



Town of Weare Planning Board

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Planning Board

Craig Francisco, Chairman
Frank Bolton, Vice Chair
Neal Kurk, Secretary
George Malette, Member
Keith Lacasse, Ex-Officio
Bruce Fillmore, Jr., Alternate
John VanLoendersloot,
Alternate

PLANNING BOARD – JUNE 26, 2014 FINAL MEETING MINUTES

Present: Craig Francisco, Keith Lacasse, Neal Kurk, Bruce Fillmore, Jr., Chip Meany, Code Enforcement Officer and Wendy Stevens, Recording Secretary

Guests: Art Siciliano, Doug Kirsner, Scott Anderson, Katherine Cook, Katherine Cass, Mike Zienkiewicz, Nancy Zienkiewicz, Will Townsend.

I. CALL TO ORDER

The meeting was called to order at 7:05 pm by Chairman Craig Francisco. Chairman Francisco appointed Mr. Fillmore as a voting member.

II. PUBLIC HEARING ON CONTINUANCE FOR INNOVATIVE LAND USE, LLC

Mr. Siciliano presented the board with a revised subdivision plan. He stated he is still waiting for the dredge and fill from wetlands. He met with the Board of Firewards. The letter from the Board of Firewards was reviewed. Regarding the Chief's concerns, Mr. Siciliano stated his questions have been addressed in the plan and he thinks he has satisfied the Board of Firewards. He stated regarding the DOT approval, the reviewer is away until the 29th and he should have that permit after that. Mr. Siciliano presented a visual of the driveway. He stated regarding the grading around the houses, he has sketched them in there, a 2 to 1 slope behind the house on lot 4, and the other house was graded. He presented a visual sample of what can be done. Mr. Kurk asked they show a wall yet the plan says construct retaining walls as needed, and the owner might not be required to put in retaining walls. Mr. Siciliano said that they would indeed be required to put in retaining walls because they are needed. He stated the walls on the side of the road have to be built. Chairman Francisco stated the walls on the side of the house need to be there too. Mr. Siciliano stated he would take the phrase "as needed" out of the paperwork.

Chairman Francisco stated if it is less than 16 feet, you will have to increase the travelway. Mr. Siciliano stated the travelway is labeled and it is 16 feet wide. Mr. Kurk asked if there was enough room to put snow between the wall and the driveway in the winter? Chairman Francisco stated the cross section and the plan view do not agree with each other, and one shows a 12 foot travelway and the other shows 20. Mr. Siciliano stated he will have his engineer correct the cross section view and he knows the driveways need to be 16 feet wide. Mr. Fillmore asked if it was all stone? Mr. Siciliano stated yes. Mr. Kurk asked to make sure that the plan reflects that those retaining walls are not an option, including the one near the house.

Mr. Kurk asked what happens if the purchaser wants to put the house in a new location? Mr. Siciliano stated he would have to come to the Planning Board for a new plan, and that the Planning Board is approving this specific plan.

Chairman Francisco asked if DOT has looked at the water flow, culverts and drainage areas? Mr. Fillmore referenced the drainage report. Mr. Fillmore read the specifications given, 1.5 cfs (cubic feet per second) to 1.95 cfs. Chairman Francisco stated the draining report doesn't say how much water is coming down, how much water is alongside the roadway, in the stoneline ditch, etc. He added the stoneline ditch could be ¾" gravel or 6" or bigger than that? He doesn't see that specification. He

thinks DOT will be concerned about that. He also asked for the outlet section of the two pipes. Mr. Kurk stated he also wants the amount of water currently flowing? Chairman Francisco stated it is a state road so if the state is not worried about an increase in runoff there is no reason to worry about it. Mr. Fillmore stated the permit should read no increase in runoff. Mr. Kurk stated he thinks we need specific numbers as far as how much is flowing now. Chairman Francisco stated the numbers are there, and they state .4 cfs which isn't very much, 3 gallons a second, 180 gallons a minute in a two year storm. It grows to .9 in a fifty year storm. Chairman Francisco stated he thinks this is a DOT concern, not a concern of the Planning Board. Mr. Kurk confirmed with Mr. Siciliano that this was a post drainage report which takes into consideration the runoff of housing, roofs, grass yards, after the subdivision is complete, and it is not a report on the current condition of the parcel. Chairman Francisco asked for the report to specify if the figure was total runoff or peak runoff.

The curve in the driveway was discussed, and if the fire trucks can get through. Mr. Siciliano said that the Firewards said they they are probably not going to go up there with the fire truck, that they would turn towards Lot #4 and back to Lot #5. Mr. Kurk asked wasn't the driveway more shallow as you get to the house, and so what was the issue? Chairman Francisco stated the problem was the curve. The 50 foot radius was confirmed. Mr. Fillmore asked to clarify in the Plan that the driveway is 16 feet wide.

Mr. Siciliano specified to Mr. Kurk that there will be 8 feet of space on each side of the driveway for snow concerns.

Chairman Francisco asked what changes were made to the Subdivision Plan? Mr. Siciliano stated he added the easement last month for Lot #3. He stated Lots #4 and #5 have their easements already. Chairman Francisco asked if he has done any repair to the wetland yet? Mr. Siciliano stated no. Chairman Francisco asked that it be done soon.

Chairman Francisco invited the public to speak.

Mike Zienkiewicz 318 S. Stark Hwy, stated his property abuts Lot #4. He asked if there is sufficient stop distance for safe entry and exit? He stated he says people come down that hill very fast. Chairman Francisco stated site distance is a DOT issue and they have already approved it. Mr. Zienkiewicz's second question was will there be any drilling and blasting, is there going to be a pre – blast video survey done prior to any blasting or drilling because it's going to affect wells and perhaps other foundations, as it is fairly close to existing houses. Chairman Francisco stated according to Mr. Meany, that is required by law.

Chairman Francisco asked for any further public comments, there being none he closed the public hearing.

Chairman Francisco asked when the driveway permit was expected? Mr. Siciliano stated Scott Looney is away until the 29th and he expects it next week. Chairman Francisco confirmed that an extension was given last month.

The Conditional Use Permit was discussed. Chairman Francisco stated it appears that the Firewards are satisfied, and asked that the Plan include language that includes the Board of Fireward's requirements in their letter dated June 25th, 2014.

Mr. VanLoendersloot entered the meeting at 7:41 pm. Chairman Francisco appointed Mr. VanLoendersloot as a full voting member.

Mr. Fillmore asked to reference the Board of Fireward's letter in a Note in the Plan. Chairman Francisco summarized that the cross section needed to be corrected, stoneline ditches clarified, and radius stated.

Mr. Fillmore stated Note #6 needs to be revised. Mr. Siciliano stated he will revise that to the Fireward's letter. Chairman Francisco stated it should say driveways for Lots 1, 2 and 3, separate and then Lots 4, 5, driveways have been approved on such a date and shall be constructed for this plan. Mr. Siciliano stated he would create two separate Notes.

Chairman Francisco stated he has always been told that silt fences below culverts are not a good idea, that it will blow the silt fence right out. He stated silt fences are made to handle peak runoff. Mr. Siciliano stated if they are installed correctly they will work. Chairman Francisco asked is silt soft might be used instead. He added it may be a good idea to have silt fence added along the boundary of Rt. 114.

Chairman Francisco discussed continuing the application until the July 24th meeting. Mr. Kurk made the motion to continue both applications until July 24th. Mr. Fillmore seconded. The vote was unanimous.

LOT LINE ADJUSTMENT BETWEEN BOISVERT AND S. WEARE MOBILE HOME PARK

Mr. Siciliano stated this is a minor lot line adjustment on the east side of Rt. 114, there is a 40 foot strip of land that connects to a 22 acre parcel, and in order to get a building permit, they need 50 feet of road frontage. Mr. Kurk stated he thought a 50 foot right of way had to span all the way back to the parcel. Mr. Siciliano clarified that the purpose of this lot line adjustment is to have 50 feet of road frontage for that 22 acres. Mr. Siciliano clarified this is to have 50 feet of frontage only, not a 50 foot width along the entire way right of way. Mr. Siciliano stated to Mr. Kurk that this is ideal as you won't be able to subdivide. Section 18.2.1, pg. 23 of the Zoning Ordinance was reviewed. Chairman Francisco read from the Ordinance, "All lots of 10 acres or more must have a minimum of 50 feet of frontage on a paved Town road or, if on a gravel road, 250 feet if in the Rural/Agricultural (RA)...".

Mr. Siciliano added a piece of paper to his application that showed a 40 x 490' foot right of way belonging to Katherine & Mary Cook. Mr. Fillmore stated the problem is one lot is zoned commercial and the other is zoned rural/ag and that 10 feet is zoned residential/manufactured. Mr. Siciliano stated Parcel A is still going to be the same zone it is now. Mr. Fillmore asked if the Cook property is the only thing zoned commercial? Mr. Kurk asked where is the zone line? Chairman Francisco stated he wasn't sure if the map presented was correct. He stated it appears the Boisvert property is zoned rural/ag including the 40 feet. Mr. Lacasse stated it appeared that the zone was mislabeled on the Plan. Mr. Kurk clarified that Parcel A is residential/manufactured. Mr. Siciliano stated it will remain that way, he is not trying to change zones and only the town can do that.

Mr. Kurk re-read Section 18.2.1 of the Zoning Ordinance and stated he thinks Parcel A needs to be zoned Rural Agricultural in its' entirety. Chairman Francisco stated it doesn't say the frontage has to be zoned Rural Agricultural. Mr. Kurk asked if this application were approved, and the owner wants to put on a house, would he have to come back to the board? Chairman Francisco stated it would be a determination of the Code Enforcement Officer, or if the driveway was over 10% then yes. Chairman Francisco stated he is just buying a small triangle for this application. Mr. Kurk summarized if he wanted to build a house, there is potentially no need for him to come back to the Planning Board, and he reads the application as being contrary to the ordinance. Mr. Fillmore read the ordinance and stated that the ordinance applies to both residential and rural/ag zones. Mr. Kurk stated the concept behind the frontage requirement is not to create a lot with 250 feet of frontage that tapers back to 100 feet, and then goes on to however many feet it has to be to get the acreage requirement. Chairman Francisco stated he recalled past examples of applications obtaining frontage in this manner and when he objected, he was outvoted by the Board at the time. Chairman Francisco stated he thought this was a 22.1 acre lot Zoned RA and it has to meet the frontage of a town road. 99% of this lot is zoned RA. Mr. Lacasse agreed. Mr. Kurk disagreed and stated he will vote the way he reads the ordinance.

Mr. Siciliano stated he needs to correct the zone area for the 22.1 acres of Tax Lot 412-194.

Chairman Francisco stated we need waivers for topography, test pits, wetlands, driveway entrances, and soil types. Mr. Lacasse made a motion to waive checklist items #13, 14 and 15, and #14 on the formal consideration. Mr. Kurk seconded. The motion passed 4-0-1, Mr. VanLoendersloot abstained.

Mr. Kurk made a motion to accept the application as complete. Mr. Lacasse seconded. The vote was unanimous.

Chairman Francisco asked Mr. Siciliano why the +/- notation on the 22.1 acres? Mr. Siciliano stated he used a numbers of surveys, and there were a number of +/- distances on the surveys he used. Chairman Francisco noted the 1,500+/- notation on the back.

Chairman Francisco invited the public to speak.

Will Townsend of 63 Hoit Mill Rd., stated there is a bulldozed road up to a certain point and Mr. Boisvert has a right of way to share the driveway that three of them already share. He stated he would like to see them approve this because it would alleviate a fourth person on that driveway and there are some other complications with their driveway. Mr. Meany stated Mr. Boisvert cannot use that driveway due to no frontage. Chairman Francisco stated you can't have a driveway shared by more than two residences. Mr. Kurk asked what happens if this is approved and Mr. Boisvert chooses not to put a driveway in? Mr. Meany replied then he could not get a building permit because he has no access. Mr. Kurk asked what if once the house is built, can they use Mr. Townsend's driveway? Mr. Meany stated legally no. He added that Mr. Boisvert owns the right away and one might consider not selling the right of way with the lot. Mr. Townsend added it is complicated that two of them share the driveway, and now the driveway shares his, but the right of way is off in the woods, and it is complicated.

Mr. Townsend asked if this lot currently can sustain more than one residence? Mr. Meany stated no. Mr. Meany stated there is a legal restriction there. Mr. Meany stated as far as knows, when this lot was subdivided, it was subdivided with a contingency that that was one lot. Mr. Kurk stated then there is already a legal restriction on it, and he was not aware of that.

Katherine Mary Cook, 160 S. Stark Hwy, she owns a commercial property. She stated when she bought the house, there were three Variances 1) keeping a buffer zone between her house and the trailer park, 2) if someone was to build back there they had to have an engineered driveway because of runoff. Her house would literally be flooded. Also, she stated there is a stone wall that will have to be removed, her mailbox will be affected, and trees will come down. She tried to sell her property and could not because it was next to the trailer park, and if this goes through and trees are cut down, her tenant has stated he will move out. She stated if this gets approved, it will negatively affect the value of her property. Mr. Meany stated the Variance was approved for a 2 year period, it was extended, and then it lapsed. Mr. Meany stated this Variance was in 1999, and so when it lapsed, it lapsed, and the Variance did not predate the conceptual rules. She added she was told that that road was an access road for the fire department to get through in case there was a fire at the mobile home park, and she maintains that road. She stated she has had the house for 24 years.

Chairman Francisco cited Article 3.5.2 of the Zoning Ordinance. He asked if she used the road. She stated yes, that is her access road into her property. She stated the road does go all the way back up to the property and it is a steep hill at the end. Mr. Siciliano confirmed that Ms. Cook does have a deeded legal right of way.

Doug Kirsner, 62 Hoit Mill Rd., stated he wanted to find out what Ms Boisvert's intentions were. He wanted to make sure that the one house lot was not going to change, and that it wouldn't affect the conservation land. He stated he owns 36 ft of frontage on Hoit Mill Rd. which goes into his house and also goes into the conservation land. In his deed, it states that he was to allow people to access the

conservation land but it doesn't say how. Mr. Kirsner stated he gave verbal agreement to Mr. Boisvert to put in a 1,200 foot driveway, and he did put the driveway in. Mr. Kirsner stated Mr. Boisvert didn't want to pay for all the fill to put a driveway elsewhere. He wants to make sure that he has no intention of trying to access the new lot down the side of his property, down the side of Mr. Townsend's driveway. He stated he moved there for rural reasons, and he likes his privacy. He would like assurance that if he is going to build the house there, it is not going to affect his road at all. He does maintain the road himself. Mr. Kirsner stated there is nothing in his deed in regards to Mr. Boisvert, and he does not want any more traffic. He asked isn't it illegal to access someone's property that way? Chairman Francisco stated it sounds like it is illegal. Mr. Townsend clarified Mr. Boisvert does own a right of way to his property. Mr. Meany stated Mr. Boisvert knows he can't go in there any further, and that is why he has applied for the frontage elsewhere. Mr. Meany stated if he did that, Mr. Kirsner could take him to court.

Katherine Cass, Lot 1 S. Weare Mobile Home. She stated she heard about this lot line adjustment from Ms. Cook, and she was never notified of any of this. She clarified it is a homeowner's association. She asked when the application was signed? Chairman Francisco stated May 14th. She stated there was no meeting of the homeowners association to agree to this, and that Dan does not own the parcel. She added where the ten foot of frontage is, there is a well there. Mr. Meany stated their homeowner's association was notified but he can't control if they did not notify the residents. Ms. Cass stated they follow Robert's Rules just as the Planning Board does, and there has to be a majority vote, and there was no vote. Mr. Kurk stated he thinks Mr. Drescher needs to look at this, Chairman Francisco agreed. Ms. Cass stated if this goes through, it will be in her back bedroom, and she added there are huge water issues with the drainage ditch. She added she had fill brought in to try to alleviate the runoff that goes into the Cook's residents. Chairman Francisco stated the definition of an abutter RSA 672:3, for the purposes of receipt of notification, the term abutter includes a manufactured park owner. Chairman Francisco recommended discontinuing this hearing until somebody notifies the abutters. It should include the park owner and the tenants on the east side of the park as they are abutters. Mr. Townsend stated this is a Mobile Home Coop, and there is no park owner. Ms. Cass agreed. Mr. Meany asked Mr. Siciliano to provide the board with a copy of the South Weare Mobile Home governing documents as well as a copy of minutes if and where this was approved.

Mr. Kurk asked about the well? Mr. Kurk asked didn't the association use a common water supply? She stated yes, that well she mentioned is not being used, but it still there and may be used in the future.

Mr. Fillmore recommended to discontinue the entire conversation since the abutters haven't been notified.

Mr. Kurk made a motion that we reconsider our action whereby we accepted this application as complete on the basis that new information was presented and a question arose as to whether or not all of the abutters, as defined in RSA 672:3, were properly notified. Mr. VanLondersloot seconded the motion. The vote was unanimous.

Mr. Kurk made a motion to accept the application as complete. Mr. VanLoendersloot seconded the motion. All were opposed.

GEORGE MERRILL - CONCEPTUAL HEARING 1015 RIVER RD.

Mr. Merrill stated he reviewed the minutes from August 2013 and it stated the land was denied ten years ago, and that was the only explanation provided. The only thing he knew about was that Bill Boisvert tried to get a four lot on the driveway, and that was denied, so he was not sure if that was what the minutes were referencing. He stated he is here for a conceptual hearing for a shared driveway.

He stated the people that own the driveway that he is coming off from, he does have a right of way and has had it for twelve years. He is starting from square one and asking for a shared driveway.

Mr. Kurk asked what about the steepness? Mr. Merrill stated they never considered the steepness of the lot when the lot was approved, so why would it be a concern now? Mr. Merrill added he is aware that steepness is of concern, and wants to first address a shared driveway.

Chairman Francisco stated from his memory, they met with Mr. Drescher about this and Mr. Merrill had to either petition the selectmen to create a private road or bring a lot line adjustment or subdivision application to get the shared driveway. Mr. Merrill replied or go back through with a drawing to show the shared driveway. Chairman Francisco and Mr. Kurk both stated no, that it has to be one of the things mentioned. Chairman Francisco stated to create the shared driveway, you have to either do a lot line adjustment or a subdivision application. Mr. Kurk stated the determination has been made that it is not a shared driveway, so you are indeed starting from scratch. Chairman Francisco stated when the subdivision application was initially approved, all access was going to be from a single lot on River Rd., and that although the developer put in the right of way, it was not an approved right of way. Mr. Fillmore stated that the subdivision plan was never approved for a right of way, that Mr. Boisvert put that in after. Chairman Francisco added the other option of petitioning the selectmen is much more involved and difficult and abutters get involved and he recalled one of the abutters was not supportive. Mr. Merrill stated that the abutter thought they were trying to put a road in. Mr. Merrill stated it is stated in the deed. Mr. Kurk clarified that a right of way is not a driveway. Chairman Francisco stated you can drive on it, but you can't use it to access a residence. Mr. Fillmore stated that the conceptual shared driveway would be just over a 9% grade. Chairman Francisco also recalled that the access from River Rd. is extremely steep. Mr. Fillmore stated it was 19%, and it was cut down to 16%, and it comes out to another part of a shared driveway. Mr. Merrill added there are wetlands too. He added he has spoken with Mr. Boisvert and he is open to working with the lot next to him to meet his 10%, as he needs more distance to cut down the 16%. Mr. Kurk stated but that assumes he is using his right of way as the existing driveway. Mr. Kurk stated he should work with his abutter. Mr. Merrill was encouraged by Mr. Lacasse to work with the neighbor. Mr. Merrill asked about driveways steeper than 10%. If he cannot get that 10% met, he would hate to have to extend his driveway another 300 feet. Chairman Francisco asked about the curve recalled, and Mr. Merrill stated the radius is 60 feet with a turnaround. Chairman Francisco encouraged him to review the new driveway regulations as he moved forward.

III. OTHER BUSINESS

The May 22nd minutes were reviewed. Mr. VanLoendersloot pg 3, he came in at the very end of the daycare conversation. Pg. 6 he asked for a clarification fourth paragraph Mr. Kurk stated 34.9.2, what does that refer to? Mr. Meany stated zoning article. Mr. Fillmore made a motion to approve the minutes as amended. Mr. VanLoendersloot seconded. All were in favor.

The June 12th minutes were reviewed. John instead of Jon. Pg 6, fourth paragraph last word sewer spelled incorrectly. Same page, 8th paragraph 3rd line from bottom, you could have a 2, the c is supposed to be an x. 7th page, 2nd paragraph 5th from bottom Manchester is open until 12pm, should be midnight. Chairman Francisco had a question pg 2, second paragraph, 7 lines up from bottom, Mr. Malette referred to 28, say RSA 21:34a, Roman Numeral V. pg 3, 7th paragraph, perform, should be conform to the setbacks. 6th line down and 10th line down. Mr. Kurk made a motion to accept the minutes as amended. Mr. VanLoendersloot seconded. The vote was unanimous.

Chairman Francisco asked if there were any other items to discuss? Mr. Kurk mentioned a discussion on road widths was coming up, all agreed to discuss at next meeting.

IV. ADJOURNMENT

Chairman Francisco made a motion to adjourn the meeting at 9:18pm. Mr. VanLoendersloot seconded. The vote was unanimous.

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A true record,

Wendy J. Stevens