



Town of Weare Planning Board

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Planning Board

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

PLANNING BOARD – SEPTEMBER 11, 2014 FINAL MEETING MINUTES

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

Guests: Betty Straw, Scott Wood.

I. CALL TO ORDER

The meeting was called to order at 6:59 pm by Chairman Craig Francisco.

II. MILDRED HALL TRUST COMMITTEE

Betty Straw, Chairman of the Mildred Hall Trust Committee received a request from the Southern NH Planning Committee for funds for the Town of Weare Planning Board for a Cost of Community Services Study. The estimated cost is \$6,000 and they are asking the Mildred Hall Trust to consider donating the funds. Chairman Francisco stated Mr. Preece did not discuss this request with him. Chairman Francisco stated that the Planning Board reviewed this letter last month and they voted down requesting these funds from the Mildred Hall Trust.

III. PUBLIC HEARING CONCEPTUAL DESIGN REVIEW

OWNER: SCOTT M. WOOD & JAMIE L. WOOD
ADDRESS: 65 N. STARK HWY

Mr. Wood of 65 N. Stark Highway stated this property has been used as a retail space as long as he has lived in Weare; 40+ years. Attorneys office, apartments, and a retail store. He is looking to rent out the retail store in the previous birdhouse store location. He stated it is currently zoned commercial, and he is simply looking to rent out the end of the property which is 500 square feet.

Chairman Francisco asked right now the home is used as residential? Mr. Wood stated he has been using that end for storage. Mr. Kurk asked what will he be renting it for and would the parking be adequate? Mr. Wood stated it would be a small retail store and he has a potential tenant, Classic Armorer. Vice Chair Bolton said signage, lighting and parking would likely come up during any potential Site Plan review. Mr. Wood replied those things already exist and are exactly the way they were during the prior retail operation. He stated he does have separate metered service. He stated when he purchased the home, the commercial function of it was something he felt was of value, and that his mortgage is commercial. Mr. Fillmore stated it is retail to retail, so there is no change in use. Chairman Francisco stated it has been vacant for five years. Mr. Meany stated there was a time when it was all residential via a previous owner, and now it appears to be a mixed use. Mr. Kurk asked where in the Ordinances does that cause a forfeit in commercial use, if a commercially zoned property was used residentially at one time? Chairman Francisco responded there is no ordinance. Chairman Francisco referred to Page 5 of the Site Plan Regulations, bullet #1. Chairman Francisco stated he thinks it might be going from a residential to a commercial use. Mr. Meany stated somebody is going to have to decide if he needs to file a Site Plan. Mr. Fillmore stated it is a commercial zone so he does not have an issue. Vice Chair Bolton recalled Duck Pond, and how that was residential and the person needed

to apply to convert back to a commercial use. Mr. Kurk stated if the last use was a birdhouse, and the new use is selling firearms, he doesn't see the any requirements coming into effect.

Chairman Francisco stated the parking requirement for medium volume retail requires one space per 250 feet, therefore it would require two spaces. Mr. Meany stated there are no problems with accessibility. Chairman Francisco asked if there were any changes to the sign? Mr. Wood replied no. Chairman Francisco stated he will need a building permit for any changes to the inside.

Mr. Kurk asked if they determine that no approval is necessary, two years from today, the lessee decides to leave and there is no other retail but somebody wants to use it as an apartment, what happens then? Chairman Francisco stated then he would need a variance.

Chairman Francisco asked about hours of operation? Mr. Fillmore asked if there was ever a Site Plan for this parcel? Mr. Meany stated no. Mr. Kurk asked if there will be any firing ranges? Mr. Wood stated no. Mr. Wood continued that his potential tenant is closed by 4pm every day currently, and it is not his intention to have a business open while he is home at night. Mr. Wood stated the potential tenant opens at 10am four days a week currently, Tues-Thurs-Fri-Sat, with Saturday being 10-1. Mr. Kurk asked the board to consider stating no approval is required and the applicant can go forward, with an expectation that the hours of business will be no earlier than 8am and no later than 9pm seven days a week? Chairman Francisco made a motion that Mr. Wood will not have to come before the Planning Board for a Site Plan Review for a 500 sq ft retail establishment with the office hours being Mon-Sat, 8am – 6pm. Mr. Fillmore seconded. The motion passed 3-0-1 with Vice Chair Bolton abstaining.

V. **OTHER BUSINESS**

The August 28th Site Walk minutes were reviewed, fix spelling 6 lines down abutter has two t's, and berm. Mr. Fillmore made a motion to approve the minutes as amended. Mr. Kurk seconded. The motion passed 3-0-1 with Vice Chair Bolton abstaining.

The August 28th minutes were reviewed. Vice Chair Bolton made a motion to accept the minutes as written. Mr. Kurk seconded. The vote was unanimous.

VI. **ZONING ORDINANCES**

Chairman Francisco recalled an Open Space Subcommittee as well as a Wetlands Committee, and he had forwarded some Farmington Zoning Ordinances which discussed a Conservation Overlay District to the Conservation Commission. Chairman Francisco stated it does not make any sense to go for a variance for disturbing the wetland buffer when you already have permission from DES. All wetlands aren't the same, meaning the functional values and classifications can be different, although every wetland has a 25 ft. buffer and setbacks whether it is a puddle or a 5,000 acre swamp. Mr. Fillmore interjected skidder ruts making man made wetlands, and Chairman Francisco added drainage ditches and swales do too. Mr. Meany stated if he can put his dutch auger into the ground and come up with clay soil, it is classified as a wetland. Chairman Francisco said there are currently three classifications of wetlands implemented in the Town of Farmington; 1) Prime Wetlands, (based on habitat, size, etc) 2) National Wetlands (based on the national inventory wetlands map and includes contiguous wetlands) and 3) Any other wetland not showing up on the first two maps.

Chairman Francisco stated he is proposing an Ordinance that applies different rules for each of the three separate classifications of wetlands. For 1) a buffer zone of 150 feet with a setback of 200 feet; for 2) a buffer of 50 feet and a setback of 75 feet; for 3) no buffer zone with a 25 foot setback.

Mr. Kurk asked what would the effect of the proposal be? He asked if the Chair was going to run this by the Conservation Commission. Chairman Francisco stated yes. Ms. Stevens stated the larger buffer zone was appealing to her as a member of the conservation commission, and Mr. Kurk stated but the third classification reduces limitations. Chairman Francisco stated the idea he is presenting would

change an applicant's process from applying for a Variance to applying for a Conditional Use Permit. Chairman Francisco stated right now you need a variance. Chairman Francisco restated that it seems redundant to him to have to go to DES, go through the process, and then go to the Zoning Board to address the same issue. Mr. Meany said they had a classic scenario, an applicant had permission from DES to rebuild the beach, but they could not drive to the location until getting permission from the Town to enter the 25 foot buffer zone which involved the Zoning Board. Mr. Fillmore asked how do manmade wetlands effect this? Mr. Kurk stated under Craig's proposal it would not create a problem, you just could not enter the 25 foot buffer zone. Mr. Fillmore stated there is a court case in Portsmouth regarding manmade wetlands that he thinks the Board should look at.

Mr. Kurk asked what if somebody puts a pond on their property (for example 7 acres with a dam on one end of it). Is that a manmade wetland, and is that the kind of thing where you want a setback and a buffer? If someone puts in water on their property, should that be covered? Chairman Francisco said manmade wetlands less than 25 feet wide should not be affected. Mr. Kurk asked can you build right on your manmade pond? Chairman Francisco stated there is no requirement from the state, you can build right up to the water.

The time frame was looked at in order to address Ordinances for this year. Chairman Francisco suggested discussing Zoning Ordinances at the November 13th meeting. Vice Chair Bolton asked about the deadline for CIP, and Mr. Meany stated it is already in, everyone has done their homework. Vice Chair Bolton stated if we needed funds for the budget, do we still have time? Mr. Meany stated yes, if they need to do something he will include it in his budget. Mr. Fillmore stated the CIP has raised the limit to 15,000. Vice Chair Bolton stated he would like the Planning Board to consider investing in a Cost of Services Study. Mr. Meany stated he would be at the whim of the Finance Committee because something like that cannot automatically go into the budget. Mr. Kurk asked why did he want to go through with the Cost of Services Study? Vice Chair Bolton stated an impact fee. Mr. Kurk stated the board should look at the topic of impact fees. Vice Chair Bolton suggested having SNHPC in to discuss impact fees. Mr. Kurk stated he would like to hear from other parties in that case. Chairman Francisco stated impact fees are almost always attached to the Certificate of Occupancy. Mr. Meany stated Hollis has impact fees and they want to get rid of them because of the cost of administration. Vice Chair Bolton stated he would like to hear from SNHPC on the matter. Vice Chair Bolton stated it is our duty to do things that are best for the town, and he would like to explore if impact fees are good for the town or not.

VII. **ADJOURNMENT**

Vice Chair Bolton made a motion to adjourn at 7:53 pm. Mr. Kurk seconded the motion.. The meeting was adjourned.

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A true record,

Wendy J. Stevens