



TOWN OF WATERBORO  
PLANNING BOARD

WATERBORO, MAINE

PUBLIC HEARING  
DOROTHY WHITE & IVORY LIBBY  
NOVEMBER 21, 1991  
7:00 P.M.

This is the second meeting held for these two subdivisions due to a mix up in paper work.

Present from the Planning Board were Vice Chairman, Roland Denby, Kerry Perkins, Cindy Allen and Dwayne Woodsome.

Dorothy Stetson White, single lot subdivision approximately 12 acres no further subdivision planned. Board of Selectmen determined that single lot subdivisions were the correct procedure to follow to clear the illegal subdivision up. Dorothy could not be present.

Charles Thornton noted for the record his feelings regarding the handling of this illegal subdivision. He feels it is totally wrong. Eventually this area could yield as many as 30 lots. None of which will have review by the board for roads, drainage, utilities etc. Mr. Thornton noted that the Town of Waterboro ha no set rules for single lot subdivision and the state doesn't. He did not see how a single lot subdivision could be legal. If not legal would his heirs be further held up in years to come from building on this lot.

Mr. Thornton noted he had no problem with the concept of the subdivision. Mr. Thornton asked to have the town attorney give a written determination of how they arrived at the status of a single lot subdivision.

Mr. Thornton felt the issue of this entire area is the actual location on the face of the earth each lot recorded in this entire parcel. Mr. Thornton noted the use of different degree markings and headings.

Dwayne Morin brought plans out and proceeded to demonstrate that the lines do fit as recorded in Mr. Emery's surveys. Mr. Emery has noted by letter, on file, that he rescinds the Thornton Estates survey.

O'Clair survey notes a different heading. During the review of the subdivisions presented Mr. Thornton noted some of the plans are different than what he had acquired from the Town. Mr. Thornton noted he should have been supplied a copy immediately upon the Town having received the plan.

Mr. Morin noted that he would have been supplied a copy if he had asked.

Note #6 on the plan of Dorothy White was noted and Dwayne Morin noted to those present that he had checked with two land surveyors of this note and was informed by each that the Seal and Certification: "This survey conforms to the Maine Board of Registration for Land Surveyors Standards for a Category I Condition II Boundary Survey" means that the surveyor has had to meet the minimum criteria by instrumentation. Mr. Thornton noted he was in disagreement with this since Note #6 specifies how Mr. Emery determined the boundaries. If Mr. Pierce created the subdivision wouldn't the notes be justifiable?

Kerry Perkins asked questions about the deeds. Mr. Thornton noted he was unprepared since he was notified in the afternoon of the Public Hearing.

Mr. Thornton asked Mark Libby if the pin location had changed after Mr. Emery had completed his survey. Mr. Libby noted very little change. Mr. Thornton asked Mr. Morin to present his copy of the original survey done of Starrett Pierce's lot. Kerry Perkins that the information was only as good as was recorded.

Mr. Thornton noted that Mr. Emery had refused to place the note on his plan that the Board had asked for regarding placement of pins on the property going through single lot subdivision. Mr. Thornton thought it strange that Mr. Emery would not produce the boundary for him.

Mr. Emery will be at the first December meeting of the Planning Board.

Roland Denby felt nothing could be solved until Mr. Emery was present. Survey is a peculiar science.

Kerry Perkins noted there has to be a process to correct a situation when deeds do not match up.

Mr. Thornton noted his daughter-in-law feels she is losing acreage with the plans that Mr. Emery has presented. Dwayne Morin noted that she would actually have more land. He demonstrated using a protractor. Mr. Thornton was in disagreement.

The Board members noted they were not land surveyors. Mr. Thornton noted he has no problem with the land owner's getting things right but wants to insure that it is right.

Mark Libby noted he appears to have lost about 5 ft. according to Mr. Emery's survey. Mr. Thornton again noted the different headings on each plan.

Starrett Pierce has a registered deed for the 50 ft. Right-of-way deeded to abutters. One deed in common. Mr. Thornton asked for a copy.

Roland Denby noted a problem with his own property line and once surveyed it was different with two surveyors. Noted that surveying is not an exact science.

Mr. Thornton again noted his belief that a single lot subdivision was a legal solution to this problem.

Kerry Perkins noted that other people were losing land, how does this affect Mr. Thornton. Mr. Thornton read deeds of Mr. McLaughlin and his own. Calls noted of Mr. Thornton's were from a deed description not the actual deed of Mr. Thornton, which was recorded in 1989. Mr. Thornton noted if the right-of-way was placed correctly each person in this illegal subdivision would have the correct amount of land as by deed.

Mr. Thornton noted that Starrett Pierce had set one pin and he had placed the other pins. It was brought up that the State of Maine is classified as a race state. The first deed registered takes precedence.

Mr. Perkins noted nothing could be gained here. Letter from attorney on file noting deeds in process as they were registered. This will probably end up being decided by attorneys getting together to the best of their ability.

Mr. Thornton noted he will challenge all of the discrepancies in court and stop the whole thing.

Mr. Perkins asked if in December everyone involved could be in attendance at the Planning Boards meeting. It was noted that it was hard for everyone with one applicant mailing everything in.

Dwayne Morin agreed with Mr. Thornton if he felt he was coming up short he has a right to question the plans. The Planning Board cannot however determine this.

Mr. Thornton noted Planning Board action once discrepancy has been pointed out?

Three surveyors said notes on plans are just a record of how a surveyor determined location of lot lines. Once sealed they have to have met a minimum of state regulations which means they were measured by instrument.

Board researched and find subdivision to be in accordance with local regulations.

Mr. Thornton noted that Mr. Emery had rescinded his survey because he had questioned him. Mr. Emery had told Mr. Thornton that someone at the Town Office had told him to hold up with Mr. Thornton's subdivision. It was noted that no one present was aware of any such comment. Mr. Thornton noted he had judgement in court against Mr. Emery for a specified dollar amount and have attached a lien on Mr. Emery's home and if the dollar amount is not met the house will go up for auction.

A letter to be sent by Mr. Thornton to the Board of Surveyors in Augusta asking if Mr. Emery could rescind a survey unless it went through the courts. Copies of these letters to be forwarded to the Planning Board by Mr. Thornton.

Planning Board noted that the Town Attorney would be at the next Planning Board meeting. The Planning Board has nothing to do with the action for settlement. Kerry Perkins noted the need to get a survey that all property owners can agree upon and the Planning Board cannot determine that.

Preliminary Plan for Dorothy White and Mark Libby at the next meeting.

Kerry Perkins noted the need for property owners to settle the dispute.

Mr. Thornton asked for a copy of a decision from attorney noting the legal method of single lot subdivision. It was noted that an attorney would not give options to the Town if they were not legal. Letter on file from 1986 read by Kerry Perkins noting again the need for single lot subdivision for lots in violation.

Mr. Thornton noted his opposing view since building permits had been issued previously by the town for illegal lots.

Kerry Perkins noted that it is not for the Town to request an opinion because Mr. Thornton has a different opinion. He could contact his attorney if he has a differing opinion.

Past actions were noted and it was noted to those present that all lots in violation would be coming before the board to clear up the violation.

Roland Denby felt that the meeting should be closed unless there were any further comments. There are no further Public Hearings scheduled at this time for this area. Next Planning Board session December 11, 1991, would be for review of Preliminary Plan.

Mr. Emery and Karen Lovell to be present at the meeting. It is not the Boards problem if a property discrepancy exists. It is a civil matter.

Roland Denby closed the meeting at 8:15 p.m.