

Planning Board
Town of Greenfield
Preliminary Meeting Minutes
Recorded by Michelle Hall
May 20, 2019

Members Attending: Kat Carpenter, Rob Wachenfeld, Robert Marshall, Mason Parker, Ken Paulsen, George Rainier, Neal Brown arrived at 6:35pm

6:30 pm KCarpenter called meeting to order. KPaulsen if he would be voting member tonight. KCarpenter then went over mail in detail.

Mail:

- 5/17/19- Letter from FEMA (KCarpenter assigned MHall and RWachenfeld to post something on town website in regards to this letter.)
- 5/14/19- Letter from Donald R. Mellen Surveyor, LLC (From Peter Mellen)

6:34 pm RMarshall read meeting minutes from 5/13/19. The following amendments are as follows:

Line # 7 Neal

Line # 10 move down to line 15

Line # 37 change CShaw to Catherine Shaw

Line # 53 Sheldon Pennoyer, member of the public; and then SPennoyer from then on

Line # 64 remove that and can

Line # 81 change no to not

Line # 65 change to the paper files instead of documents

Line # 56 change to 'This has never happened'

Line # 73 change to then she directed

Line # 105 change to Every Door Direct Mail (EDDM)

Line # 96 remove yet and add the ones in question

KCarpenter moved for the planning board to table reading of minutes due to running into the public hearing.

7:00 pm Public Hearing- Case # _____ Nickerson LLA R3-31, 39-1 (continuing)

KCarpenter opened the public hearing and went over the rules. **GRainier recused himself.**

KCarpenter asked for the Nickerson's surveyor, Peter Mellen, to provide an explanation concerning the letter KCarpenter sent to the applicants. PMellen had previously sent in a written explanation with additional documents. PMellen, surveyor for Nickerson LLA, read and explained his information, as well as, the lot plans in detail to the planning board. During discussion, PMellen stated that he found the Todd survey, recorded in the Hillsborough County Registry of Deeds, to be incorrect.

KCarpenter explained that the planning board has a problem with why there is an adjustment to the Rainier lot line and he is not on the application. **KCarpenter** asked PMellen why he believes the lot line from the Todd survey is incorrect and his is correct?

PMellen stated that he was informed by another surveyor of it being incorrect. He continued to read and explain his letter as well as point out items on the plans.

KCarpenter asked PMellen if he would continue the line to the group of walls to intersect.

PMellen stated that you would not. He explained the holding of the wall course and not the straight-line intersection of walls. He explained that there is a lot of overlap based on the Todd Survey. PMellen stated that there is a difference in the deeds; one states that there is 633' and another one states 620'.

PMellen explained that the survey was on file before the Todd survey was created. He continued reading his letter while explaining his views.

KCarpenter asked why there were so many changes. PMellen explained that going off of deeds, most of the lot lines were based off of stone walls which are not straight. He stated that if the deed for Rainier had stated 'to the wall of Fitts' it would be different.

MParker asked PMellen about back in 1988 the property was bought and the deed states that the buyer set a pin but it looks as though it has been moved.

PMellen explained that drill hole in a monument which are set in rocks when you are conducting surveys and he had used the drill holes previously set.

MParker showed the deed of the Nickerson's property. He stated that he knows the planning board has discussed a lot about the Rainier property but what about the Nickerson's property?

PMellen explained that he looked at a lot of deeds to conduct his survey. He explained that in reading Mr. Rainier's deed, it reads the line goes 650' more or less to a stake. His findings would be different if it stated to the northwest corner.

MParker explained to PMellen that he was actually questioning the deed of the Nickerson and not that of Rainier. If the deed says the lot runs northerly by a stone wall, now or formally of CA Wheeler, to a point at now or formally Rainier, how do you get a 7' line?

KCarpenter explained to PMellen that the problem is that if you change the lot line than you change the deed. If you change the deed than you are changing the deeds of the abutters.

PMellen explained that the Todd plan were created in 1973 and not recorded until 2016 when the Nickerson's bought the property. He explained that there are going to be problems with surveys if they aren't recorded correctly. He explained that he doesn't know if the other surveyors (Mr. Todd) actually walked the property when he conducted the survey. He stated that he went northerly to an intersection of walls and so on.

7:37pm KCarpenter open the hearing to the public and went over the rules for the open hearing. She asked if anyone who is for and then against the Nickerson LLA to please raise a hand.

Andre Batten, 48 Cavender Rd- he would like to know who actually surveyed the land. He explained that PMellen stated that a drill hole was located in a small stone that rolled. What was the size of the stone that rolled? He stated that the north west corner of his property has been done by 5 surveyors, the most recent in 2017. Most of his markers are in the ground and not the wall. He would like for it to be explained.

KCarpenter explained that no one on the board are surveyors. They cannot speak to ABatten's questions due to this.

ABatten stated that if you move a marker 3' it will through everything off.

John Eber, 79 Old Bennington- He has a question pertaining to something MParker stated in a past meeting where he quoted an RSA and would like for this to be explained. **KCarpenter** explained that the planning board will be discussing this tonight.

George Rainier- explained that he has had 3 mortgages on his property and has had 3 title searches done over many years. He has a deed which is on file. He is wondering where PMellen got his numbers from because PMellen's finding shows that he has been paying for land that isn't apparently his. He suggested that the board do a site walk. **KCarpenter** explained that the board will vote on that.

ABatten concurred with **JEber** on the definition of a lot line adjustment.

KCarpenter explained that, in her opinion only, she doesn't feel that the Nickerson's are trying to take any land at all. She asked if the abutter should be on the application because the line is not actually changing. She went on to explain that whatever is decided today, the applicants and the abutters have 30 days to appeal.

PMellen would like to answer ABatten's question. He asked for the plans which he submitted to be put out. PMellen showed a blow up of the backside of the Batten property. Shows a distance of 594.14', he showed the location of the drill holes. He pointed out that he did not find a drill hole but found a rod. He explained that he had contacted a past surveyor, John Lafear, who had surveyed the Batten property previously and stated that he had set the pins. PMellen explained that he had set all of his surveys based on the previous pins that he found.

RMarshall asked PMellen if he put the fallen stone back.

PMellen stated that he never touched it and left it where it was. He also stated that John Lafear informed him that the old plan was incorrect.

ABatten explained that the wall being discussed is a 5' wide walking wall.

KCarpenter allowed a brief discussion between GRainier, ABatten and Si Little in regards to this.

KPaulsen asked where a pin is normally put in a wall.

PMellen stated that they are generally put in the center of the walls.

Si Little, Attorney for the Nickerson's- stated that under Browns hierarchy, the Senior is the Rainier deed. Someone may have had their properties surveyed but there is a statement on what matters to an accurate survey. This doesn't matter. The NH Supreme Court states that the center of a wall would be a line and not this side or that side. He is trying to give some info on how PMellen conducts his surveys.

GRainier- stated that he would like for it to be recognized that PMellen's survey has not been reported yet.

Linda Nickerson- stated that the only question that they needed to address from the last meeting was with the Batten line. She stated that her husband and herself did try to contact the abutters but did not receive warm welcomes or resolutions.

8:04pm Deliberations

KCarpenter explained that the public hearing is closed, the public can no longer speak but are welcome to remain for the deliberative phase. The board may elect to ask further questions of the applicants and/or abutters.

MParker wanted to know what deed **GRainier** was talking about having the 'coming to a stone wall'.

GRainier- explained the deed was from Margaret Pickering to Norm and Linda Nickerson. **GRainier** gave to **MParker** for his viewing.

KCarpenter read the definition of 'Lot Line Adjustment' from the town and from the state. RSA-634-1 states that the planning board has the authorization to allow an adjustment. Any major adjustments would follow the same rules as a subdivision. **KCarpenter** went on to explain that, following the advice of the town attorney, the board should go over the plan line by line.

KCarpenter posed a question for the board to consider: if there were no contentions at all, would the board approve this?

RMarshall reminded the board of the town legal advice being either approve or if the applicants and abutters can not agree than the board will deny.

KCarpenter clarified the legal advice, that was when ABatten's property was in question. At this hearing the question is in regards to the Rainier lot line. She asked whether or not Rainier should be on the application since that lot line appears to be changing in his plan. She searched for the email from town counsel. She read and explained the email.

SLittle explained that the advice of town counsel has to do with the Batten's and not the Nickerson's.

MParker explained that this was suppose to be a simple thing but is not. The applicant is also the abutter in the matter. He stated that the board tabled the application in order to give the applicant time to work out the discrepancies with the abutters. The applicant has now asked us to continue the application, yet the discrepancies still continue.

KCarpenter explained again that the email with town counsel in regards to the Rainier lot line was about having a third party to evaluate another survey. **MParker** was referring to questions that had come up regarding ABatten's property due to an email sent from Catherine Shaw, which was later found to be inaccurate.

NBrown disagrees with that because there is no reason for the town to suffer the fees for a third person.

KCarpenter explained that if we were going to get a third party to evaluate, the fees would fall on the applicant. She stated that there is so much contentions here but wonders if this were something like Adams Higgins lot line adjustment, all abutters on the application, would the board approve it?

NBrown stated that a contentious deed cannot be recorded. So, if this ends in court than so be it. If we accept then the Battens would be losing some land.

KCarpenter corrected **NBrown** that the info from an email from Catherine Shaw was inaccurate and is in fact the opposite in regards to the Batten property.

KPaulsen explained that he was impressed with **PMellen**'s explanation of how he conducted his survey. He also wonders about the 5 surveys the Battens have from the past. He is not comfortable making a decision to deny or accept.

RMarshall thanked **PMellen** for his explanation tonight and how he helped the board understand the plans. He stated that the board contacted town counsel for a reason, this is a mess with too many contentions. He believes that he can not make a decision with all of these discrepancies.

KCarpenter would like for the board to vote on having a third party to evaluate.

MParker motions to disapprove the application based on too many discrepancies. **RMarshall** seconded. The board voted. Deny 4-0-2. **KPaulsen** and **RWachenfeld** abstained.

SLittle wanted to know why there is a denial of the approval and requested a copy of the minutes from tonight's meeting within the 144hr mark. **KCarpenter** informed **SLittle** that the denial was based on the many discrepancies between the unrecorded survey and the recorded surveys. It involved changing lot lines of abutters. As far as the draft minutes she would make sure he got a copy as soon as possible.

KCarpenter discussed the recent bill to Linda and Norm Nickerson. Linda Nickerson was unhappy with the balance. **KCarpenter** explained that the bill from town counsel was only from their attorney contacting the town attorney and the Nickerson's were not charged for **KCarpenter** contacting the town attorney.

Linda Nickerson gave **RWachenfeld** check #162 in the amount of \$1314, not including \$80 for Registry of Deeds.

8:37pm PCC: Case # MSteere Home Based Business. KCarpenter opened the PCC. She read the letter submitted by **MSteere** from March asking about a home-based business. She apologized for the delay in response, however, it was due to no phone number, address or email being listed. **MSteere** provided a brief explanation of the home-based business. **KCarpenter** stated that he will need to talk with **MBorden** on this. She then asked if he had lights on the barn and what will his hours be. **MSteere** stated that he would be appointment only and that he does have lights in the barn area. **KPaulsen** stated that it is a PCC and we wouldn't be able to approve yet. Business permit applications would need to go to **MBorden**, pay \$25 fee and then go to the planning board.

KCarpenter asked if the planning board could approve and then the applicant go to **MBorden**, or should the applicant go to **MBorden** first. This is a new form for home-based businesses.

RMarshall read from the Site Plan Review document in regards to home-based businesses.

KCarpenter motioned that the planning board vote to approve.

RWachenfeld stated that he would like to complete a site walk.

RMarshall explained that a site walk is an official meeting and they could make a decision there at that time after the site walk.

RWachenfeld moved to have a site walk and at which time the planning board will make the determination if a site plan will need to be viewed. **Seconded by RMarshall.** 6-1-0. **MParker** voted no.

KCarpenter scheduled a site walk for **5/28/19 at 4:30pm at 137 Muzzy Hill Rd.**

8:58 pm RWachenfeld motioned to adjourn and **NBrown** seconded. **Motion passed 7-0-0.**