corner lot. She also indicated that another issue is that a DEP permit-by-rule should be applied for since the soil will be disturbed.

Dwayne made a Motion to send an onsite committee with the CEO (and anyone else who wants to go) to view the property and prepare a site plan and, to have Mrs. Ridley submit a new application indicating where the septic system is located as well as to provide the Board with a copy of the deed to the property. Everett seconds. The Motion carries with a 4-0-0 vote in favor.

In addition, the Board instructed the contractor to speak with the CEO and to check with DEP to see if a permit-by-rule is necessary.

8:00 Gary Moreau– Map 11, Lot 29-A3 Mr. Moreau was present to request a setback reduction to place an addition on an existing race house for the purpose of raising fish on the property located off the Townhouse Road. Mr. Moreau showed the Board a drawing that he had made of the lot in question. He indicated that the CEO put a Stop Work order on the addition for lack of a building permit. Kathy indicated that there was also an issue regarding the proximity of the addition to the wetlands (per the CEO).

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Sue asked if Mr. Moreau had a State permit – he indicated that he did and showed something to the Board. Kathy asked for a copy for the file. The Board asked about the frontage. Roland stated that the diagram did not show them anything. Kathy indicated that the CEO believed the construction that Mr. Moreau had already begun was “new construction” and not a replacement of what was already there. There was some discussion by the Board regarding this. Sue referred the Board to §7.01(2)(B)(3) *Reconstruction or Replacement*. A brief discussion on this section was had.

Everett asked Mr. Moreau if the repairs started within the year. Roland read a portion of the letter from the Town Attorney. He also indicated that he believes (from what Mr. Moreau has told the Board) that this is a repair of an existing structure and not an addition. Again, there is brief discussion.

Everett made a Motion to approve Mr. Moreau’s application to **reconstruct** the existing building pursuant to §7.01(2)(B)(3) *Reconstruction or Replacement* of the Waterboro Zoning Ordinance. Roland seconds. The Motion carries a 4-0-0 vote in favor.

Dwayne leaves for a moment to go before the Finance Committee on behalf of the Planning Board. The Board breaks at 8:25 and reconvenes at 8:27.

8:28 Timothy McCoy – Map 19, Lot 29 Tim McCoy is present to request a setback reduction in order to expand the existing structure on his property located off of Route 202. Mr. McCoy describes his property to the Board. He would like to tear down the old foundation (basement). After some discussion, Sue asked if runoff was not counted is the proposed construction within 100’ of the wetland. Roland asked why he was before the Board – did not believe that this was shoreland property. Sue asked how Mr. McCoy was going to reconstruct this – will he have to dig in the ground. Roland asked if Mr. McCoy knew what the previous owner had planned for this foundation. Sue suggested that the property be surveyed to see if it was outside the 100’ setback. Mr. McCoy responded that the property had already been surveyed and that the corner of the structure was 65’ to the high water mark. Sue suggested that we research to see what DEP proposes is the definition of high water and normal high water. Tim referred the Board to page 107 of the *Planning & Land Use Laws* manual. A brief discussion was had on that section. Roland indicated that he believed the Board check with DEP on this one. Sue believed that environmentally there would be no impact to the stream. Everett suggested that the Board have the CEO clarify streams. Mr. McCoy suggested that he could keep the footprint exactly as it currently is. Sue asked if the project would be finished within 2 years otherwise he would have to come back. Mr. McCoy did not believe that it would be. Additional discussion.

Tim made a Motion to consult DEP on this application. Everett seconds. The Motion carries a 3-0-1 vote in favor. Roland makes a Motion to include with the request to DEP what the setbacks to Carpenter Brook should be. Everett seconds. The Motion carries a 3-0-1 vote in a favor.

8:55 Robert McKenney – Map 49, Lot 11-L Mr. McKenney is present and requests a setback reduction to construct a 28’ x 28’ **detached** garage on his nonconforming lot located at Oak Lane. There is brief discussion regarding the subdivision in which the property is located, etc. Dwayne asked if the setbacks could be met. Roland indicated that he believed §§2.08 and 4.02 gives the Board the authority to grant a setback. Sue read the section defining primary use and structures and compared it to the letter from the Town Attorney to the CEO. Sue indicated that this opinion by the Attorney is contrary to what the Board has been doing since 1977. Everett indicated that it was his belief the Board can issue a setback reduction without the structure being connected. There was discussion as to getting additional information from the Town Attorney with respect to what criteria he used for this decision.

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She also believed that §2.08 allowed the Board to do it. Roland asked if all the setbacks could be met with the garage – the answer was “no”.

Everett made a Motion pursuant to §2.08 et seq. of the Waterboro Zoning Ordinance to grant an 18’ sideline setback from the abutting property (Map 49, Lot 11-M) to build a 28’ x 28’ freestanding structure. Roland seconds. The Motion carries a 4-0-0 vote in favor. Note that the abutting property owner (Craig Theriault) is present.

III. MINUTES OF PREVIOUS MEETINGS.

Dwayne made a Motion to approve the Minutes of the October 26, 2000 Regular Meeting as prepared. Everett seconds. The Motion carries a 4-0-0 vote in favor.

Dwayne made a Motion to approve the Minutes of the November 8, 2000 Regular Meeting as prepared. Everett seconds. The Motion carries a 4-0-0 vote in favor.

It is determined that the Minutes of the November 30, 2000 Public Hearing do not need Board approval but should be put on file. All were in favor.

IV. REPORT OF OFFICERS.

V. OLD BUSINESS.

Mark Morin – Map 41, Lot 26 Mr. Morin returns with new plans. He indicates that the existing structure was built prior to the setbacks of today and has 1,378 sq ft, all within 100’ of the shore – 30% of that existing structure would equal 413.4 sq ft. The proposed one-story addition would add 1,826 sq ft with 410 sq ft of that within the 100 ft shoreline setback, built on a frost wall foundation. It would have an attached entryway; handicapped bathroom; large bedroom and hallway, both with pocket doors for wheelchair maneuverability; a family room; and an attached two-car garage large enough to accommodate the applicant’s van and lift. The area to be disturbed is flat land and is located on the opposite side of the house from the lake heading west towards the Silas Brown Road. The existing area consists of grass and part of the driveway (there are no trees to be removed).

Dwayne informed Mr. Morin that he would need a permit-by-rule from the DEP before any soil could be disturbed. The Board commended Mr. Morin on the thoroughness and accuracy of his application.

Dwayne made a Motion to approve Mr. Morin’s application as presented pursuant to §3.03 of the Waterboro Zoning Ordinance contingent upon the granting of a permit-by-rule from the DEP and, that all erosion control measures be met for this construction. Everett seconds. The Motion carries a 4-0-0 vote in favor.

Wayne Baker – Map 39, Lot 2 Mr. Baker returns following an onsite inspection conducted by the Board of his property. A brief discussion is had wherein Kathy explains her findings with respect to prior activity on this property (i.e., that no prior conditional use permits have been issued, with the exception of a variance by ZBA prior to 1989 (which is when the 30% rule was enacted by the DEP – see handout from DEP website to be attached to these minutes). Dwayne asked what the distance was between the house and the garage. Mr. Baker responded that it was 11’. Sue asked what the square footage was and what the total expansion Mr. Baker was asking for. Tim indicated that the total square footage (excluding overhangs) is 1,602 sq ft. Additional discussion regarding the dimensions of the current structures, etc, was had.

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Tim made a Motion pursuant to §§9.03, 2.08, 7.02(b) *Expansions* ... of the Waterboro Zoning Ordinance to approve Mr. Baker's application in as far as to allow the breezeway (with overhang) to be constructed and connected to the existing garage (11' x 11') and to connect the roof from the house to the breezeway to include the garage. Mr. Baker will then return at a later date under "Old Business" to review the remaining footage he has for the possible construction of a deck and, that all erosion control measures be in place. Further, that the CEO be sent to the property to measure the existing buildings (with overhangs) and to prepare a site plan for the Board to use to consider the remaining square footage. Everett seconds. The Motion carries a 4-0-0 vote in favor.

Mr. McCoy has returned with a question for the Board and reviews his drawings with them.

Discussion of Gravel Pits Dwayne stated that the Board has (timely) received the four (4) Reclamation Plans from gravel pit owners that were granted an extension of December 8, 2000 at 4:00 PM. He recommended that the meeting be **postponed** (not adjourned) until next week to review and discuss the gravel pits and the plans that have been submitted and to review the letter to the Board from the Town Attorney regarding the discussions at the workshop. Roland suggested that there be a checklist prepared of what has been reviewed thus far. Sue indicated that they needed to decide on a date to meet – Monday, December 18, 2000, was suggested.

Dwayne made a Motion to postpone this meeting until December 18, 2000, at 7:30 PM in order to finish the Agenda. Tim seconds. The Motion carries a 4-0-0 vote in favor.

VI. COMMUNICATIONS.

Sue brought up the concerns raised by Selectman Robert Fay in his recent letter pertaining to the Kenneth Pierce application. She wanted it on record that Mr. Pierce was seen by the Board twice in the last 3 months and that this was a manmade barrier and that options had been presented to Mr. Pierce. Dwayne made a Motion to send copies of the Minutes of those two meetings to Selectman Fay. Tim seconds. The Motion carries a 4-0-0 vote in favor.

The Meeting is closed at 10:45 PM.

December 28, 2000 – Carryover of the December 13, 2000 Regular Meeting of the Planning Board.

The meeting is reconvened by Susan Dunlap at 7:30 PM. In attendance are Roland Denby, Everett Whitten, Todd Morey, Dwayne Woodsome and Tim Neill. Doug Foglio was absent.

Dwayne read a letter that the Board received since December 13, 2000, from Wayne Baker declining the conditional use permit that was granted to him earlier in this meeting as he would like to use the alternative expansion rule of the DEP, when and if this zoning change is approved by the Town.

Tim made a Motion to rescind his previous motion granting the conditional use permit per the request of the applicant. Everett seconds. The Motion carries a 4-0-1 vote in favor.

VII. MISCELLANEOUS.

Sue relayed to the Board that the CEO had received a phone call regarding the Gary Moore property and the 371 sq ft expansion that was granted to Mr. Moore by the Board by virtue of a conditional use permit. She mentioned several issues in question regarding this file:

- The sketch plan is not in the file.
- Was not clear in the Minutes how the 30% was calculated.

She recommended that everything needed for the Board to make its determination on applications be in the file prior to the file being presented to the Board. Dwayne recommended that the Board form an onsite committee to look at the properties to come before the Board and to measure and have the CEO prepare a site plan of same prior to the application being presented to the Board.

Dwayne made a Motion that for the next six (6) months the CEO go with the onsite committee (consisting of Everett and Roland) to the subject properties prior to the applicant coming before the Board for all shoreland properties; that the applicants be required to provide better, more accurate sketch plans (indicating what structures are already on the property), clearer and thorough applications, a chart and a Class D survey prior to any construction. Todd seconds. The Motion carries a 3-0-2 vote in favor.

Sue recommended that we send all requests for setback reductions outside of the shoreland, wetland areas to the ZBA for variances. Todd commented that the towns he has done business with send all setback requests (outside of the shoreland zone) to the ZBA for variances, not to the Planning Board for conditional use permits.

Dwayne commented on another letter to the Board from Selectman Robert Fay regarding the Pierce property. After a brief discussion it was recommended that the CEO and onsite committee be sent to the Pierce property to measure and make recommendations.

Sue recommended that the Board not act on any application unless it is thoroughly complete (as discussed above) and to have the CEO calculate the 30% expansion after he does his onsite inspection.

Roland dismisses himself from the rest of the meeting.

Further discussion of gravel pits – The Board reviewed the letter from the Town Attorney regarding what was discussed at the workshop.

With respect to the Dearborn pit – a review of the file reveals that DEP has issued a permit to Dearborn for a 26-acre worksite external drain pit dated Nov. 9th 1999, bond reclamation has been secured. Sue believes there was a hearing on this. Dwayne concurred and indicated that no one showed up for the hearing except the Dearborn crew, DEP, Dwayne and 2 elderly ladies.

Dwayne made a Motion that the Dearborn pit be placed on the “exempt” list of gravel pits due to prior approval by DEP and the Town’s approval by virtue of its failure to object and/or to act on the permit application in the time prescribed by the DEP, thereby waiving its right to oppose the permit. Further, that the letter stated the opinion of the Town Attorney in this regard be placed in the Dearborn gravel pit file and be attached to these Minutes. Todd seconds. The Motion carries a 4-0-0 vote in favor.

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With respect to the Brandt pit – after some discussion, Dwayne made a Motion to send the owner a letter indicating that a copy of the DEP letter approving the gravel pit is needed. Todd seconds. The Motion carries a 4-0-0 vote in favor.

Sue proposed a 5-minute recess at 8:10. It reconvened at 8:15 PM.

Sue proposed that the Board review the four (4) reclamation plans which had been received (i.e., Town – Map 8, Lot 47; Bean – Map 4, Lot 22A & 23; Broomhall (Owen) – Map 16, Lot 19; and McDonald – Map 5, Lot 21-3). Per the Town Attorney, the Board needs to acknowledge receipt of these plans in compliance with the requirements set forth for the submission of the plans.

Dwayne made a Motion that the Board acknowledge receipt of the Reclamation Plans from the following gravel pit owners:

- Town of Waterboro – Map 8, Lot 47;
- Bean – Map 4, Lot 22A & 23;
- Broomhall (Owen) – Map 16, Lot 19; and
- McDonald – Map 5, Lot 21-3).

as of December 8, 2000, by 4:00 PM, as per the 120-day extension granted by the Board and as required by the Ordinance. Note that the Board had previously received the Jewett plan. Todd seconds. The Motion carries with a 4-0-0 vote in favor.

Dwayne indicated that on his review it appears that the Board have received three (3) plans with most of the information and one (1) who sent a letter who has a small pit (425' x 500') who plans to reclaim as he goes. Bean wants 5 acres and then stop. The Town is at a threshold and will probably need to go to the DEP, the same with McDonald.

Dwayne presented a newspaper article regarding a child who was killed when he struck a gate that was placed at a gravel pit – the pit owner is being sued. The Board discusses the question of the Town's liability for requiring the pit owners to install a gate. Sue would like the Board to vote to waive that provision of the ordinance. Todd indicated that the Board could not do that – the request would have to come from the applicant.

VIII. NEW BUSINESS.

Lake Arrowhead proposed Wellhead Protection Ordinance. The Board noted that Jeff Brown of the Lake Arrowhead Association is scheduled to come before them at the next regular meeting. The Board would like Mr. Brown contacted and informed that he will need to have everything he is planning on presenting, including the proposed wording of the zoning change, to the Board prior to January 2, 2001. This will enable the Board to review the materials prior to the meeting in an effort to save time. The Secretary is instructed to contact Mr. Brown and relay this to him.

IX. ADJOURNMENT.

Dwayne made a Motion to adjourn this meeting. He further moved that the Board members review the current extraction ordinance and that a workshop be held on the ordinance on January 2, 2001, at 7:30 PM and that the CEO be asked to attend this workshop and to inform him that the Planning Board will pay him out of their budget for his attendance. Todd seconds. The Motion carries a 4-0-0 vote in favor.

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The meeting is adjourned.

Respectfully submitted,

Dwayne Woodsome
Dwayne Woodsome,
Secretary/Treasurer
Planning Board

ACCEPTED: *2/14/01*

Chairman

Dwayne woodsome

Richard E. Dault

Everett Whelan

Jim Hill