

NORTH HAVEN PLANNING BOARD
MINUTES
AUGUST 12, 2015
TOWN OFFICE 5:00 PM

Present: Pat Curtis, Doug Record, Becky Bartovics, Jeff Crawford, Tammy Brown (associate CEO) and Paul Quinn (CEO)

Guests: Gene Pool, Parrish Dobson

1. Call to Order: 505 p.m.

2. Approve minutes of July 8, 2015: Moved by Doug and seconded by Jeff, approved 3-0, 1 abstention.

3. Minutes from Public Hearing July 8, 2015: Moved by Doug and seconded by Jeff, approved 3-0, 1 abstention.

4. Gene Pool/ Parrish Dobson re 2012 property divisions:

Summary from the Pools – In 2012 a small parcel of property was purchased from the Chestons and merged with existing Pool property. The Cheston parcel was part of a subdivision, created in 1978. The Pools would like to sell this lot and the buyers are asking for clarification that the transaction is legal.

Paul Gibbons (attorney) prepared a document, Findings of Fact and Conclusions of Law.

Moved by Becky to accept the Findings of Fact and Conclusions of Law as prepared by Paul Gibbons and seconded by Doug, approved 4-0.

5. CEO Report:

- Perkins (Map 30, lot 17) would like to build a stockade fence, six feet high. It is in the shoreland zone and fences are exempted from permits. CEO will talk to the property owners.
- Fred Emerich has offered an easement to the town for parking on his land, for eight spots.
- Applications/permits can be amended for a fee. North Haven Land Use Ordinance section 5.3

6. Other Business

a. Chair Report: Update re question as to existing businesses expansions:

Paul Gibbons said that the CEO could write a letter to the owner stating that it has come to his attention that the business has changed and a new application needs to be filed.

7. Next Meeting: September 9, 2015 at 5:00 p.m.

8. Adjourn: Moved by Becky and seconded by Jeff, approved 4-0 at 6:29 p.m.

Respectfully submitted: Jeff Crawford

Attached: Findings of Fact and Conclusions of Law and Crandall, Hanscom, and Collins email.

TOWN OF NORTH HAVEN PLANNING BOARD

Findings of Fact and Conclusions of Law

In Re: Subdivision Concern of Eugene H. Pool and Laura Parrish Dobson as Trustees of the Eugene H. Pool Trust dated January 19, 1996 and by Eugene H. Pool and Laura Parrish Dobson as Trustees of the Laura Parrish Dobson Trust dated June 12, 1998.

These applicants own a 6.4 acre lot of land which is presently under contract for sale. The western portion of this lot constitutes the northern portion of Lot #1 in the 1978 Cheston Subdivision. This proposed division of the Pool property would result in a change in the configuration of Lot #1 of the 1978 Cheston Subdivision.

Normally, such an amendment would require an application to amend the subdivision and approval by this Board of this subdivision according to the subdivision standards. See Title 30-A M.R.S.A. § 4407.)

The statute (30-A M.R.S.A. § 4407) requiring revisions to existing subdivision plans when there is a change in the subdivision was first enacted in June 29, 1989. It can only affect subdivision approval after June 29, 1989. More than ten years before this section of subdivision law came into effect, the Cheston Subdivision came into existence and was approved. This means that the requirement to amend the subdivision under 30-A M.R.S.A. § 4407 does not affect the Cheston Subdivision.

30-A M.R.S.A. § 4406 (1)(E) provides for possible penalties when a developer changes the configuration of the recorded subdivision plan. The lot owner here is not the developer, and this provision does not apply to them. This law was also enacted well after the original subdivision plan was recorded in 1978.

This means that no approval is required of the Planning Board to amend Lot #1 of the Cheston Subdivision and no amendment to the Cheston Subdivision is required.

This Board finds that is unnecessary for the applicant to file an amendment to the subdivision plan of the Cheston Subdivision dated in 1978. They may proceed to divide the lot as proposed without any concern of violating the subdivision regulations of the State of Maine and the Town of North Haven. This Board finds that no further review is required.

From: PATRICIA CURTIS <pas29@myfairpoint.net>
Subject: Re: North Haven Planning Board - Eugene H. Pool/Laura P. Dobson
Date: April 9, 2012 3:35:38 PM EDT
To: Crystalline Spaulding <cristy@fourlawmaine.com>



This is to let you know the Pool/Dobson question will be on the planning Board agenda April 11, 2012 @ 5:00 PM.

Pat

On Apr 6, 2012, at 3:05 PM, Crystalline Spaulding wrote:

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April 6, 2012

VIA EMAIL & MAIL

Patricia Curtis, Chair
North Haven Planning Board
P.O. Box 400
North Haven, ME 04853

Re: North Haven Planning Board - Eugene H. Pool/Laura P. Dobson
Property - Pulpit Harbor

Dear Pat:

Thank you for your follow-up correspondence. When examining title to real estate, an attorney will sometimes run across a zoning question and seek clarification. Different towns have different policies about how they respond to subdivision lot line changes. The Law Courts have been clear that an opinion by a Code Enforcement Officer is not sufficient to rely on. However, a determination by a Planning Board is, generally, considered sufficient to rely upon. Therefore, if a Planning Board decides that a certain ordinance does not apply to a particular set of circumstances, then the Planning Board's decision is usually accepted by attorneys searching title to real estate.

The only way to document a Planning Board decision is to have something in writing and in the minutes. Since the Pools would like to make sure that the lots they are creating by

re-arranging lot lines are acceptable to the Town and they want to be able to prove that fact if they should ever have to in the future after the lot line changes are made, then something in the Planning Board Minutes would be needed in order to have a clear record that the matter was brought to the Planning Board and the Planning Board decided it did not need to review the lot changes.

I am sorry if I misinterpreted your earlier correspondence. What I was trying to determine is how the North Haven Planning Board approached lot line changes with abutters and, in particular, where the abutters own all of the property in question. Certainly, I would like a determination by the Planning Board at a meeting that it does not need to review this type of lot line change. That would save a considerable amount of time and paperwork since the resulting lots are the same number of lots in total, all lots meet the zoning requirements and the impact of the lot line change on all of the subdivision criteria would be nil. I need to address this question in the event that some future owner raises the issue and I need to prove that it was reviewed.

I hope this clarifies my objective. Please let me know if you have any follow-up questions.

Sincerely,

Crandall, Hanscom & Collins, P.A.

Edward M. Collins

EMC/cas

cc: Mr. Eugene Pool

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