

Final



WEARE PLANNING BOARD MEETING MINUTES December 10, 2020

PRESENT: CRAIG A. FRANCISCO, CHAIRMAN; BRUCE FILLMORE, JR., VICE CHAIRMAN (via phone); NEAL KURK, SECRETARY (via phone); WILLIAM STOCKHAUS, ALTERNATE; JACK MEANEY, EX-OFFICIO; KELLY DEARBORN-LUCE, LAND USE COORDINATOR

GUESTS: none

I. CALL TO ORDER

The Chairman called the meeting to order at 7:07pm, observing the COVID 19 Governor Sununu Stay at Home 2.0 directive, with appropriate guidance and layers of protection. Alternate Stockhaus was appointed a voting member for the meeting.

II. MINUTES

October 22, 2020 Minutes: **Alternate Stockhaus moved, Vice Chairman Fillmore seconded to accept the minutes of October 22nd as amended, passed 4-0-0.**

November 12, 2020 Minutes: **Vice Chairman Fillmore moved, Alternate Stockhaus seconded to accept the minutes of November 12th as amended, passed 4-0-0.**

November 19, 2020 Site Walk Minutes: **Vice Chairman Fillmore moved, Secretary Kurk seconded to accept the Site Walk minutes of November 19th as amended, passed 4-0-0.**

November 19, 2020 Minutes: **Alternate Stockhaus moved, Vice Chairman Fillmore seconded to accept the minutes of November 19th as amended, passed 4-0-0.**

III. DISCUSSION

A.) Building Permit Ordinance

The Chair asked Land Use Coordinator Dearborn-Luce to comment on updating the current 2015 ICC as a State Building code requirement and discuss the legal review of fines & penalties. She noted the legal opinion from Town Counsel regarding Article 4 could be deleted; reference the State Building Code RSA, as it includes the ICC Codes. The purpose is to update the current State adopted codes now enforced. The old BOCA codes are still listed in the current ordinance. The Board discussed making the change last year, but did not vote to propose as a warrant article until a legal review was done. Town Counsel will also write the new proposed warrant article for the Town vote.

The discussion continues in reference to fines and penalties for different offenses. Specifically, Articles 5.1.3, 7.1 and 7.2 in the Building Permit Ordinance. The penalty article in the Zoning ordinance discussed is Article 9.1. Secretary Kurk stated Land Use Coordinator Dearborn-Luce should be empowered to impose penalties, fines and collect the money, enforceable without court action. He

would like the attorney to write a provision with appropriate levels of penalties, for work without a building permit or violating a permit, assessments in an administrative nature.

Vice Chairman Fillmore commented that Violation Penalties, Article 7.1 is not complete. Sentence structure: *after the date on which the violator*, not a clear statement, needs revision.

Land Use Coordinator Dearborn-Luce to seek further legal review and present options to the Board.

Chairman Francisco asked for public comment. There was none, public comment was closed.

Secretary Kurk moved, Vice Chairman Fillmore seconded to continue this Hearing until January 14, 2021. Passed 4-0-0

Jack Meaney joined the meeting.

B.) Review final DRAFT of revised subdivision regulations

A final draft was provided and reviewed. Changes were made regarding the dry hydrant and the appendix for CAD information. Also discussed, Section 5, the Board would like to add, "All applications that are continued, the revised materials must be submitted within 7 days prior to the scheduled hearing date." Land Use Coordinator Dearborn-Luce to amend and resubmit to the Board.

Chairman Francisco asked for public comment. There was none, the public comment was closed. The Chair asked the Board if they were comfortable making changes to the final draft at the next meeting.

Secretary Kurk moved, Alternate Stockhaus seconded to continue the Hearing for proposed changes of the subdivision regulations on December 17, 2020. Passed 5-0-0

C.) Citizen Petition

A citizen petition was received in reference to eliminating the Mount Dearborn Road Historic District. The Board to discuss on January 14, 2021 at the public hearing.

D.) Zoning amendments

The Chair asked the Board their opinion on the new proposal, Article 37, expanded use on existing private roads. A lengthy discussion ensued. Chairman Francisco and Secretary Kurk to submit a revised draft.

Chairman Francisco opened the public hearing on the proposed zoning amendments for section 3.4.2, 3.5, 24.10, discussing Article 36, driveways, private roads, conditional use permit for a kennel and 9.1.

No public present, public comment closed.

- 3.4.2. read by the Chair, discussed by the Board. The proposal is in accordance with legal advice, as the ZBA cannot reinstate non-conforming uses. To remove the last sentence-*except that the Zoning Board of Adjustment, after a public hearing, may permit the resumption of said nonconforming use.*

No public present, public comment closed.

Alternate Stockhaus moved, Secretary Kurk seconded to remove the last part of the sentence by putting a period after the word ordinance. Passed 5-0-0

- 3.5 read by the Chair, discussed by the Board. The proposal is to allow construction of an accessory building to a non-conforming lot with minimal setbacks. This section will include accessory structure after the word residence.

No public present, public comment closed.

Alternate Stockhaus moved, Jack Meaney seconded to add accessory structures after single family residents. Passed 5-0-0

- 24.10 to move sentence or add section under permitted use – “except residential homes” (not allowed in commercial zone). Chairman Francisco mentioned changing 24.3.1, *any use permitted in the Residential (R) and Rural Agricultural (RA)*, see 24.10 for non-permitted uses.

Secretary Kurk questioned what is a residential home. He agreed with Vice Chairman Fillmore, one or two family dwelling. Apartment buildings and condos are allowed in commercial zones, not one and two residential homes. Secretary Kurk stated the intent was not to have apartment buildings in the commercial district. To be discussed further at another time, not part of tonight’s hearing.

No public present, public comment closed.

Vice Chairman Fillmore moved, to relocate Article 24.10 to appended to 24.3.1 Discussion: Secretary Kurk suggested keeping 24.10 but add language referring to 24.10, 24.3.1 **Vice Chairman Fillmore removed his motion.**

Alternate Stockhaus moved, Jack Meaney seconded to add 24.3.1, see 24.10 for non-permitted uses. Passed 5-0-0

- Discuss Article 36 driveways - may require legal opinion first. Chairman Francisco questioned putting in a driveway as not part of a subdivision regulation. The Board discusses regulations as to how it relates to driveway permits and subdivision approvals. Should driveway regulations remain in both, Zoning Ordinances and Subdivision Regulations? Jack Meaney stated driveway permits have to be approved by the Road Agent. The Board agreed it should remain in both.

No public present, public comment closed.

Alternate Stockhaus moved, Secretary Kurk seconded to leave driveways Article 36 alone in both places. Discussion: Jack Meaney suggested leaving it, but discussing further at a later date and time, drafting an ordinance with the Road Agent. Vice Chairman Fillmore added, to the right of the lot line, driveways ought to be approved as part of the subdivision, built when the road is built. Chairman Francisco understands the road is damaged when driveways are put in after the fact, however, new homeowners may need the driveway in a different spot. **Passed 5-0-0**

- Discussion on Private Roads and Conditional Use Permit. New Article 37 for Private Roads (criteria) and Article 4 to add new definition of a Private Road. Chairman Francisco and Secretary Kurk to revise for January 14, 2020.

- Discuss “kennel” (conditional use section) regarding animal waste.

Chairman Francisco moved, Jack Meaney seconded to hold off on discussing until next year. Passed 5-0-0

- 9.1 penalty – to clarify 7.1, Zoning, they need to match, *on the date the violator receives written notice from the town that he is in violation of this ordinance*, missing from 7.1. Vice Chairman Fillmore stated this has a \$550.00 first offense, unlike 7.1. He suggested checking with Town Counsel if this language can be used in 7.1, building code. Jack Meaney suggested adding not to exceed a certain amount, pending on the court decision. Secretary Kurk stated the offender should have to go to court to stop it, not have Land Use Coordinator initiate in court. Jack Meaney suggested following the attorney's guidelines.

No public present, public comment closed.

IV. WORKSHOP DISCUSSION

Chairman Francisco asked the Board how can we fund a Master Plan Update without a warrant article, need to have a warrant article. Jack Meaney agreed it is the best way. Vice Chairman Fillmore suggested \$14,500.00 to avoid going to CIP. Jack Meaney agreed, a warrant article to be written.

Secretary Kurk asked because of COVID, people losing their jobs, is this a good time for a Master Plan Update? Jack Meaney responded it does not hurt to ask, many people are not working because it is too lucrative to collect instead.

Chairman Francisco suggested a vote to ask the Board of Selectmen to place a warrant article of \$14,500.00 to upgrade a third of the Master Plan. Passed 3-1-1 Secretary Kurk voted no; Jack Meaney abstained.

V. NEXT MEETING

Thursday, December 17, 2020, 7:00pm at the Town Office building.

VI. ADJOURNMENT

Being there was no further business to come before the Board, Secretary Kurk made a motion, to adjourn at 9:10 pm. Passed 5-0-0

A True Record

Karen Nelson

Karen Nelson transcribed from
You Tube Recording and
LUC Dearborn-Luce's notes

