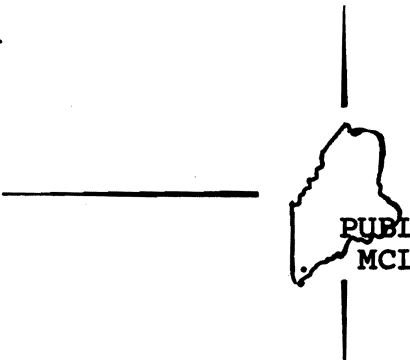


TOWN OF WATERBORO
PLANNING BOARD

WATERBORO, MAINE



PUBLIC HEARING OCTOBER 24, 1991
MCLAUGHLIN ESTATES SUBDIVISION
7:00 P.M.

Present from the Planning Board were chairman, John Roberts, Cindy Allen, Jon Gale, Judi Carll and Dwayne Woodsome. The Town Planner was also present and approximately 12 other people.

John Roberts opened the Public Hearing at 7:05 P.M. asking Mr. McLaughlin to present his intentions. Mr. McLaughlin explained briefly that his intent was to subdivide his son's and his property into 5 lots each being approximately 2 acres in size. Mr. McLaughlin stated to hopefully give some of the lots to his children. Also noted was a right-of-way for access to the five lots.

Charles Thornton asked if a deed was presented he believed that there were two owners of two lots? It was noted by the Town Planner that the two lots have been joined and are now being treated as one parcel. Mr. Thornton asked if the Board members had read the deeds. It was noted that a certified survey was on record.

Mr. Thornton noted that he also had a certified survey that is in direct conflict with that of Mr. McLaughlin's survey. Each survey certified by the same surveyor. Dwayne Morin informed the people present that he had discussed this issue with Mr. Emery and Mr. Emery stated that he had done further research after completing Mr. Thornton's survey and found information that led to the discrepancies in the two surveys.

Mr. Morin stated that Mr. Emery had informed him that he had been in touch with Mr. Thornton regarding this matter. Mr. Thornton clearly stated that Mr. Emery had not been in touch with him. Mr. Morin clarified he was only quoting Mr. Emery.

John Roberts asked if Mr. Morin would notify Mr. Emery and let him know that a letter from him regarding the discrepancies in the two surveys would be necessary .

Mr. Thornton contends to have ownership as by the deed of the property that is recorded on the survey of Mr. McLaughlin as being a portion owned by Mr. Thornton.

Dwayne Morin read a letter from Town Counsel, Karen Lovell regarding property line disputes.

Mr. Thornton noted the application for subdivision of Mr. McLaughlin's. Mr. Morin informed Mr. Thornton that the application was a portion of the subdivision approval. Mr. Thornton assured the Planning Board that a court opinion would be sought.

Jon Gale asked if the subdivision was approved and houses were constructed, court action came down and placed the property line in the center of a home what would happen?

Mr. Morin noted that the house would have to be moved to comply with the Zoning Ordinance.

Mr. Thornton noted the different degree headings from each survey. Mr. Thornton noted both surveys are different and done by the same surveyor. Surveyor has not retracted the survey of Mr. Thornton.

Mr. Emery in his further research for several other clients with this original parcel went back to 1700's and took the out sales and gifts by Starrett Pierce leading him to the plan for Mr. McLaughlin.

Cindi Thornton's land was noted by Mr. Thornton as having 3 or 4 acres less due to what he classified as an incorrect degree heading used by Mr. Emery. Mr. Thornton presented a survey on which he had sketched Cindi Thornton's property to show the different calculations as he believed them to be.

Mr. Thornton noted he did not have a problem with the subdivision just the location of the boundary lines and would challenge Mr. McLaughlin in court if necessary.

Mr. Thornton noted that Starrett Pierce had sold property several times over. Mr. McLaughlin responded that to his knowledge he and his son were the only people to purchase these particular pieces of property.

It was brought to everyone's attention that the State of Maine is a race state meaning that the first deeds registered take precedence over other deeds filed later.

Mr. Thornton made one further point. Refer to the original subdivision plan of 1974 the degree minutes etc. are different from the new plan.

The Board asked Mr. Morin if he would contact Mr. Emery regarding the discrepancy of the two boundary surveys on two subdivision plans. Mr. Thornton felt his plans were the first submitted and should therefore have precedence.

Minutes of November 15, 1990 were read and Mr. Thornton's letter of January 26, 1991. Mr. Morin noted that he had spoken with Mr. Emery as to which subdivision plan was correct. Mr. Thornton noted that Mr. Emery is a professional engineer and men should be able to take his work and place on the face of the earth the lots described so any person could follow his survey.

Mr. Thornton again noted that Mr. Emery had not contacted his regarding the survey that Mr. Emery had completed for his lot. Mr. Thornton intends to admit the minutes as evidence in his court action. Mr. Emery would have to make a determination. Mr. Thornton noted three different plans show three different angles.

John Roberts noted that as each subdivision plan comes in to the Planning Board they are handled one at a time.

Jon Gale noted the Board did not have the expertise and would have to rely on certified people and have had confidence with certified surveyors.

Again Mr. Thornton noted the discrepancies with the surveys. It was also noted that during surveys people find that they do not have the acreage that they thought.

Mr. Thornton commented that Mr. Pierce signed warranty deeds in full knowledge of the town and the town now says the current owners must take care of the problem.

Mr. Thornton asked if predecessor lots take over would Mr. Thornton take over some of Dorothy Pierce White's property that he would appear to be losing from Mr. Emery's survey presented for Mr. McLaughlin?

Dwayne Morin noted that a right-of-way divides the two properties. Mr. Morin believed that a court would uphold the information presented and unless the State of Maine withdraws the surveyors certification or a court of law determines otherwise the board would not have authority to declare one survey over the other. Surveyors can on different occasions find differing information.

Mr. Thornton noted his previous submission had placement of proposed home this would be different now.

Mrs. McLaughlin commented to Mr. Thornton, if you had bought the property first you would be arguing that your lot took precedence. Mr. Thornton did not believe that to be true. Mr. Thornton asked Sharon Abbott if he could be notified of future meetings regarding this subdivision. The Planning Board would need to act on this request since it is not customarily done.

Public Hearing adjourned by Chairman, John Roberts at 8:04 P.M.