

**WEARE PLANNING BOARD**  
**Final Minutes of the Meeting**  
**Of December 8, 2016**

**Present:** Craig Francisco (Chairman), Bruce Fillmore (Vice Chair), Neal Kurk (Secretary), Tom Clow (Exofficio), John Vanloendersloot (Alternate), Chip Meany (Land Use Coordinator), Tina Ripley (Minute Taker)

**Guests:** Jeffrey Remillard

**I. Call to order**

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

Chairman Francisco appointed Mr. Vanloendersloot a voting member.

**II. Conceptual Review**

Chairman Francisco said this is at 51 Rockland Road. Mr. Meany said if you notice on the corner of Walker Hill & Merrill Road where they come together, on the right hand side of Route 77 there are two black spots. Mr. Meany said this lot has a mix use in it and said one is rural agriculture and the other is commercial. Mr. Meany said the work that Mr. Remillard is proposing is in the commercial zone and Frank Burlø's house is in the rural agriculture zone.

Jeffrey Remillard said he would like to cut down some trees, flatten out an area and bring in his old trucks from the other end of town to do an auction to sell them off. Vice Chair Fillmore asked if it would be a one-time auction and when it would be. Mr. Remillard said he is going to buy the land from Mr. Burl and said around the end of May 2017. Chairman Francisco asked how big he would clear and flatten out and Mr. Remillard said about 200-300 ft. sq. Mr. Vanloendersloot asked if it would be visible from Concord Stage Road, Rockland Road or both and Mr. Remillard said both. Mr. Remillard said he would like to keep a buffer on the Rockland side and said he doesn't want to go in there and cut down every tree on the property. Mr. Kurk asked where the access will be and Mr. Remillard said Rockland Road since there is a driveway there now that goes into the lot. Mr. Clow asked if the old trucks would be there a long time before the auction and Mr. Remillard said probably not. Mr. Vanloendersloot asked how many vehicles he was talking about and Mr. Remillard said about 150. Mr. Clow asked what would happen if not all the vehicles sold and Mr. Remillard said he is not sure. Mr. Remillard said after the auction, he would come back in with the next step.

Chairman Francisco suggested not cutting trees in the state right of way. Chairman Francisco said you are talking about 150 vehicles on 1.5-2 acres and said you would need parking in there. Chairman Francisco said he would need some kind of an erosion control plan for EPA for the storm water pollution prevention plan over an acre. Chairman Francisco said he thinks they should see some kind of erosion control grading

plan and said he is concerned about wetlands there. Vice Chair Fillmore said he would need a site plan to make a parking lot and Chairman Francisco said yes. Vice Chair Fillmore said let's say the parking lot already existed, for a one-time event, is there a Selectman function to grant a permit for a single event. Mr. Meany said it would be like an estate auction. Mr. Clow said he doesn't recall running across anything. Mr. Meany said there are no regulations in town about that kind of auction and said there is none at the State.

Vice Chair Fillmore said you are going to have to come in for a site plan for the parking lot initially then what you do with it after. Vice Chair Fillmore said if Mr. Remillard thinks he is going to store some equipment there then he should probably come in for a site plan then use the parking lot for the auction as opposed to saying he wants to have an auction needs to build a parking lot. Chairman Francisco said Mr. Remillard is going to store equipment there and he is going to make a parking lot and by the way wants to hold an auction there shortly after he makes the parking lot before he stores his equipment. Mr. Vanloendersloot says his concern is the size of the lot Mr. Remillard is going to store 150 vehicles and said he is visioning a Whites Farm style auction where vehicles will be parked all over the place. Mr. Vanloendersloot asked where will the people be parking and Mr. Remillard said along the side of the roads.

Mr. Remillard said they have them once a year over by Colburn's in the field and said Mr. Winston has them there all the time. Mr. Clow said what they do there is just park in the field and said there is no change in the landscape. Mr. Clow said they park in the field and have the auction in the upper part of the property. Mr. Meany said to clear the field and stump it, Mr. Remillard would need an alteration of terrain and a SWPPP. Chairman Francisco said Mr. Remillard will need an alteration of terrain if he clears over hundred thousand square feet which is over 2.5 acres. Mr. Meany said Mr. Remillard has a survey map and asked Mr. Remillard to show it to the Board. Mr. Kurk asked where the parking would be and Mr. Remillard showed them on the survey map. Chairman Francisco said they would need the wetlands delineated on the plan near where the clearing and stumpage will be and said there is a 25' wetlands buffer. Mr. Vanloendersloot asked if lighting was going to be put in and Mr. Remillard said not at this event.

Vice Chair Fillmore said he thinks Mr. Remillard needs to come in for a site plan for storage or whatever it will be you think you will use it for post auction. Mr. Remillard said he was planning on doing that after the auction was done. Vice Chair Fillmore said you want to come for that initially and then have the auction. Mr. Remillard said the auction could change the direction that he is going in. Chairman Francisco said he would need a 100 ft buffer from Route 77. Mr. Kurk asked Chairman Francisco if he is looking for plans showing wetlands, location of parking lot, buffers. Chairman Francisco said yes and grading that will be done, silt fence, how seeding will be done, just like they did at the other parcel. Chairman Francisco said they don't need topoon the whole lot, but said it would be nice to know where the houses are within a couple hundred feet of the intended parking lot.

### **III. Meeting Minutes**

Mr. Vanloendersloot made a motion to accept the November 10, 2016 minutes as amended. Mr. Kurk seconded. Motion passed. 5-0-0.

Mr. Clow made a motion to accept November 17, 2016 minutes as amended. Mr. Vanloendersloot seconded. Motion passed. 5-0-0.

Vice Chair Fillmore made a motion to accept the September 8, 2016 minutes as amended. Mr. Vanloendersloot seconded. Motion passed. 5-0-0.

Mr. Kurk moved to accept the minutes of October 27, 2016 as amended. Mr. Vanloendersloot seconded. Motion passed. 5-0-0/

### **IV. Zoning Ordinance Changes**

Chairman Francisco opened the public hearing for zoning changes.

#### **Accessory Dwelling Unit**

Chairman Francisco said Mr. Kurk's definition is almost the same as his Article 19.1.10. Mr. Kurk said the only difference is he put everything in the definition and added conditional use permit at the end. Chairman Francisco said he modified Article 19. Mr. Kurk noted that Chairman Francisco changed the definition as well and Chairman Francisco said yes. Chairman Francisco said they are the same except the conditional use is not in his. Mr. Kurk said you need to take out the extra accessory or you duplicated it.

Mr. Kurk said he has a question regarding 19.1.10.4 and said it is his understanding that you can't require a separate septic system for the accessory dwelling unit unless the State requires additional or more septic. Chairman Francisco said yes and Mr. Kurk asked if that is what this is saying. Chairman Francisco said you can't require two separate leach fields and Mr. Kurk said that is correct. Chairman Francisco said this is saying the leach field has to be approved. Mr. Kurk said a person comes in with a 3 bedroom house and wants to add an accessory apartment; he would have to go to the State and they would have to make a determination as to whether the approved 3 bedroom septic system for the principal dwelling is sufficient to take the septic from the accessory apartment. Mr. Meany said no, he would make that decision. Mr. Kurk asked how he would make that decision and Mr. Meany said by the number of bedrooms being added. Chairman Francisco said it has to be approved by Mr. Meany before it goes to the DES.

Chairman Francisco stated that Mr. Kurk's and his information regarding accessory dwelling unit are the same. Mr. Kurk said one of the things Chairman Francisco's doesn't have is the minimum standards occupancy for the bedrooms. Mr. Kurk said if you have two bedrooms, you could put seven people in each bedroom and said in certain

cases you could see where someone might want to do that. Mr. Kurk said the language that the statute allows is the language he added to his. Mr. Kurk suggested adding it to Article 19.1.10.1 after two bedrooms. Mr. Meany said it is in the building code. Mr. Kurk asked what was in the building code and Mr. Meany said the square feet that you need per person in a bedroom. Mr. Meany said he doesn't think they need it since it is already in enough places in Federal and State regulations. Mr. Kurk asked Mr. Meany how many people he would allow in a bedroom and Mr. Meany said you are building an in-law apartment not an ancillary dwelling unit. Mr. Meany said with all the regulations that go with it, you will have maybe two people in the bedroom and said he doubts you would have four. Mr. Kurk said the reason the legislature did this was to provide additional workforce housing which is the purpose of it. Mr. Meany said we are not dealing with workforce housing in the Town of Weare. Mr. Kurk said that is today, but tomorrow who knows. Mr. Meany said then put it in.

Mr. Clow asked about bunk beds. Mr. Kurk said that is not the issue, the issue is how many people can be in a bedroom and said HUD has limitations based on square footage, so this would protect us. Vice Chair Fillmore said the only time he has seen this come into effect is when someone is going for financing (federal home loan mortgage). Vice Chair Fillmore said the bedrooms have to be sized to the number of people in them. Vice Chair Fillmore said there are a number of criteria. Mr. Kurk read what the municipal association says for bedroom limitation "The municipality may not limit an accessory dwelling unit to only one bedroom. This means of course that it may impose a two bedroom limit, it may also impose a maximum occupancy per bedroom consistent with policy adopted from US HUD." Mr. Kurk said he thought since they were suggesting it, it was prudent for them to include it. Chairman Francisco said it certainly can't hurt to have the zoning ordinance include it. Mr. Kurk said he would like to see the HUD language included and Chairman Francisco said he would too.

Chairman Francisco asked if they want it to be conditional use or special exception. Vice Chair Fillmore said they need to go to one board or the other. Vice Chair Fillmore said they generally don't come to the Planning Board for anything else and usually the house is already built and they don't need a site plan. Vice Chair Fillmore said Mr. Meany hasn't brought an in-law apartment to the Planning Board and said they currently they go to the ZBA for special exception. Mr. Kurk said wouldn't it be easier for people to go Planning Board since we meet more frequently. Vice Chair Fillmore said he doesn't think it really matters since the ZBA meets once a month if they get an application. Chairman Francisco said if they do conditional use permit, they will need to do criteria for Planning Board so they can approve the conditional use permit. Mr. Clow suggested leaving the approval process the same, if it is for special exception now then leave it there. Mr. Kurk asked if the proposal is to change the definition to what is at the top of the document and Chairman Francisco said yes. The Board agreed to update Article 19.1.10.

#### **ARTICLE 4**

~~DWELLING ACCESSORY DWELLING UNIT ATTACHED APARTMENT: An accessory dwelling unit, consisting of not more than six hundred fifty square feet constructed within or attached to a single detached residence. Accessory attached apartments may be granted by special exception from the Zoning Board of Adjustment.~~

**An accessory dwelling unit means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.**

#### **ARTICLE 19.1.10**

- 19.1.10      One ~~accessory apartment~~ **accessory dwelling unit** shall be permitted to single family dwelling residence in the residential and the rural agriculture zone by special exception from the Zoning Board of Adjustment and with these further stipulations.
- 19.1.10.1      An ~~accessory apartment~~ **accessory dwelling unit** shall be clearly incidental to the primary use of the property for single dwelling, and such accessory living space shall not exceed ~~six~~ **seven** hundred fifty square feet, and not contain more than ~~one~~ **two** bedrooms **with maximum occupancy per bedroom not to exceed the minimum standards established by the United States Department of Housing & Urban Development.**
- 19.1.10.2      An ~~accessory apartment~~ **accessory dwelling unit** shall either be constructed within or attached to a single dwelling.
- 19.1.10.3      At least one interior connecting door or other access for persons to pass between.
- 19.1.10.4      Septic system design/capacity shall be approved by the NH Department of Environmental Services.
- 19.1.10.5      No new entrance or exit to an ~~accessory apartment~~ **accessory dwelling unit** shall be constructed facing the front of the single family dwelling.
- 19.1.10.6      ~~Two~~ **One** parking ~~spaces~~ shall be provided for an ~~accessory apartment~~ **accessory dwelling unit** and no new curb cut from the street shall be constructed.
- 19.1.10.7      Exterior construction and material shall be uniform with the single dwelling.
- 19.1.10.8      **Either the accessory dwelling unit or the principal dwelling unit shall be the principal residence and legal domicile of the owner of the property.**

## Kennels

Mr. Kurk said the definition he wrote was what he thought they had agreed to. Vice Chair Fillmore said he crossed out commercial and read "boarding or breeding of 5 or more dogs or other household pets whether for profit or not." Mr. Kurk said whether for profit or not would capture families that want to give away a dog. Vice Chair Fillmore said then it is not commercial and said that is why he crossed out commercial. Mr. Kurk said he thought they didn't want to limit the number of pets that a family can have and Vice Chair Fillmore said that is correct. Mr. Kurk said if you take the word commercial out then you are limiting everybody since it says "whether for profit or not." Mr. Kurk said if he is doing it for personal pleasure, he is not doing it for profit. Mr. Kurk said he doesn't understand the transfer language and asked Vice Chair Fillmore to explain. Vice Chair Fillmore brought the definition with him and Mr. Kurk read it "transfer means the transfer of ownership of live animals, birds or fish from any one person to another entity or member of the public." Mr. Kurk asked if he sold one of his pet dogs to Vice Chair Fillmore. Vice Chair Fillmore said that is a transfer. Mr. Kurk asked if he would need a permit to do it and Vice Chair Fillmore said only if you have 5 or more.

Mr. Kurk asked Vice Chair Fillmore if he really wanted a person who has a bunch of cats, dogs and other things, to get a permit because he wants to transfer a dog to a friend? Mr. Kurk said he doesn't want to do that. Mr. Kurk said he thought they were saying a commercial kennel was allowed in the rural agricultural zone. Mr. Clow said he doesn't have a problem with it and said it is simple and straight forward. Mr. Meany said he doesn't have a problem with it either as long as they get some kind of permit to cover it. Chairman Francisco said he likes Mr. Kurk's definition. Chairman Francisco said he was told by Mr. Drescher they had to have some kind of criteria for conditional use permit. The Board briefly talked about it.

## Kennels

To allow kennels in the R/A district, changing the following:

Kennel: ~~"shall mean~~ A building or land used for the commercial boarding or breeding of ~~four~~ **five or more dogs or other household pets whether for profit or not, but excluding a veterinarian clinic or similar operation."**

Add to permitted uses in the R/A district the following:

**17.3.12 Kennels by conditional use permit.**

**17.3.13.1 CRITERIA FOR GRANTING A CONDITIONAL USE PERMIT:  
The Conditional Use Permit Application shall demonstrate that the project will (a) not result in unreasonable noise levels at the**

applicant's property line, (b) will not result in any degradation of the quality of the groundwater and (c) will have no significant negative environmental impact to the abutting downstream properties. The Planning Board may impose such conditions on the project and/or use as it determines will promote the purposes of this article, and may require a performance guarantee or bond in an amount, and form acceptable to the Board be posted to ensure compliance with the terms and conditions of the conditional use permit.

**17.3.12.2 EXISTING NON-CONFORMING USES:**

**Expansion of existing non-conforming uses or structures shall be allowed when demonstrated that the expansion will result in more conforming site and use with greater protection of the abutting properties and the groundwater resource.**

**Sign Ordinance**

Mr. Kurk said he took the language from the Town of Warner's ordinance. Mr. Clow asked if it was basically saying if you have a sign in place, the next owner comes along and replaces it with the same thing but different wording. Mr. Kurk said basically what we are saying is the Planning Board doesn't have anything to do with what the sign says. Mr. Kurk read the Town of Warner's ordinance regarding signs: "No discriminating against non-commercial signs or speech, the owner of any sign which is otherwise allowed under this Article may substitute non-commercial copy in lieu of any other commercial or non-commercial copy subject. The substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision shall prevail over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a parcel or allow the substitution of an off-site commercial message in place of an on-site commercial message." Mr. Kurk said basically they are telling a person you can have a sign of this size in this location. Mr. Vanloendersloot said but we can't say what is on it and Mr. Kurk said that is exactly correct. Mr. Clow said the sign would have to be allowed there to begin with and Mr. Kurk said exactly.

Mr. Clow left at 8:25 pm.

**ARTICLE 34.11.1**

**"NONDISCRIMINATION: the owner of any sign which is otherwise allowed under this Article may substitute non-commercial copy in lieu of any other commercial or non-commercial copy subject. The substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message.**

**This provision shall prevail over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a parcel or allow the substitution of an off-site commercial message in place of an on-site commercial message.”**

## **V. Adjournment**

Mr. Kurk moved to adjourn at 8:30 pm. Mr. Vanloendersloot seconded. Motion passed. 4-0-0.

Respectfully submitted,

Tina Ripley  
Minute Taker