

**WEARE PLANNING BOARD**  
**Final Minutes of the Meeting**  
**Of November 17, 2016**

**Present:** Craig Francisco (Chairman), Bruce Fillmore (Vice Chair), Neal Kurk (Secretary), Tom Clow (Exofficio), John Vanloendersloot (Alternate) arrived at 8:00 pm, Chip Meany (Land Use Coordinator)

**Guests:** Nancy Kschinka, Joel Sletten, Mike Dahlberg, Michael Brown, Jerry Haynes, Mike Coither

**I. Call to order**

The meeting was called to order at 7:00 p.m. by Chairman Francisco.

**II. Conceptual Review.**

**Nancy Kschinka – Weekend Barn Sale** ó Ms. Kschinka said she is interested in having a weekend barn sale in the barn that is currently not being used on the property at 445 South Stark Highway. Ms. Kschinka said it is located where the Coldwell Banker Real Estate office is and said the barn sits adjacent to the office. Ms. Kschinka said the barn is currently not being used and said she is interested in a change of use so she can have weekend barn sales there. Vice Chair Fillmore asked if it would be just inside the barn and Ms. Kschinka said that is the plan. Mr. Clow asked if it would be year round or just for the summer and Ms. Kschinka said she hopes to have it year round. Mr. Kurk asked if the barn was heated and Ms. Kschinka said no, she would have to put heat in it. Ms. Kschinka said there used to be heat in the barn and said there were holes so she would use propane since that is what used before.

Ms. Kschinka said it is insulated. Mr. Meany said he thinks there used to be a business in. Mr. Kurk asked Mr. Meany what the issues are that he sees. Chairman Francisco said there are two issues: 1) the site plan they saw back in September 2014 they conditionally approved with some motions, the conditions were never fulfilled and he never signed the site plan. Chairman Francisco said technically you shouldn't be in the building with an unsigned site plan. Chairman Francisco said there were several conditions on the September 25, 2015 meeting that he does not know if they have been fulfilled or not. Chairman Francisco said they need to get the conditions fulfilled. Mr. Meany said his thought is another public hearing for altering the site plan. Chairman Francisco said one of the conditions was the abutter notification for Lanctot's was not right and said one of the conditions was Mr. Tremblay was going to get a waiver from Lanctot's condo association within 27 days. Chairman Francisco said he doesn't think he is going to sign a plan two years after it was conditionally approved.

Chairman Francisco said they should have a second site plan so they can at least review the parking. Ms. Kschinka said Mr. Tremblay sent her a potential parking area map and she showed it to the Board. Mr. Meany said this is something that should be added to a

site plan showing where the rest of the parking will be. Mr. Kurk asked Ms. Kschinka if she had any questions about signage. Ms. Kschinka said she doesn't need anything large or elaborate or even permanent. Mr. Kurk said he thinks she would be allowed a sandwich board (2' x 3') and for each additional business you could add 16 sq. ft. to Mr. Tremblay's existing sign and in addition you can have a sign not exceeding 16 sq. ft., 4' x 4' on the barn and said he is not sure that would be visible from the road.

Vice Chair Fillmore asked when she was looking to open. Ms. Kschinka said it depends on the lease, but said she is hoping for February. Chairman Francisco said parking, traffic turning around would be his issues and getting the existing site plan approved. Mr. Clow said in your application you limit it to just weekends and asked Ms. Kschinka if she wanted to restrict herself weekends if in fact more traffic in the summer and you want to do something during the week. Mr. Clow said if you limit it on the plan with just weekend, you are kind of stuck doing just weekends. Mr. Clow suggested striking weekend so she could have some more options if she wanted. Chairman Francisco said it might change the parking.

### **III. Lot Line Adjustment – 21 B & B Lane – LLA GMC Land Co.**

Vice Chair Fillmore recused himself since he is an abutter.

Chairman Francisco said he assumes they want a waiver for topo and Mr. Dahlberg said yes. Chairman Francisco asked if part of Lot 198 is current use and Mr. Brown said most of it is in current use. Mr. Brown said there is 11.2 acres that is not in current use and said they assumed it was the active pit area that Daniels for many years. Chairman Francisco made a motion to accept the waiver for topo. Mr. Clow seconded. Motion passed. 3-0-0. Chairman Francisco motioned to accept the application as complete. Mr. Clow seconded. Motion passed. 3-0-0.

Mr. Dahlberg said he represents GMC Land Trust Company/Michael & Chuck Brown and 21 B & B Lane/Jerry Haynes. Mr. Dahlberg said you pretty familiar with both of these parcels. Mr. Dahlberg said one is the sawmill which is under site plan approval and said the same thing with 21 B & B Lane. Mr. Dahlberg said what they would like to do is take 45.3 acres, designated as parcel A from lot 198 and consolidate it with lot 194 for a total of 48.9 acres for lot 194 and a residual remainder on lot 198 of 156.1 acres. Mr. Dahlberg said there is no new expansion of either business. Mr. Dahlberg said as part of this plan there will be no new lots.

Mr. Dahlberg said it is just a straight forward lot line adjustment. Mr. Dahlberg said the southerly lot line adjustment going to lot 194 is at the edge of the Public Service easement which includes the earthen dam which creates the water surface of Daniels Lake. Mr. Kurk asked where it is. Mr. Brown said if you follow the power lines, it is on the eastern end of the property. Mr. Dahlberg said based on the location of the sawmill and the northerly 45 acres it really doesn't work for them running back and forth. Mr. Haynes has agreed to purchase that. Mr. Kurk asked if there was any issue with maintaining the dam and Mr. Dahlberg said that lies with Mr. Daniels and said it is in the

deed. Mr. Dahlberg said when the property was conveyed to GMC the maintenance of the dam was left in the hands of Mr. Daniels. Mr. Kurk asked, so Mr. Daniels has the right to maintain the dam and cross the property. Mr. Brown said yes, it is written in the deed.

Mr. Kurk asked Mr. Dahlberg how the lot line adjustment would affect the ability of lot 194 to develop in the back portion. Mr. Kurk said he doesn't think there would be any change to lot 198. Mr. Dahlberg said if Mr. Haynes wishes to develop any portion of that lot he would have to come to the Planning Board. Mr. Dahlberg said all the access in to lot 198 is done. Mr. Kurk said as a result of lot 194 being larger the 10% requirement coverage has changed. Mr. Dahlberg said no, just the numbers have changed. Mr. Kurk said wouldn't the threshold be based on the 48+ acres and Mr. Dahlberg said it would still be 10% and that he could increase up to the 10%. Mr. Dahlberg said if it does change, Mr. Haynes would have to come before the Planning Board for approval. Chairman Francisco said if you assume the aquifer is 1000 acres and you make 10% of it impervious. Mr. Kurk asked if there was an aquifer under lot 194 and Mr. Dahlberg said the entire parcel is over an aquifer.

Chairman Francisco asked if the wetlands came from the National Wetlands Inventory or from the SCS. Mr. Dahlberg said it came from SCS map and said some of the lines were adjusted due to his field knowledge. Mr. Kurk asked if all buffers requirement are met as a result of the new addition to the lot or is it an issue? Mr. Dahlberg said it is not an issue and said all the buffers are in place. Chairman Francisco said there is some kind of deed recorded allowing Mr. Daniels to maintain the dam and Mr. Dahlberg said that is correct. Chairman Francisco said he thinks there should be note added to the plan. Chairman Francisco said he would like to see the wetlands setback added to the notes, wetland and flood line labeled on sheet 2, iron rod to be set, access & book/page of dam maintenance.

Chairman Francisco opened up the public hearing. Bruce Fillmore (abutter) said one thing he saw missing on the plan is reference to the site plan that was approved. Chairman Francisco said it will have to be both lots. Chairman Francisco said they received an email from Tim Donahoe which states the lot line is fine where it is, they are close enough and please keep it where it is. Chairman Francisco said he doesn't see how Mr. Haynes will be able to do anything south of the Public Service easement.

Chairman Francisco made a motion to approve the application with the following conditions: 1) add a note about access and maintenance agreement for the dam, 2) adding the wetlands setbacks, 3) labeling the wetlands and flood lines on sheet 2, 4) setting the iron rod, 5) adding a note about the previous site plan approval for lot 194 and lot 198. Mr. Clow seconded. Motion passed. 3-0-0.

#### **IV. Zoning Public Hearing**

There were no public attendees.

**Kennels** ó Chairman Francisco said that Mr. Clow forwarded R.S.A 437 to the Board. Vice Chair Fillmore said there is substantial amount of information in R.S.A 466 which is twice as long as R.S.A 437. Vice Chair Fillmore said R.S.A 466 is all about cats and dogs. Vice Chair Fillmore said what he gets out of it is, unless the town chooses to register cats, he doesn't think you can apply any of the other kennel requirements to cats. Vice Chair Fillmore said the thing regarding 5 or more dogs with State requirements is being able to register them as a group for \$20.00/year. Mr. Meany said they do allow that here so those that have a lot of dogs register as a kennel instead of paying for dogs individual. Mr. Meany said there are no regulations on what a kennel is, how a kennel is to be inspected, at least as far as the Town of Weare goes.

Mr. Clow asked if they needed it if it was in the statutes anyways? Mr. Meany said the statutes are not enforced. Mr. Kurk said since the State is regulating animals/pets for purposes of licensing, isn't that very different and not related to the regulation of animals as part of zoning? Mr. Meany said that is the way the town clerk interprets it. Mr. Clow said it should be added under Article 17.3.2 and said they don't go into detail about raising goats or pigs, so he doesn't think for zoning they need to go into detail about raising dogs. Mr. Meany said he thinks it should be added since he once was a home breeder. Mr. Meany said the State of NH under this ordinance doesn't recognize dogs as livestock and said unless they add kennels/raising of dogs to the zoning ordinance it is not covered at all.

Mr. Clow suggested they add it as a definition and let the regulations stay with the State. Mr. Clow said they have the multitude of regulations by the State. Mr. Kurk said they are for licensing purposes not for noise, not for feces in the water or housing. Mr. Clow said it is the same thing for cows, pigs, goats and poultry. Mr. Clow said we don't have anything in our zoning for how close those are to the property line.

Mr. Vanloendersloot arrived at 8:00 pm. Chairman Francisco made Mr. Vanloendersloot a voting member.

Chairman Francisco asked Mr. Clow if he is suggesting they just add a 17.3.12 under permitted uses and say "kennel for the purpose of raising and breeding dogs." Vice Chair Fillmore said how the State works is "commercial kennel is a large operation if you read the definition. Vice Chair Fillmore said then you have more than 5 or have 20 and you are not doing anything with them and you are just raising them as your pets then the State doesn't get involved. Vice Chair Fillmore said if you are going to give them away or sell them then you need to be licensed with the State, they charge you \$200.00/year, do an annual inspection to make sure the animals are treated humanely. Vice Chair Fillmore said with the State, it is not the limit of 5, but whether you are giving away or selling cats or dogs.

Mr. Kurk said this all about the State having to do with regulating the health of the dogs. Vice Chair Fillmore said he understands that and but how all the information was passed around, a lot of the other towns caught onto the 5 animal rule/line that the State drew which is strictly in there for registration purposes, if you have 5, you only have to pay

\$20.00/year no matter how many you have. Vice Chair Fillmore said it looks like a lot of the towns chose that same number line to call it a kennel since there is no other way they came up with the number 5. Vice Chair Fillmore said as far as the State is concerned it is not a kennel, it is just a group of animals.

Mr. Kurk said what is appropriate for the Town of Weare in terms allowing certain usage in the R/A District. Vice Chair Fillmore said if you have 20 pet dogs or cats, why do they have to call it a kennel? Mr. Kurk said they don't under this definition and said this definition makes it very clear that giving away or selling of animals. Mr. Kurk said it does not apply to your pets. Vice Chair Fillmore said let's suppose you are looking for a barn cat and your neighbor has 6 cats and offers to give you one, is he considered a kennel? Mr. Clow read the Town of Weare's current definition of kennel. Mr. Vanloendersloot read a part of the Windham Zoning Ordinance of commercial kennel of for compensation or as a humanitarian gesture.

Vice Chair Fillmore said it would be a humanitarian gesture. Mr. Vanloendersloot said a humanitarian gesture to him would be a rescue. Vice Chair Fillmore said there are other humanitarian rescue uses though. Vice Chair Fillmore said the State has a list of people that can take animals and rehab them and then release them back into the wild. Mr. Kurk said if they allow kennels in the R/A zone, it is commercial breeding of 4 or more dogs only. Mr. Kurk said they could list kennels somewhere else or in the Agriculture section. Vice Chair Fillmore said you could put it as an allowable use. Mr. Kurk said one of the things in town is we are getting closer together and people are concerned about noise. Mr. Kurk said it was suggested they expand their definition to include kennel with something more than just dogs with something like household pets and allow that to be used for profit commercial kennel or humanitarian activity in the R/A District.

Vice Chair Fillmore said he doesn't like the humanitarian activity in there since someone could be taking animals that Fish & Game Department gives them and be releasing that back into the wild. Mr. Kurk asked Vice Chair Fillmore what he is looking for since he does not understand. Vice Chair Fillmore said if people are not transferring animals to other people for money, donation or transfer and said there is a fine line. Mr. Vanloendersloot suggested taking out "for compensation or as a humanitarian gesture" and changing it to "as a business". Vice Chair Fillmore said that is much better.

Mr. Clow said if they use the word commercial in the definition and he read the definition from the Windham Zoning Ordinance "A facility ~~(use or structure)~~ intended and used to keep or care, breed, groom, handle, train, sell or board on a short or long term basis, five (5) or more dogs or other household pets belonging to customers, patrons, or others, or lost or strayed animals, ~~for compensation or as a humanitarian gesture.~~" Mr. Kurk said what we want to do is allow the commercial sale/boarding of household pets in the R/A area. Mr. Vanloendersloot suggested instead of compensation or for humanitarian gesture, what about re-homing the animal? Vice Chair Fillmore suggested transfer of animal and said the State uses it as a requirement. Mr. Clow suggested to keep it simple.

Mr. Kurk said right now we are okay with allowing people to have as many pets as they want, wherever they want, just as we have always done. The Board agreed. Mr. Kurk said what we want to do is to allow operations that transfer ownership of an animal either commercially or for a fee, we want to allow those in the Rural Agricultural Zone, but not elsewhere. Mr. Kurk said but what we do want to allow is a person to transfer for no fee, no payment the barn cat/animal wherever that occurs in town. Vice Chair Fillmore said he is fine with that. Mr. Vanloendersloot said he thinks it is missing a segment, someone that is fostering dogs. Mr. Clow said keep it simple. Vice Chair Fillmore said they might want to do it as a special exception.

Mr. Vanloendersloot asked if they were done with the definition. Mr. Clow read the definition "kennel shall mean a building or land that shall be used for the use of commercial boarding or breeding of 5 or more dogs or other household pets, but excluding facilities operated by veterinarians, etc." Mr. Kurk said if we turn to Article 19 which is Special Exceptions and add Article 19.1.11 "Kennels and say "Not permitted in the residential or village zoning districts." Mr. Vanloendersloot asked what zones are you not permitting it in and Mr. Kurk said the affect of what we just did was to permit it in the R/A zone only and you can't do it is the village district, industrial district or residential district. Mr. Vanloendersloot asked about commercial and Mr. Kurt said this Article only creates a special exception for the 3 districts he mentioned and if you go to Article 24 on page 30 Commercial. Mr. Kurk read the permitted uses "any uses in the Rural Agriculture Zone" and said automatically you could get it in commercial by special exception. Vice Chair Fillmore suggested adding somewhere that it is not allowed in Industrial Districts.

Mr. Kurk said if someone came in and wants to do a humanitarian operation with 20 cats or dogs and they want to do it in a residential district, what tells them they can't do it. Mr. Kurk said you have defined kennel in such a way that it is commercial and they are not doing it for commercial purposes unless you are going to argue a non-profit is a commercial activity. Vice Chair Fillmore said they are and Mr. Vanloendersloot agreed. Vice Chair Fillmore said if they are just out there to transfer to a different owner than they are commercial. Mr. Kurk suggested they put that in the definition "commercial, including, but not limited to for profit and not for profit operations."

Mr. Kurk read the suggested definition "A building or land use for the boarding or breeding of 5 or more dogs or other household pets whether for profit or not, but excluding veterinarian." Mr. Clow said he thinks it should be a special exception. Chairman Francisco said he feels most things under special exception could be under conditional use.

Mr. Clow said there really isn't anything under conditional use so they would have to figure out where to put it. Mr. Kurk asked if they could just add a "17.3.12 - Kennels by conditional use permit"? Mr. Vanloendersloot asked if they could just lump it in with 17.3.2 since it is already talking about animals. Chairman Francisco said no since pigs and poultry are allowed. Chairman Francisco said he would prefer to have it separate. Mr. Meany said he thinks they should put it in zoning and make it a special exception.

## **V. Adjournment**

Chairman Francisco made a motion to adjourn at 9:00 pm. Mr. Vanloendersloot seconded. Motion passed. 4-0-0.

Respectfully submitted,

Tina Ripley  
Minute Taker