

DRAFT

WEARE PLANNING BOARD

August 9, 2018

MEETING MINUTES

Present: Craig Francisco (Chairman), Bruce Fillmore, Jr., Neal Kurk, John VanLoendersloot (alternate). Also present; Chip Meany (Code Enforcement Officer)

Guests: David Hibbard, Barbara Hibbard, George Merrill, Dennis McKenney, Bruce Marshall

I. CALL TO ORDER

The meeting was called to order by Mr. Francisco at 7:09 PM.

II. LOT LINE ADJUSTMENT/SITE PLAN REVIEW

Continuation of driveway permit request. Applicant George Merrill of Map 406 - Lot 51-3 (off River Road).

A new agreement is now written, but does not ensure emergency vehicles access to property or regulate number of lots that can access the driveway in a shared situation. The maximum of lots per shared driveway in Weare, NH is two, but can be appealed to Zoning Board with a variance. Easement clarification of driveway is needed. Mention was made to a letter written by Attorney William R. Drescher, in reference to above listed property, concerning two conditions that need to be met in order for the granting of this type of driveway permit to be lawful, because *"granting a driveway permit the owner of **Lot 406-051.3** for a driveway that crosses **Lot 406-015.2** as shown on the sketch, would only result in access to two lots, it would be lawful to grant such a permit assuming certain other conditions are met."*

Consequently, the letter lists the following conditions:

1. *"...the existence of the 'dedicated' way on the two old plans is problematic since it appears that the proposed joint driveway would be built, at least in part, over the bed of that dedicated way. The simplest solution to this issue is to have the Board of Selectmen exercise their authority under **RSA 231:51** and extinguish the 'public servitude' since the'....**street, lane, or alley has not been opened, built, or used for public travel within 20 years from such dedication....'** "*

2. *"...is that a proper agreement between the owners of **Lot 406-051.2** and **Lot 406-051.3** be established which addresses the joint maintenance and corresponding easement concerns that is not related to the unapproved documents on record. This is important so that it is clear that by allowing the two lot Common Driveway arrangement, the Town is not sanctioning or otherwise legitimizing the unapproved private road arrangement that is contemplated by the unilateral 'agreement'. This should include: Language making it clear that the easement approved by the Planning Board Between the two lot owners is limited to them and may not be utilized as access to the lots further south and [added by Mr. Francisco - defined by metes and bounds]; and, a*

maintenance agreement which agrees to maintain the Common Driveway in a condition that permits year-round emergency vehicle access to the two lots."

Approval of the driveway permit must include agreement of conditions to include the following:

1. [?]
2. New easement must be approved by Planning Board with agreement of [no access further ?]
3. Metes & Bounds.
4. Emergency access.
5. Driveway standards of 10% grade maximum.

Chairman Francisco opened the public hearing.

Bruce Marshall, Attorney at Law, spoke on behalf of Mr. Merrill. This included the premise that his client has (1) a right to cross, (2) that the easement was deeded to him and Mr. Marshall suggested that (3) the Town already has defined emergency vehicle regulations in the fire code, when considering a shared driveway and the only thing his client has to do is abide by the Town's driveway specifications. Mr. Kurk considered the legitimacy of the "suggested" shared driveway maintenance document and it should be shown to the board. It was determined that a new document should be presented, along with a site-walk to be done by the Planning Board. Mr. Francisco moved to accept the driveway permit with conditions. Mr. VanLoendersloot seconded, and the vote carried unanimously.

Continuation of LLA/Subdivision. Applicants David & Barbara Hibbard of Map 409-168, 169 & 170.

Mr. Kurk recused himself. Mr. McKenney approached board and explained the bullet items requested on the site plan by the Planning Board were fixed. Two conditions need to be met in order for the permit to be served. *1. Two tie lines need to be added to site plan to tie Lot 2 to Lot 1. 2. TITLE XXVI CEMETERIES; BURIALS; DEAD BODIES Chapter 289 Cemeteries Section 289:3 must be referenced in note 13, sec 3 and note 15.* Vice Chair Fillmore moved to approve LLA/Subdivision with above conditions. Mr. VanLoendersloot seconded, and the vote carried unanimously.

Continuation of VARIANCE Article 17 1.1 "Building on a Class VI road in a residential zone". Horse Spring Hill Road, Map 409, Lots 168, 169 & 170.

Mr. Kurk motioned to allow removal of 85' of stonewall with a rebuild of 80' to allow for a driveway permit on Lot 168. Mr. VanLoendersloot seconded, and the vote carried unanimously.

Public hearing on changes to subdivision regulations

Discussion among the board included 8.13 Fire Protection Cistern Specifications shown on page 34. Clarification is needed from the Fire Ward with regard to cisterns and sprinkler systems with multiple (3-4) lots/houses; what is required within each situation? Mr. Francisco will craft a letter to include a general questioning of all subdivision regulations.

Other discussion: Mr. Kurk informed the board there will be a subcommittee meeting on August 28th regarding development in the Historic Village District.

Minutes:

Discussion of unapproved minutes has been put in the parking lot (on hold).

Adjournment:

The meeting adjourned at 8:45 PM.

Respectfully submitted,

C. Provencher, Transcriber