

TOWN OF CUSHING
SELECTMEN
Minutes of Meeting
February 23, 2015
Cushing Community Center

Selectmen Present: Chairman Alton Grover, Daniel Staples, Laurie Haynes, Martha Marchut, and Robert Worthing

Selectmen Absent: None

Staff Present: Lisa Young

1. Call to Order: Chairman Alton Grover called the meeting to order at 6:03 P.M.

2. Pledge of Allegiance: The pledge of allegiance was recited.

3 Approve and Sign the Warrant: Chairman Alton Grover said all members had signed the warrant.

ACTION: Selectman Daniel Staples made a motion, Selectman Laurie Haynes seconded, to approve Warrant # 7 & # 8.
Carried 5-0-0

4. Approve Minutes of 01/26/15:

ACTION: Selectman Laurie Haynes made a motion, Selectman Martha Marchut seconded, to accept the minutes of the 02/09/15 meeting.
Carried 4-0-1 Selectman Robert Worthing abstained due to not being at the meeting.

5. Other Business:

6. Unfinished Business:

7. New Business:

Plumbing Inspector/Code Enforcement Officer, Scott Bickford, addressed the Board. He reported that the Planning Board has made a request that he issue a Notice of Violation in regard to a structure, located at 10 Stones Point Rd., that is in resource protection. He has some concerns and he would like the Selectmen to advise him on this matter.

Scott noted his concerns in regard to the notice of violation. At the time of the approval, 2002, A.H. Boothby was the Planning Board Chairman, Code Enforcement Officer, abutter who approved an electrical easement over his property, and a neighbor that could see what was taking place. There is a possibility of an estoppel which is when a person has committed an ordinance violation on the basis of advice provided by one or more municipal boards or officials. He went on to note that if a Notice of Violation was issued, and the property owner decided to take legal action, it could be a long and expensive ordeal. He said another way to address the situation is to enter into a No Action Agreement allowing what is to remain, but restricting action by the town, and by the violator, in exchange for monetary, deed covenant, and or some removal or reduction of the noted violations.

Selectman Daniel Staples voiced his concern that if this is ignored it could be sending the wrong message. He is afraid that other property owners may try to get away with violations if the cost is not too great. He also pointed out that the property owner never got a permit for the gray water system. He feels this should be part of the violation. Scott noted that the issue has been rectified; the pipe is out, it is not being used for plumbing, and having crushed rock does not make a gray water system. Selectman Martha Marchut noted that she thought that until the crushed rock is removed it is still a part of the system.

Selectman Staples asked about the deck that was put on illegally. Scott noted that it was put on illegally, but the town allowed it to happen, and under the Shoreland Zoning Ordinance once a deck is attached it is considered part of the principal structure. He noted that Maine Municipal lawyer, Amanda Meader, in her reply to the Planning Board's question states that the town could enforce the violation in regard to the deck because there was no permit for it, but she doesn't recognize the definition of accessory structure or use in the Shoreland Zoning Ordinance. He stated that the Board may want to obtain legal counsel but recommended they speak to the towns' attorney due to MMA is only advisory and they will not defend the town in court.

Selectman Laurie Haynes inquired how far the structure would have to be moved back to make everything go away. Scott stated it is 60 ft. Laurie asked if anyone has asked the homeowner if they would move the structure back, and if not, she feels this it is important to at least try.

Planning Board Member, Robert Ellis, stressed that he agrees that the former CEO/Plumbing Inspector was in error by letting this happen, but he feels that the current CEO/Plumbing Inspector is doing the same thing with the gray water system. He feels it is a flagrant disregard of the rules, and he is not sure that Scott will keep an eye on it. Chairman Daniel Remian noted that there have been ongoing violations and the original structure has been expanded 300%. He also reported that he has been approached by a neighbor of this property and another property owner voicing their concerns to him. Selectman Laurie Haynes noted that under normal circumstances she would agree to the notice of violation but due to this has been going on for years she feels it should be resolved calmly.

Bob Stolt a lawyer representing owner Sue Fisher noted it is an interesting dilemma for the town and for future buyers of the property. He stressed that Sue Fisher should not be punished for doing what she was told to do. She had a permit that was approved; the CEO/Plumbing Inspector/Planning Board Chair watched the construction so he knew about the windows and deck. Sue Fisher stated she had no idea that there was any violation. Selectman Martha Marchut wanted to clarify that whatever was said verbally that the original permit does not include a deck.

Selectman Robert Worthing stated that we know that the structure is not in compliance and that a town official knew about it, but we can't absolve it. It is in the best interest of the Town and the property owner if we can resolve this situation. Chairman Alton Grover recommends that CEO/Plumbing Inspector Scott Bickford meet with Sue Fisher to see if they can negotiate an agreement.

ACTION: Chairman Alton Grover made a motion, Selectman Laurie Haynes seconded, to direct Plumbing Inspector/Code Enforcement Officer, Scott Bickford, to meet with property owner Sue Fisher to try to come to an agreement and for Scott to bring back any potential solutions to the Board of Selectmen.
Carried 5-0-0

Selectman Martha Marchut stated for the record that the Board of Selectmen has not made any judgment of how they will respond to anything brought to the Board.

8. Comments from Citizens:

Chairman of the Planning Board, Daniel Remian, stated that ignorance of the law does not justify violations.

9. Adjournment:

ACTION: Selectman Robert Worthing made a motion, Selectman Daniel Staples seconded, to adjourn at 7:00pm.
Carried 5-0-0

Respectfully submitted,
Lisa M. Young, Town Clerk