

FINAL



**WEARE PLANNING BOARD
MEETING MINUTES
October 22, 2020**

PRESENT: CRAIG A. FRANCISCO, CHAIRMAN; BRUCE FILLMORE, JR., VICE CHAIRMAN (late arrival); NEAL KURK, SECRETARY; WILLIAM STOCKHAUS, ALTERNATE; KELLY DEARBORN-LUCE, LAND USE COORDINATOR

GUESTS: Vincent Iacozzi, Art Siciliano, Marek Rivero & Matt Rivero, Dawn Palmer, Deborah Brown

I. CALL TO ORDER

The chairman called the meeting to order at 7:00 PM, then explained due to Covid-19 orders from Governor Sununu's Stay at Home 2.0 directives, the meeting will be conducted with appropriate guidance and layers of protection. The chair appointed Alternate Stockhaus as a voting member for the meeting.

II. DISCUSSION

A.) Continuation of Subdivision

Applicant requests a continuance:

Secretary Kurk moved, Alternate Stockhaus seconded to continue the subdivision application for Frank Burl on Rockland Road and Route 77. Tax Map 202, Lot #94 until our next meeting, November 19, 2020. Passed 3-0-0

B.) Lot Line Adjustment

Lot Line Adjustment application from Thibeault Corporation for property on Clough Park Road. Tax Map 409, Lot 104 and Lot 107. The property is in the Rural Agricultural District.

Chairman Francisco stated first we need to deal with four waivers, topography, wetlands soil, mapping and set back lines.

Secretary Kurk stated he is confused as to where the lot line adjustment is, verifying it is a line shift, roughly 400 acres between the two lots. Secretary Kurk asked if there were any buildings. The answer was no.

Chairman Francisco offered to explain what is going on. Secretary Kurk suggested to not hear him before we deal with these waivers. Chairman Francisco responded sure we can I guess, normally we accept the application complete.

Mr. Siciliano stated I know you have to deal with the waivers, but it seems like you should have dealt with the waivers prior to me giving a spiel.

Chairman Francisco responded no we should accept the application as complete based on what we have in front of us, not what you say.

Mr. Siciliano stated well you can do that.

Chairman Francisco explained we cannot accept the application as complete unless we grant the waivers.

Mr. Siciliano stated ok then grant the waivers.

Chairman Francisco replied no, we'd like you to speak. Secretary Kurk stated we need to hear him.

Mr. Siciliano responded I guess you need the information before you grant the waivers.

Chairman Francisco responded yes.

Mr. Siciliano stated I don't mind giving the spiel before the waivers and accepting the application after. He continued, Thibeault Corporation owns two properties, Tax Map 409, Lot #104 +/- 209 acres with Lot #107 +/- 200 acres. They would like to take Parcel A, 3.56 acres off of Lot 107 and add it to Lot 104. He then asked Secretary Kurk if he understands.

Secretary Kurk responded yes, could you explain why and what does it have to do with the later subdivision application.

Chairman Francisco stated it has to stand alone.

Secretary Kurk noted that, but in order to make an intelligent decision about this, he needs to understand how it fits into the larger one.

Mr. Siciliano replied this is the prep for the subdivision, parcel A will be part of the next application.

Secretary Kurk clarified, as he read the application he did not understand it, asking, how many lots are you proposing to create.

Mr. Siciliano replied that is another application, but, whatever, now we are going too far.

Secretary Kurk communicates step one is to bring Parcel A on to Lot 104.

Mr. Siciliano replied yes in the next subdivision application we are going to subdivide a piece of Lot 104.

Chairman Francisco stated first we are going to ask for a waiver for wetlands, topography, soils and setback lines, subdivision has nothing to do with this application.

Secretary Kurk stated he understands that, but sometimes he does not like to be piecemealed. He prefers the whole picture. Turning to Chairman Francisco he asked is there any reason why we should grant these waivers.

Chairman Francisco declares we do it all the time.

Secretary Kurk moved, Chairman Francisco seconded to grant the requested four waivers. Passed 3-0-0

Selectman Kurk moved, Alternate Stockhaus seconded to accept the application as complete. Passed 3-0-0

Mr. Siciliano stated the map shows contours on this particular parcel, though not needed, as it is prep for the next application. He stated, we are just making Lot 104 bigger, 212.5 acres and Lot 107 will then be 206.4 acres.

Selectman Kurk asked what the purpose is for of making Lot 104 larger.

Mr. Siciliano answered we are going to create a lot with that parcel and a little more for Lot 104.

Secretary Kurk lifts the maps up indicating they are small versions, one saying lot line adjustment, the other saying subdivision plan.

Mr. Siciliano replied you are not supposed to be looking at the subdivision plan.

Alternate Stockhaus points to a place on the plans. Secretary Kurk explains he understands that.

Chairman Francisco asked if the Town of Dunbarton was notified. Coordinator Dearborn-Luce replied yes.

Chairman Francisco stated sometimes we need to at least vote whether we should make this regional impact. Though, he doesn't believe it is, they should at least talk about it.

Secretary Kurk questioned a lot line adjustment having regional impact.

Chairman Francisco replied we are bordering a town line. There is no way it is regional impact, but, in my opinion, we at least have to say something about it.

Secretary Kurk moved, Alternate Stockhaus seconded that the Planning Board determines this proposed lot line adjustment does not have a regional impact. Passed 3-0-0

Corrections needed:

1. Mount to be added to the plans depicting Mount Dearborn Road.
2. Remove tax map C31-01-03 near the north corner
3. Virginia was spelt wrong
4. Preliminary was spelt wrong
5. U.S. Government lot number to be corrected, 403.86 is the government, not 103.86
6. Road class description, wording is blocked
7. Wetlands noted

Coordinator Dearborn-Luce mentioned the abutter Lot 113 is not on the plans.

Chairman Francisco asked where the Flood Zone is. Mr. Siciliano replied I do not show the Flood Zone on there. I just stated that it was.

Chairman Francisco stated there has to be flood elevation. Mr. Siciliano responded I will add it to the list.

Chairman Francisco asked for public comment. There was none.

Coordinator Dearborn-Luce asked for clarification on waiving the Wetland Stamp. Chairman Francisco confirmed.

Vice Chairman Fillmore questioned if there was a house or barn on one of these lots. Mr. Siciliano responded no.

Chairman Francisco stated he has C31-01-03 that needs to be erased, the Map number for the American Government needs to be fixed, Lot 113 needs to be added to the Plan View, fix the road status, pavement and monuments to be set.

Chairman Francisco moved, Secretary Kurk seconded to approve the plan for the lot line adjustment for Tax Map 409, Lot 104 and Tax Map 409, Lot 107 for Thibeault Corporation dated June 2020, with the following conditions:

- **words Tax Lot C3-01-03 be erased in the northern corner**
- **U.S. Government property Tax Lot 403 be corrected**
- **add Lot 113 to the Plan View**
- **clear up the road status, page 2**
- **three monuments to be set**
- **add Mount in front of Dearborn Road**

Passed 3-0-0

Vice Chairman Bruce Fillmore joins the meeting in progress.

C.) Subdivision

Subdivision application from Thibeault Corporation for property on Clough Park Road. Tax Map 409, Lot 104. The property is in the Rural Agricultural District. The subdivision will create one additional lot.

Chairman Francisco stated Thibeault Corp has asked for waivers from wetlands, topo, soils and building setbacks on the remainder of the 200 acres.

Vice Chairman Fillmore moved to accept the waivers. Secretary Kurk commented on the subdivision, what exactly is being subdivided and where. As the small map that he has shows what proposes to be a five acre piece. Very substantial, compared to the 200+ acres of the lot. Secretary Kurk continues, are there some special features of this land.

Mr. Siciliano responded everything I am trying to waive is not part of this lot.

Chairman Francisco asked if the Army Corps of Engineers has a flood easement over the top of this property, because Brookshire Crossing LLC, Elanor Way, does and they are downstream of this.

Mr. Siciliano stated I don't know. Chairman Francisco responded what do you mean you don't know.

Mr. Siciliano replied what are you asking.

Chairman Francisco asserted the Army Corps has a flood easement to a certain elevation on Brookshire, which is downstream of this. The reason for the flooding easement is so they can let water out of Clough Dam. And, this is between here and Brookshire. So, if they are going to have a flood easement there, you would think they would have one over the top of this property. If they do not have a flood easement over the top of this property, I am not going to accept as complete because I don't see one. Chairman Francisco stated he is 99% sure Brookshire has one.

Mr. Siciliano stated I guess I better go over to the dam and find out.

Chairman Francisco stated it is recorded. Flood zone is determined by the dam. He reiterated he cannot accept these plans without a flood easement, maybe, the Board will.

Secretary Kurk questioned if the Piscataquog River flows through this. Yes stated Mr. Siciliano. Secretary Kurk continued, have the various interest groups such as the PWA, Public Works Association; Conservation Commission, etc...

Coordinator Dearborn-Luce stated the Conservation Commission has not reported back as they have not had a meeting. Dick Ludders, Piscataquog River Local Advisor, is not commenting on this, no issues. Police, Fire and DPW did not have any comments on this as well, advised Coordinator Dearborn-Luce.

Secretary Kurk asked what is the proposed use of this site.

Mr. Siciliano replied a building, single family home. He discusses the elevation with Chairman Francisco.

Secretary Kurk asked if there is a bridge over the Piscataquog that carries Clough Park Road. Yes, at the north end replied Vice Chairman Fillmore.

Vice Chairman Fillmore asked if the tie lines could be moved between the two monuments. Connecting the two monuments, instead of out to the middle of the river. He then asked do we want to continue this.

Chairman Francisco replied we haven't accepted it as complete. Vice Chairman Fillmore added abutters would have to be notified again, can we continue it.

Coordinator Dearborn-Luce confirmed the Board is not accepting it. The Board responded yes.

Mr. Siciliano asked why can't you accept it. Secretary Kurk stated we can continue this, we are open to hearing. We could accept it, but still continue to hear it.

Secretary Kurk asked what kind of access from Clough Park Road is there to Lot 104. Assuming the subdivision occurs and this parcel is sold, or not, most of the parcel is on the Dunbarton side of the river.

Vice Chairman Fillmore responded the same thing he has now, we are not affecting that at all.

Mr. Siciliano stated there is a proposed driveway there. He will label it.

Secretary Kurk replied he is not talking about the lot to be subdivided out. He is talking about the remaining 209 acres. A discussion follows delineating the plans, clarifying the access point.

The Board discussed the plan and the need for rephrasing Tax Map 409 Lot 104.1, along with, the bridge, elevation, monuments to be set, access off Clough Park Rd, Clough Dam (Army Corp) flood easement, relocate the tie line, road classification and driveway for the new lot.

Secretary Kurk moved, Vice Chairman Fillmore seconded to continue the application until November 19, 2020. Passed 4-0-0

D.) Lot Line Adjustment

Lot Line Adjustment application from Richard Pitts of 92 Center Road, Tax Map 202, Lot 39 and Dawn Palmer of 94 Center Road, Tax Map 202, Lot 138. The property is in the Rural Agricultural District.

Dawn Palmer stated, there is a revision table in the bottom left corner of the plans. Some minor alterations such as the right of way, her house with deck noted, found two pins, one near the church, set the other two, before/after acreage filled out and typos that were corrected.

Chairman Francisco noted the Design Review Checklist wasn't used. Coordinator Dearborn-Luce stated the one submitted was the formal review. Chairman Francisco replied, yes, but number one states all items in the design review.

Dawn Palmer stated she thought they were covered, after speaking with Coordinator Dearborn-Luce.

Chairman Francisco commented building set backs are not listed anywhere, number 9, decks were added, but still don't have a leach field. Number 13, will be waived, number 14 is wetlands, number 15 is soils and number 17 would be the flood line behind Mr. Pitts. If there is not a flood zone, there needs to be a note saying it is not in the floodplain. Number 11, noted on the plans, stating all driveways will conform to regulations.

Secretary Kurk points out it is a lot line adjustment, yet everything we are talking about relates to subdivision.

Chairman Francisco responded we do not have a lot line adjustment application. He continued, no problem with making a condition with quite a few things missing, in his opinion.

Secretary Kurk asked what happens if the driveway is steeper than 10%. Chairman Francisco replied it is pre-existing, nonconforming.

Vice Chairman Fillmore stated we would waive that.

Chairman Francisco stated that should be in the plan, as we do not know anything about Mr. Pitt's driveway.

No waivers have been requested. Vice Chairman Fillmore asked Dawn Palmer to make a list for a Waiver Request form, she is to sign, date and submit to Coordinator Dearborn-Luce. She complies.

Chairman Francisco stated from the Design Review Checklist, #13, #14, #15 and on the Final Application Checklist #11 and #14, conditions that need revision.

**Vice Chairman Fillmore moved, Secretary Kurk seconded to accept the Waiver Request.
Passed 4-0-0**

Chairman Francisco asked for public comment. There was none.

Chairman Francisco stated a flood zone on the deed sketch is needed.

Coordinator Dearborn-Luce stated Dick Ludders has no comment, no issues.

**Vice Chairman Fillmore moved, Alternate Stockhaus seconded to accept the application as complete.
Passed 4-0-0**

Vice Chairman Fillmore moved, Secretary Kurk seconded to approve the lot line adjustment Plan of Pitts and Palmer with the following conditions to be put on the final map, changes to final mylar:

- **Locate leach field near the house on the plan**
- **Show 100-year flood zone line on the deed sketch portion of the plan**
- **Remove one of the inch marks around Lot B**
- **Add a note 4, zoning district as Rural Agricultural**
- **Minimum dimensions, minimum lot size, road frontage requirements**
- **Front, rear and side setback requirements**
- **Correct the Lot # for the Town of Weare is the owner, twice**
- **Add building setbacks to the overall lot layout to note 5**

Passed 4-0-0

E.) Site Plan/Change of Use

Site Plan/Change of Use application from Marico LLC (Marek Rivero) on 65 North Stark Highway. Tax Map 203, Lot 32 in the Commercial District. Applicant would like to renovate space for a retail business.

Marek Rivero stated he is going to be opening up a store inside the main building that functions as the farmers market, in an indoor setting. Selling fruits, vegetables, eggs, meat, milk, and regular crafts. Inside like a regular store.

Vice Chairman Fillmore asked if there would be refrigeration and preparation of food. Marek Rivero replied yes to refrigeration, adding we will sell coffee, wrapped pastries, that kind of stuff.

Vice Chairman Fillmore stated that is going to open up getting a septic system approved. Marek Rivero asked why.

Vice Chairman Fillmore explained by changing the use you are changing the load on the septic system, changing the sewage flow.

Chairman Francisco stated instead of saying a new septic design, he would have to prove the existing system will meet the loading. Vice Chairman Fillmore agrees. To which Chairman Francisco added it probably doesn't, but it might.

Seated, Matt Rivero stated they would open the store without the coffee.

Vice Chairman Fillmore stated if you put a sink in there it changes the whole ball game.

Matt Rivero stated there are existing sinks in there.

Vice Chairman Fillmore established you will be using the sink in the space in a different manner than it was used before. Matt Rivero agreed.

Chairman Francisco stated according to Coordinator Dearborn-Luce you have an approval in '88. He does not know what the flow for that septic design was, at least six or seven hundred gallons a minute per day.

Coordinator Dearborn-Luce stated it was an old plan with little information, approval for 500 gallons.

Alternate Stockhaus asked if it is presently both, commercial and residential. Vice Chairman Fillmore answered yes.

Chairman Francisco asked what are you using the house and building now for.

Marek Rivero replied it is essentially a residence. They store some commercial stuff in there right now, but it is primarily being used as a residence.

Chairman Francisco asked how many bedrooms are being used as a residence. Marek Rivero questionably replied, two.

Coordinator Dearborn-Luce stated she does not have a septic approval to operate.

Alternate Stockhaus asked what the date was on the old septic plan. Chairman Francisco replied '88.

Marek Rivero stated he understands the building used to retail guns.

Vice Chairman Fillmore declares yes, but he didn't need to wash the guns.

Secretary Kurk stated if the only thing you were doing was selling groceries and crafts, not making food then the septic issue wouldn't be one.

Matt Rivero stated we don't make food it is provided by the vendors.

Vice Chairman Fillmore stated making coffee, if you run water for anything there...

Matt Rivero replied we don't have to make coffee.

Chairman Francisco asked how many employees will you have.

Marek Rivero replied two maybe three, it is his dad running the store, primarily, and himself.

Matt Rivero added it is primarily just to support the farmers market.

Vice Chairman Fillmore asked if this would be six days a week or just while the farmers market is going.

Secretary Kurk explains the application is for six days a week, 6:00am to 9:00pm.

Alternate Stockhaus confirmed the store would be closed when the farmers market is open.

Marek Rivero answered that is correct, the two will not be operating at the same time.

Alternate Stockhaus questioned if the farmers market is open, is there a higher traffic of people.

Marek Rivero responded more or less. The main difference is the store will have refrigeration units.

Vendors selling meat and milk do not want to do it out in the field.

Alternate Stockhaus questioned the Board, it is his understanding what was approved last time, with the farmers market, they could have a retail and living space in the same building. So we are getting rid of the living space completely. Marek Rivero answered no, there is still a living space, and the actual retail section is a little less than 400 sq. ft. of the whole building.

Secretary Kurk confirms the store would not be in where you are calling a residence. Marek Rivero responds correct. The retail space is where the gun shop was previously.

Vice Chairman Fillmore stated the space has lost its grandfathered rights.

Vice Chairman Fillmore stated he believes it should be noted that the store and the farmers market cannot be open at the same time.

Secretary Kurk questions how will the vendors selling meat and milk who don't want to sell outside have access to the closed store. Marek Rivero stated the vendors will be utilizing the store space during the open farmers market, but not selling anything out of the space.

Secretary Kurk asked for a depiction. Where are the meat sellers' position during the farmers market? Marek Rivero stated at a booth out in the actual place, and they would then tell us this person is buying this many pounds of meat, we will grab it from the refrigerator and bring it out.

Secretary Kurk then stated it is a storage room. Marek Rivero confirmed yes.

Chairman Francisco asked what will you be selling from this again. Marek Rivero replied, basically, all the stuff that was sold within the farmers market itself. Fruit, veggies, eggs, jams, crafts, homemade skincare, etc.

The Board questions sale items for the future with regards to the application. Alternate Stockhaus points out the application summary mentions instead of a residence use, going against what is being presented. Marek Rivero replied the whole building is still considered a residence right now. It lost the grandfathered status. He stated he is changing the use of a residence space back to retail.

The Board discussed commercial district zoning, use, the selling of general merchandise, residential to commercial and vice versa. Changing its former commercial use to a different commercial use.

Vice Chairman Fillmore asked for clarification on the floor plan, the number of bathrooms. There are two on the plan. Marek Rivero stated they used to be bathrooms. Matt Rivero corrects him and stated they still are, we haven't done anything with them.

Chairman Francisco asked why there are two plans. Marek Rivero replied we are currently doing construction, adding a loading dock in the back, with new doors, as well as expanded the doors in the front entrance.

Matt Rivero stated a second egress was needed, so a commercial door was added to the back of the building. Along with a stairway and a place for a truck to back up and unload. A deck was removed, two windows added, a single door removed, a commercial double door was added to the front of the building.

Vice Chairman Fillmore stated if the bathrooms are to be used during the farmers market we will need proof your septic system can handle it. Marek Rivero stated we don't currently use those bathrooms.

Secretary Kurk clarifies there are no toilet facilities. Marek Rivero replied we have porta-a-potties set up for the farmers market. Though they will get quite cold in the winter, there are no plans for a public restroom because we are concerned about the septic system, stated Marek Rivero.

Matt Rivero stated we did have the septic system inspected when we bought the property and it was deemed adequate for the current use. He does not have that document with him.

Secretary Kurk stated the application does not clearly reflect what they are trying to do. Vice Chairman Fillmore stated we want to strike the part, preparation of food and drink, from the application. Scope of use needs to be added to the plan.

The Board discussed possible scenarios, bring in sandwiches or coffee, just not able to make them on the premises. Vice Chairman Fillmore points out stuff would have to be dumped down the drain. He stated Coca-cola and coffee are wicked for septic systems. It destroys them, kills the bacteria in the tank, they stop working. Chairman Francisco added and pastries, flour plugs everything up.

Secretary Kurk asked for clarification on the sign. Marek Rivero stated, potentially, he would put a sign on the roof announcing the store.

Secretary Kurk said he didn't think the Board gave approval for a sign without knowing what it is going to look like, the dimensions and where it's going to go. Chairman Francisco replied we don't give sign

approval. Vice Chairman Fillmore stated there needs to be a sketch on the site plan. Chairman Francisco stated we don't need it, they don't need our approval on a sign. Zoning Ordinance state that the Land Use Coordinator Dearborn-Luce reviews sign permit applications.

Secretary Kurk then asked if it met the Zoning Ordinance. The Board stated it needs to go through Code Enforcement Dearborn-Luce.

Secretary Kurk asked about the sign's purpose. Marek Rivero replied to name the store. Secretary Kurk explained, from our ordinance, if you can't see it or read it from the road, it is not a sign.

Chairman Francisco disagrees, reads a signage ordinance, and states it doesn't say anything about being legible.

Vice Chairman Fillmore points out directional signs are exempt.

Secretary Kurk disagrees with Chairman Francisco's interpretation.

Chairman Francisco stated a note was added for the proposed use for the sale of home grown produce and crafts to be grown and or manufactured off-site, along with no public restrooms, no preparation of food or drink on site.

Secretary Kurk stated no tables and chairs, no consumption can occur in the store. Marek Rivero concurs stating he does not have enough space for that, we are not a restaurant.

Vice Chairman Fillmore wants to make it really clear on the plans, the store is closed when the farmers market is open. He reiterated, please spell it out, *Store to be closed when Farmer's Market is open*.

Secretary Kurk enunciated the store will be open, but not to the public when the farmers market is open.

Vice Chairman Fillmore comments the plan needs to be embellished. He suggested they come back with a more prepared plan.

Alternate Stockhaus stipulates the ell section of the building needs to be distinguished as a retail space.

Chairman Francisco asked if there was outside lighting. Marek Rivero replied we have some motion sensor lights at the moment.

Secretary Kurk asked where. Chairman Francisco stated you will need to show right where they are on the building.

The Board gives direction to submit a new checklist, define the retail space, with a more specific description of the new use in the notes and who prepared the plans.

Vice Chairman Fillmore moved, Alternate Stockhaus seconded that consideration of the application be continued until November 19, 2020. Passed 4-0-0

F.)Site Plan/Change of Use

Site Plan/Change of Use application from Deborah Brown, on 3 George Moody Road, Tax Map 203, Lot 108 in the Commercial District. Applicant would like to increase the existing seating of 16 to 20 seats, extend the leach field and amend the parking.

Chairman Francisco asked if the leach field is being extended. Deborah Brown replied yes, extended by five feet. The plan was accepted by 465 gallons per day. She needed to hit 505.

Alternate Stockhaus moved, Vice Chairman Fillmore seconded that the application be accepted as complete. Passed 4-0-0

Deborah Brown proposed to increase the seating capacity of her restaurant by 4, from 16 seats to 20 seats, and to construct a new 15 x 25 foot ell off the existing building in which the 20 seats would be located. This would free space in the existing building for a kitchen expansion. The increase in size would meet the state minimum seating requirement for a liquor license. The Board determined there was sufficient existing parking to meet the requirements of the additional 4 seats and one additional employee.

Chairman Francisco asked for public comment. There was none.

Vice Chairman Fillmore moved, Alternate Stockhaus seconded that the application be approved subject to the plan:

- **Showing the proposed new ell on the plan and specifying it would contain the 20 seats**
- **Showing the revised calculations for the additional seats and employee**
- **Showing the enlarge septic system approval number**
- **Showing lot coverage calculations**
- **Placing a “Do Not Enter” sign on the road near the gravel pit**

Passed 4-0-0

III. MINUTES

October 8, 2020 Minutes: **Vice Chairman Fillmore moved, Alternate Stockhaus seconded to approve the minutes of October 8th, as amended, passed 4-0-0.**

IV. NEXT MEETING

Thursday, November 19, 2020, 7:00 PM at the Town Office building.

V. ADJOURNMENT

The meeting adjourned at 9:35 PM.

A True Record

Karen Nelson

Karen Nelson transcribed from
You Tube Recording and notes