

# PLANNING BOARD

## Town of Waterboro

Meeting Minutes of April 26, 2001

### I. ROLL CALL

After a ten minute recess of the Bartlett Pines II public hearing closed, Doug Foglio, Chairman called the regular meeting of the Planning Board to order.

Attending from the Planning Board is: Doug Foglio, Susan Dunlap, Dwayne Woodsome, Todd Morey, Everett Whitten, and Roland Denby.

### II. APPOINTMENTS

**Mr. John Hatch with a request for an after the fact setback reduction of 7 feet, 56' to 49' on his property located on tax map 35 lot 25.**

Mr. Ken Clegg of Burke and Clegg out of Sanford is present representing Mr. Hatch as well as John Hatch Jr.

Ken Clegg states that he is here to request a change of the conditional use granted by the Planning Board on June 14, 2000 from 56' to 49'. This property is on Ossipee Lake. The plan was to remove the existing structure and build a home. The vote by the planning board was explicit in that Mr. Hatch could have no more than 898.8 square feet of living space and that he could go no closer to the water than the existing structure. Mr. Clegg stated that they measured from the shed to get the 56' setback from the water that was depicted on the building permit application sketch. An excavator was hired. Gary Moreau put stakes in where the mobile was and began construction with the deck being 49' from the water.

Mr. Clegg states that Mr. Webster was looking at the conditional use permit not the wording of the building permit, which states that the new structure could be no closer than the existing mobile home. Mr. Clegg states the new structure is no closer than where the mobile home was.

Gary Moreau was asked to speak by Mr. Clegg on how he determined where to place the new structure. Mr. Moreau states that before he took the structure down he staked out the mobile home. He found out the new structure had a deck proposed so he had to slide it back 3 feet to get a variance for the septic system replacement. He states the deck is 3 feet back further than where the old structure was.

John Hatch Jr. states that the edge of the mobile is 3' in front of what the deck is today. Sue Dunlap asks why is 56' chosen by the planning board as a setback from the lake. Because that is what Mr. Hatch portrayed to the Planning Board.

Todd Morey states that when the application was submitted the board relies on the information provided by the applicant being accurate. He adds that their requirement of 56' came from the applicant's measurements.

Doug Foglio states that the minutes are very clear. Doug reads the motion of June 14, 2000, "With the updated plan presented Sue made the motion under Sections 2.08, 3.03, 7.01 and 9.03 to allow Mr. Hatch to build a home and open deck not to exceed 898.8 sq. ft. using the total 30% expansion allowed. The standard size entry deck is not to be considered in the expansion. Home and deck is not to be closer than 56' from the water with 30' sideline setbacks. Todd seconds. Motion carries with a 6-0 vote in favor."

Doug Foglio states that the building permit clearly states to build his home per planning board approval and that it is to be no closer than the existing mobile. If the applicant said the mobile was 56' from the water in the sketch that is what the planning board went by.

Doug Foglio further adds that the applicant gave us the building permit application asking for a 55' setback from the water, and the sketch states that the mobile is currently 56' from the water the planning board went by exactly what the applicant gave us. The conditional use permit states that the applicant must record the permit in Alfred at the registry of deeds to become a part of the deed.

Ken Clegg states that he is trying to make the board understand how this occurred.

Doug Foglio asks the CEO who issued the permit to speak. Doug states that Steve Foglio is his brother and asks if anyone has any objections to that. Doug asks if in Steve's opinion did Mr. Hatch understand the 56' setback?

Steve Foglio states that he believed at the time that Mr. Hatch fully understood the setback was 56'. Steve states it was on the sketch plan and on the conditional use permit. Steve added that he issued a stop work order for encroaching on the sideline setback and that Mr. Hatch had to take part of the foundation out because he was 2' too close to the right hand sideline. Steve adds that it stated on the building permit "per planning board approval". Steve adds that a second stop work order was issued because the deck was too close to the water and the living space in the basement was exceeding the 30% expansion.

John Hatch Jr. requested to speak on behalf of his father. He states that his father submitted the plan and several changes were made in the process. His father relied a lot on the code enforcement officer Foglio and the chairman of the planning board. He thinks that Gary Moreau and the carpenter and his father never wanted anything to go wrong. They readily took the foundation out and moved back when it was found over the setback. He explained how the stakes were touching the edge of the structure before it was torn down. He states this is a number error on the plan submitted with a difference of 7 feet. He adds that the so-called living space in the basement is a workshop area not living space. He states that they willingly moved the septic system back.

Dwayne Woodsome states that the septic system would have never been put where it existed so they had to move it.

Roland Denby asks Gary Moreau if he went by the building permit? Gary answers that he never saw the permit. He hadn't seen any building plans and had to come in to the town office to see those.

Todd Morey states that if the building was really 46' from the water and that if they had represented it that way he would have asked them to move it back. It was accepted at 56' because that is how it was presented.

Ken Clegg states that he did go back 3' to 49' not 46' because they had to obtain a variance for the septic.

Susan Dunlap states that they cannot go closer to the water than 56' because that is what it was presented as.

Doug Foglio asks current Code Enforcement Officer, Jim Webster if he has anything to add. Jim states that when he does inspections he goes by the conditional use and enforces those requirements. The reason he put the second stop work order is he did not meet the 56' setback.

Doug Foglio states that at this time the board has two options. One is to take a vote now or they could set up another meeting to review all the tapes. Doug states that any motions made should be in the positive.

Roland Denby states that he thinks this should go before the zoning board of appeals. Roland is informed that they did go before the ZBA and were denied.

Susan Dunlap is very concerned about making a positive motion. She states that to allow them to go any closer to the water is allowing more than the 30% expansion and the state is already watching the town in that regard.

Todd Morey made the motion to approve the request from 56' to 49' under sections 2.08, 3.03, 7.01 and 9.01 to allow Mr. Hatch to build a home and open deck not to exceed 898.8 sq. ft. using the total 30% expansion allowed. The standard size deck is not to be considered in the expansion. Home and open deck is not to be closer than 49' from the water with 30' sideline setbacks. Dwayne Woodsome seconds.

There is discussion regarding this motion.

Jim Webster states that it would not be legal to vote in favor of this motion. We would be allowing a greater non-conformity and someone from the state may intervene.

Susan states she doesn't know how we can allow this. It isn't legal.

This motion is put to a vote at and the motion fails with a unanimous vote opposing.

Doug Foglio states that in the past there was a requirement that all structures on non-conforming lots requires a survey and if we had required on in this case the stakes would have been placed at 56'.

**9:00 p.m. Bill Thompson of BH2M for Andre Cote and his application for subdivision of MeadowBrook Acres requesting further input from the Planning Board.**

Mr. Thompson pulls out the preliminary plan for Meadowbrook Acres and is here to discuss the extension of the dead end that is currently Brookside Drive. Mr. Thompson refers to the letter from the town attorney of March 1, which states that the planning board has the authority to grant a waiver of extension of the dead end.

They intend to do some test pits to see if the ground water will support a fire pond, knowing that fire prevention may be a concern of having such a lengthy dead end. Mr. Thompson lists off some other roads within town depicting their widths; Brookside is 23.6' wide, Townhouse Road is 22' wide. Roland asks what the right of way is on Brookside. Bill answers 50'.

They discussed having a cluster development trying to keep the road to one side of the stream. They need direction from the board before they can proceed with this application.

Doug Foglio states that there has not been a public hearing yet. The owner has the availability of making another access road onto Deering Ridge Road. The length of Brookside drive has already been waived and this is a cloudy area whether the board had the right to grant a waiver of the length of a dead end on top of another waiver.

Doug states he talked with the fire chief about this road with the hammerhead turns and discussed the probability of emergency vehicles getting clustered out there. There are also right of ways depicted on the plan which leaves the possibility of future development so there may be more houses intending here then what this application applies for.

Doug states that in his opinion sis tens would be the better way to plan for fire prevention than a fire pond. There is no danger involved with them, and there would be no worry of freeze ups in the wintertime. Water would always be available. It is within the board's right to require this. The ground water up there appears that it would be very difficult to support a fire pond.

Andre Cote states that he would be receptive to agreeing to never ask to extend the road again after this and would not have a problem agreeing to no further subdivision. His intention is to preserve the area. He has moved to Waterboro and his home is on the back part of this property.

Doug Foglio asks if they plan to build this in one shot or to do it in phases. They plan to build it in one shot.

Dwayne Woodsome asks if they intend to build this road to town specs to be brought to town meeting to become a town road. Bill Thompson answers yes that is the plan.

Doug Foglio states that the next step is to have a public hearing and that the road length is a very large issue.

Andre Cote states there are many roads not plowed through in the winter so basically there are miles of dead end roads in town during the winter months.

Doug Foglio agrees we do have a lot of dead end roads but most of them were created before the street design and subdivision ordinances were adopted. Before the '47 fire there were almost no dead end roads with the exception of Thyng's Mills but that has two ways out.

A public hearing is scheduled for May 24, 2000 at 7:30 p.m. at the town hall to review the application for Meadowbrook Subdivision. After the public hearing we can go over the plans.

A 10-minute recess is taken before the next applicant is heard.

9:30 p.m. Steve Stearns, Alan Burnell from Pinkham and Greer, And property owner, Francis Wood for the Waterways project are present to review their site plan.

Steve Stearns states that they are here to talk about issues that have come up with the project and hopefully get a public hearing scheduled to move forward with this application.

The plan is reviewed and Mr. Stearns explains how the detention pond has been pulled out of the stream protection zone as DEP views this as a structure.

Steve explains the stormwater management plan. He states that they have to treat the first 2 ½ inches of stormwater. The pre-treatment plan has changed since the last meeting.

Doug Foglio asks how long will it be before they are ready for peer review. Doug states to the members of the public who are here because they were notified of this meeting that this is not a public hearing. There will be a public hearing scheduled for this project where they will all be allowed to voice their concerns. Doug further explains that the peer review should be done before the public hearing. When do they expect DEP approval on this project?

Steve answers that with the changes in the sub surface waste system for DEP to review them they don't expect approvals for a week or two after next week.

Doug Foglio explains that we require the plans to meet the standards of our ordinance and that is why we require a peer review. DEP is looking at the plan for their requirements and we are two different organizations.

Steve Stearns reports that they have received the entrance permit from DOT dated April 13<sup>th</sup>.

They moved the treatment for the Laundromat and they are making sure there are no wells within 100' radius of the septic system.

They are building the property up 3-4' to get the drainage to work properly.

Alan Burnell gives an overview of the septic systems. There will be three. One will be a regular domestic system servicing the coffee shop and bathrooms in the Laundromat. One will service the carwash area. The last one will serve the Laundromat with 14 machines and 1800 gallons per day flow. There will be a pre-treatment system and the water will be recycled for the Laundromat.

They have made application to DEP for the system for the automatic car wash, which requires a waste discharge license, and they expect this license around June.

Alan explains the reclaim system. Each bay has a mud sump and the first flush goes into that. Then it goes into a settling tank. Then it goes into an ozonation system before it then goes to the septic tank. Nothing from the car wash will be going into the ground.

Doug Foglio asks if there is a chance of looping the road back around to exit onto 202, in case people ask for that. Steve Stearns doesn't know if DOT will allow two entrances on 202 but they will look into it.

Doug Foglio states that first we have to get a peer review done on the stormwater study and all water discharge studies with nitrates included. Doug adds that under our ordinance we have to have those studies reviewed to make sure that their plans fall within town standards.

Doug states that they should seek alternative outlets than what is on their plan right now. A lot of concerns have been addressed to the board about traffic and about the proximity to wells.

Steve Stearns states that they will locate any wells within 100' radius of the septic systems.

Doug Foglio points out that once the flow of water into a system reaches 2000 gallons per day the distance from wells is required to be at 300'. Doug states that 270 gallons to 1999 gallons the requirement is 100'.

Susan Dunlap questions if there is going to draw on the town water supply too much. Steve Stearns states that he spoke with the Water District and they feel the system can handle the draw. Doug Foglio adds that 2500 gallons per day is an insignificant draw on the water system.

Doug informs the applicants to get their package ready for peer review and to inform the board when they get their first notice that the DEP permits are pending approval. At that time we will schedule a public hearing.

**III. MINUTES OF PREVIOUS MEETINGS**

The minutes were not discussed.

**IV. REPORT OF OFFICERS**

**V. OLD BUSINESS**

The reclamation plans were put off because of the lateness of this meeting.

**VI. COMMUNICATIONS**

**VII. MISCELLANEOUS**

Roland Denby reported that he and Everett attended that workshop on Boardsmanship. Roland gave all the members a handout from the workshop.

Todd Morey reported that he attended the ZBA hearing of the Waterman's and that is was tabled until they could get more information from their attorney about the fact that the Waterman's did not receive written notification until 23 days had passed.

**VIII. NEW BUSINESS**

**IX. ADJOURNMENT**

Roland Denby made the motion to adjourn at 10:30. Everett Whitten seconded. Motion carries with a unanimous vote in favor.

APPROVED DATE: 5/9/01

*[Signature]*  
*[Signature]*

*Roland Denby*  
*Everett Whitten*

*Dwayne Woodson*