

**TOWN OF BALDWIN
PLANNING BOARD MINUTES
6/11/15**

Attendance: Jo Pierce, Norm Blake, Matt Fricker

Norm Blake opened the meeting by welcoming the new alternate Planning Board member, Matt Fricker.

MOTION: Motion to dispense with the reading of the prior minutes, passed unanimously

First Item: CUP application of Robert and Deborah Flint

The application for a mother-in-law dwelling was received by the Board. The Board decided to hold a public hearing on the CUP at the next regularly scheduled meeting on June 25th.

Second Item: Updated on Maietta situation:

The Town Selectmen would like to hold a meeting with the Planning Board, the Code Enforcement Officer, and the Town's lawyer to discuss the current status of the Maietta situation.

Third Item: The Sanborn Estate

The Board received an email exchange from the Town Selectmen regarding the status of the Sanborn Estate (attached). Vicky Parker, who is the daughter of Dennis Sanborn, was present at the meeting. She told the Board that she did not want to own or pay taxes on land that she will not be able to use for years and years. The Board advised her not to do anything too fast. Jo stated that he would like to speak with the Town's lawyer, David Lourie, and ask him whether there was a way to make this work for the Sanborn family.

The basic question appears to be whether or not the situation has created an illegal subdivision. From the Board's perspective, it appears to be a question of intent based on the Subdivision Ordinance, Definitions, Section B. Based on the information before the Board, it seems that it is extremely difficult to determine intent. In the absence of any evidence of unlawful intent, and to avoid unnecessary litigation, the Board thinks that we should believe that this is not a case of trying to circumvent the Town's Subdivision Ordinance. In that case, it seems that we should recognize the deeds as they stand (i.e., that they do not create an unlawful subdivision).

Fourth Item: Motion to Adjourn at about 9:20, which passed unanimously.

[Acting Secretary – Jo Pierce]

Subject: Re: Sanborn Estates
From: David A. Lourie (david@lourielaw.com)
To: rflint57@gmail.com; wa1ivb@att.net;
Cc: gary@dodgeoil.com; dtaylorbaldwin@gmail.com; othomasjr@roadrunner.com; dhill@baldwinmaine.org;
Date: Thursday, June 11, 2015 9:29 AM

Makes sense. However, it may or may not solve grandson's immediate problem with the Bank and its lawyer. As a practical matter, the grandson will probably still need the signed non-enforcement agreement to get his loan approved.

On 6/11/2015 9:00 AM, Bob Flint wrote:

Norm

I will not be there tonight for the planning board meeting but if you get to the Sanborn Estates issue, I would like to summarize the selectmen's position from Tuesday's meeting.

We the selectmen, have agreed that we will not exercise our enforcement option to prosecute for the violation of the town's subdivision ordinance provided the owners of the lots apply to the planning board for subdivision approval in a timely manner. The Planning Board will need to determine if the lot being sold to the grandson can be deemed the "first division" so that he can proceed with the land purchase and construction prior to approval of a subdivision for the remaining lots. If the owners don't apply for a subdivision approval for any of the lots within a timely manner, the Town of Baldwin will issue the NOV's and record them in the registry of deeds.

ROBERT S

The other selectmen would need to concur on this statement but if the grandson's lot can be deemed the "first division" and/or with the other lots, be brought under compliance through a proper application/approval for a subdivision, then the "Consent Agreement" proposed by Steve Sanborn is not needed, nor any NOV's. It is not our goal to prosecute, it is to remedy the problem and entice compliance with the land use ordinance.

Please keep us apprised of how the Sanborn Estates progresses with the Planning Board.

Thanks
 Bob Flint

On May 29, 2015, at 11:53 AM, David A. Lourie wrote:

Perhaps I was unclear in my last e-mail below. Subdivision definition and exemptions are very complicated. (I once went to a meeting of 20 municipal lawyers where we went through various fact patterns and reached a variety of conclusions as to several scenarios.)

I believe that the proposed Agreement solves his title problem with the bank, as it says that Town will not prosecute for past violation when they relied upon Brian Morse in dividing the tract by deeds to the heirs, rather than by making them all tenants in common. The agreement does NOT grandfather or exempt the other lots from subdivision requirement in the future.

I conclude that agreement proposed can be signed without prejudice the Town so long as:

- (1) development of the grandson's lot is the FIRST lot actually being split off from the tract by development within the last 5 years (so that the CEO can treat it as a "first dividing"), AND (2) the CEO will force the other heirs (and their successors) to go through subdivision approval process prior to developing their lots (unless they wait to dos through successive 5-year periods or prove that they qualify under the definition for individual lot exemptions) by denying permits to develop any more lots, and (3) the CEO issues the NOV and records it in the Registry of Deeds (to avoid possibility of evading subdivision approval requirement under the 20-year rule.)

I am copying Dan Hill to ensure that we are all on the same page.

On 5/29/2015 10:33 AM, Gary McNeil wrote:

I agree Bob, I have known Steve Sanborn for many years and I think he is honest and a man of character but from David Lauries assessment, we need to distinguish between what lot we can help the grandson with while giving the Planning board the opportunity to review the other lots. Gary

From: Bob Flint []
Sent: Thursday, May 28, 2015 8:40 PM
To: Gary McNeil; Danielle Taylor; Olin Thomas
Cc: