

WEARE PLANNING BOARD
Final Minutes of the Meeting
Of December 22, 2016

Present: Craig Francisco (Chairman), Bruce Fillmore (Vice Chair), Neal Kurk (Secretary), Chip Meany (Land Use Coordinator), Tina Ripley (Minute Taker)

Guests: Dan Higginson, James Compagna, Pauline Compagna, Frank Lamarche, Chuck Sargent, Chuck Sargent I, Tom Tremblay, Mark Arendarski, Robert Starace, Roscoe Blaisdell, Nancy Fillmore

I. Call to order

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

II. Site Plan – Pauline Compagna, 206 Twin Bridge Road, Map 413-235, Plan is to operate a commercial horse boarding stable in an R/A Zone

Mr. Kurk moved to accept the application as complete. Vice Chair Fillmore seconded. Motion passed. 3-0-0.

Dan Higginson spoke on behalf of Pauline Compagna and said they currently have a barn where horses are boarded, trained and riding lessons are given. Mr. Higginson said they were in here at one point due to a question as to whether it was in residential or rural agriculture zone and said they have a site plan to show what they do there. Mr. Kurk asked if they were taking an existing personal barn and putting in a commercial business. Mr. Higginson said it is the same as what is there now. Mr. Meany said the building was for personal use, morphed into a commercial business, the building is staying the same and said now it is being use for a business and for a profit. Mr. Kurk said the paddock looks like it goes onto the next property and Mr. Higginson said both properties are owned by the Compagnas. Chairman Francisco said it looks like they have two entrances into the barn and Mr. Higginson said yes. Chairman Francisco asked if they notified the abutters of lot 235.1 and Mr. Higginson said no. Chairman Francisco said you are using lot 235.1 for paddock and half and entrance. Mr. Higginson said they use lot 235.1 as part of convenience now and said there is room to access from the one lot that the barn is on. Chairman Francisco asked if there was a light on the existing barn and Mr. Higginson said yes, it is an existing flood light. Vice Chair Fillmore asked if there were comments from any other board or department and Mr. Meany said the Police and Fire Departments had no comment and Wendy Rice from Assessing Department said okay and said there were no other comments.

Chairman Francisco asked for public comment and there was none.

Chairman Francisco said he had an issue with the paddock being on two property lines and having two accesses, and the one abutter not being notified north east of Lot 235.1. Vice Chair Fillmore asked if there was anything on the plan about the aquifer zone and

Chairman Francisco said he did see a note. Vice Chair Fillmore asked if there was a best management practice for manure and Mr. Higginson said they stockpile the manure on site and have it hauled away. Mr. Kurk said if lot 235.1 is sold and Mr. Higginson said the paddock would have to be moved and the lot would have to be reconfigured. Mr. Kurk suggested that if lot 235.1 is sold then the paddock will need to be moved should be a note on the plan. Mr. Kurk moved to continue the application to January 12, 2017 in order to allow the applicant to notify additional abutter(s). Vice Chair Fillmore seconded. Motion passed 3-0-0.

III. Subdivision: Pitbull Realty Group LLC, west side of South Stark Highway, Map 109-21, three lot subdivision in a Residential Zone

Mr. Kurk asked if waivers were needed for formal consideration 4-9 and Chairman Francisco said no. Mr. Kurk moved to accept the application as complete. Vice Chair Fillmore seconded. Motion passed. 3-0-0.

Roscoe Blaisdell said he is the land surveyor, wetlands scientist and septic designer. Mr. Blaisdell said the land is owned by Pitbull Realty and Charles Sargent and said he has about 10.5 acres on Route 114 and would like to turn it into 3 lots. Mr. Blaisdell said there is an existing house on the lot and said it is being fixed up. Mr. Blaisdell said one lot is 5 acres and the other 2 are 2.4 acres and just over 3 acres. Mr. Blaisdell said they are on the State Highway and said they will need the approval which they hope to have soon. Mr. Blaisdell said 2 lots will require State subdivision approval and said he hopes to have that very soon.

Mr. Kurk asked what the easement was for the cemetery and Mr. Blaisdell said it is landlocked & there is no road frontage, there is no real right of way and said he is going to make that more clear. Mr. Kurk asked they are required to keep a distance between the boundary and the driveways and Mr. Blaisdell said no. Mr. Kurk asked if they were required to keep a distance between driveway and the wetlands and Chairman Francisco said a non-disturbance 25' wetlands buffer. Mr. Blaisdell asked if that was the Town rule and Vice Chair Fillmore said yes. Chairman Francisco suggested that the Trustees of Cemetery be notified. Mr. Blaisdell said if they have to maintain 25' from the cemetery then they would have to move one of the driveways and said they would have to get a variance to move closer to the wetlands. Mr. Blaisdell said the other option would be to place it near their property line and get a dredge and fill permit and said that would still put them within the 25' so they would still need a variance so why bother go this route. Chairman Francisco asked if he said the easement was undescribed and Mr. Blaisdell said he was going to show it has a reserved cemetery with the right-of-way to get to it. Chairman Francisco asked if he was going to agree to deed the cemetery easement to the town on the plan and Mr. Blaisdell said he could do that. Vice Chair Fillmore asked if he has talked to the State about the driveways and Mr. Blaisdell said he has sent in an application, but has not talked with them. Vice Chair Fillmore asked if this was in the aquifer protection zone. Chairman Francisco said at least partly. Mr. Kurk asked where on lot 21.3 would the proposed house go and Mr. Blaisdell said it would be between the well and test pits.

Chairman Francisco opened up the public hearing.

Frank Lamarche of River Front Properties, agent for 371 South Stark Highway, Lot 22. Mr. Lamarche said he has a concern regarding the surveying of the line and said his surveying from the Town are totaling different. Mr. Blaisdell said his deed is very clear. Mr. Blaisdell said he can work with Mr. Lamarche to clarify the survey.

Chairman Francisco closed the public hearing.

Vice Chair Fillmore made a motion to continue application to January 26, 2017 to notify the cemetery trustees, to have both parties meet to clarify survey, have aquifer be shown or note, have driveway be determined if can be located where they are proposed, deed to be looked at by Mr. Drescher. Mr. Kurk seconded. Motion passed. 3-0-0.

IV. Site Plan Review: Thomas Tremblay, BDA Caldwell Banker, 445 South Stark Highway, Map 412-247 in a Commercial Zone

Vice Chair Fillmore moved to grant waiver for number 7 & 18 on checklist. Mr. Kurk seconded. Motion passed 3-0-0. Chairman Francisco made a motion to accept the application as complete. Mr. Kurk seconded. Motion passed. 3-0-0.

The Board briefly talked about the parking lots. Vice Chair Fillmore noticed that the garage moved and got bigger. Chairman Francisco noticed the garage is twisted. Vice Chair Fillmore suggested a note be added for the well easement to include the book and page. Mr. Tremblay said the new drawing is probably more accurate.

Chairman Francisco suggested adding a bar scale and easement well access road. Mr. Kurk asked about the leach field and Chairman Francisco said he would like to have a septic system approval. Mr. Kurk moved that the application be approved conditionally the plan be revised to show the following: the well access road is an easement to the well, the bar scale be added to the plan, septic system approval be provided, applicant verify size and location of the garage as shown on the plan dated November 2016. Vice Chair Fillmore seconded. Motion passed. 3-0-0.

V. Lot Line Adjustment: Jack L. Dearborn Rev. Trust, 148 Gould Road, Map 97 & 99 in a Commercial Zone

Mr. Kurk moved to continue the hearing to January 12, 2017. Vice Chair Fillmore seconded. Motion passed. 2-0-1(Chairman Francisco).

VI. Public Hearing for Zoning Ordinance Changes

Chairman Francisco opened the public hearing for zoning ordinance changes. Mr. Meany said notifications went out to various departments about the ordinance changes.

Article 4 ó Mr. Drescher has no problem with it. Vice Chair Fillmore suggested removing an and capitalizing and underling accessory dwelling unit, adding : after unit, add Shall before means and remove s on means. This is so it matches the rest of the definitions.

New wording:

ARTICLE 4

ACCESSORY DWELLING UNIT: Shall mean 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 ó Mr. Kurk suggested to remove the bold language from the bottom of article 19.1.10.1 and so the end reads so not to contain more than two bedrooms with maximum occupancy of not more than two persons per bedroom.

New wording;

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 of not more than two person per bedroom.**
- 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 font 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.**

Article 34.11.1 6 Attorney Drescher suggested the changes were not necessary. Mr. Kurk said he has no problem with eliminating this. Mr. Kurk said he added since he received Town of Warner ordinance from Chairman Francisco that sounded like good stuff to put in, but if we don't need it let's remove it. The Board decided to remove this from the amended articles list.

New Wording:

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.”~~

KENNELS

Vice Chair Fillmore suggested capitalizing kennel. Mr. Kurk suggested making “A” lower case. Mr. Kurk suggested adding this is an amendment to Article 4 and Chairman Francisco said that is correct. Ms. Ripley said in one of her emails she did ask if this should be under Article 4. Chairman Francisco said they don't want to make just one warrant article for changing the definition of accessory dwelling unit and kennel and said they need to be two separate ones. Chairman Francisco asked what Mr. Drescher was talking about for the definition. Vice Chair Fillmore said similar operations is too vague and it was suggested to change it to clinics or other facilities engaged in the rehabilitation or rescue of dogs or other household pets.

Nancy Fillmore said her concern is the other household pets being included in this. Mrs. Fillmore said she would prefer it to just be kennels for dogs due to the fact of the

interpretation of other household pets. Mrs. Fillmore said you made a joke of rabbits and other animals, but if you limit it to just dogs you will be conforming better to kennels. Mrs. Fillmore suggested eliminating ~~or other household pets~~ from the kennel definition. Mr. Kurk asked what happens if someone wants to have a kennel for cats? Mrs. Fillmore said she has never heard of that across the country. Mr. Kurk said he thought people breed cats and Mrs. Fillmore said those are breeders. Mr. Kurk asked Mrs. Fillmore if she would be okay with it being or other household pets approved by the Planning Board. Mrs. Fillmore said it sounds better and said the Town has been used for many things due to items being open ended. Vice Chair Fillmore said they need to have it applied immediately applied to dogs and proposed to have it just applied to dogs and have more leg work on other animals. The Board briefly talked about the noise level.

Article 4

New wording:

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 clinics or other facilities engaged in the rehabilitation or rescue of dogs or other household pets.~~

Article 17.3.12

New Wording:

17.3.12 Kennels by conditional use permit.

17.3.12.1 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.~~

Alteration or changes in the use of land and/or structures for existing non-conforming kennels maybe permitted by the Planning Board as a

conditional use permit provided that the Board determines that (1) there is no change in the nature and purpose of the original use; (2) the proposed change or alteration will not have a substantially different effect on the neighborhood; and, (3) the proposed change does not result in an increase in the level of non-conformity or, if it does, that any such increase in the level of non-conformity is offset by corresponding public benefits such as mitigation of some impact on adjacent properties or improvements in infrastructure that address health and/or safety concerns.

VII. Adjournment

Mr. Kurk moved to adjourn at 8:30 pm. Vice Chair Fillmore second. Motion passed. 3-0-0.

Respectfully submitted,

Tina Ripley
Minute Taker