



## WEARE PLANNING BOARD

### MEETING MINUTES

May 12, 2022

**PRESENT:** CRAIG FRANCISCO, CHAIRMAN; BRUCE FILLMORE, JR., VICE CHAIRMAN; FRANK (CHUCK) BOLTON; WILLIAM (BILL) STOCKHAUS, SECRETARY; SHERRY BURDICK, EXOFFICIO; PAUL GANNON, ALTERNATE.

**ABSENT:** RAY MENARD, ALTERNATE; JOHN (JACK) MEANEY, ALTERNATE; DANI-JEAN STUART, ALTERNATE; NAOMI BOLTON, TOWN ADMINISTRATOR & INTERIM LAND USE COORDINATOR.

**GUESTS:** Heather Crozby; Jennifer Belkey; Tim Beckley; David Richards; Kate Richards; John Edge; Andrew King, Eversource; Austin Ford, Eversource; Bradley Morley; Shelley Morley; Tom Frisella.

#### **I. CALL TO ORDER**

Chairman Craig Francisco called the meeting to order at 7:00 pm. and welcomed those present to the May 12, 2022 meeting of the Weare Planning Board.

#### **II. DISCUSSION/HEARINGS:**

**Eversource:** Tree trimming on Mt. Dearborn Road Public Hearing – Pursuant to RSA 231:158. The purpose of this public hearing is to hear testimony and public input as to the trimming and removal of trees on Mt. Dearborn Road as it is a designated scenic road. The trees to be removed are flagged with blue and white checkered ribbons.

Andrew King, Regional Arborist for Eversource Energy and Austin Ford, Contractor Resource Manager. They are here asking to trim and do some hazard tree removal on Mt. Dearborn Road which is a scenic road. Mr. King had copies of the hazard trees they are planning on taking, which are marked with blue and white checkered tape. The trees specifically are labeled hazards. Most commonly they are ash trees in decline for emerald ash borer. It's an issue now. It's probably only going to become more of an issue in the future because there is nothing stopping it. Trees die relatively quickly, two to three years and they seem to fail at fairly large branches, so it will continue to be a problem going forward. The trimming that is planned to be done is the standard scheduled maintenance trimming where they prune 15' above the wire, 8' on either side, then 10' below it.

Paul Gannon, alternate asked, you define it as hazard? Mr. King replied, yes. Mr. Gannon followed up, is there a specific definition to hazard as opposed to standard maintenance? Is it a tree that is going to come across the road? Or is it just, it's dying, it's an ash tree and we just need to trim it so it doesn't take power lines out. Mr. King replied that a hazard tree is going to be removable. It has to have a known defect or a visual defect and a target. Mr. King stated that in his role as the utility arborist the target never moves. The power lines are there all the time, so there's always a target. Some people argue about target when it deals with people because people move back and forth and they're not always there but the wires are always there. The known defect now is the emerald ash borer. There are others, there is a very prominent oak tree leaning at a 45 degree angle over the road in the wires. Mr. Gannon stated that he would like to show Mr. King another on Flanders Memorial Road when they are done talking. Mr. King stated that the definition of a hazard when it comes to tree work or agriculture is a known defect and a

target that can cause property damage or personal harm.

Selectman Burdick asked if they were going to take any of the maples that are half rotten down. There are several of them on that road. Mr. King replied, he doesn't specifically know if they are all tagged but as he was driving the road this afternoon he saw some, but he is only charged with taking care of the lines. So if they look at it and determine it is not a hazard to their lines then he really can't do all of the removals. Selectman Burdick added that she wouldn't want to see it clear cut. Mr. King agreed. There is a stretch where there are three or four that didn't look very good.

Vice Chairman Fillmore asked if they are doing the whole length of Mt. Dearborn Road. Mr. King replied, yes. Chairman Francisco asked when they were planning on doing it. Mr. King replied, this year. He continued that they contract out and when they give the circuits to the contractor they don't tell them how to do the work or when to do the work. It's up to the contractor to plan out their work, allocate resources and get crews in. He can't give any firm date unfortunately.

Paul Gannon asked with regard to landowner if it's a tree on private property or a landowner's tree, is it felled and then set aside for the landowner to come and get or how does that work? Mr. King replied that this hearing is in addition to the permissioning that they do with the landowners. So, someone's talked to the land owner and there's an arrangement between the landowner and the contractor. Typically the tree would be cut, the brush would be chipped up and the wood would stay unless there's an agreement with the landowner to remove the wood.

Vice Chairman Fillmore stated that he would like to take a drive up through there before we vote. Chairman Francisco stated that he meant to before tonight but didn't get to it.

Chairman Francisco then opened it up for the public input. Kate Richards, married to Dave Richards they own property on Mt. Dearborn Road and we're all in favor of the trees being taken down that are unsafe. Especially if they are going to knock out the power in the winter. They would be very happy if those trees were taken down. She did take a ride only as far as Neal Kurk's house and she counted about 12 trees that are tagged between 149 and Neal Kurk's. So it is nothing excessive and it would never be in disagreement with doing. She asked the Board to approve this.

Pastor Bill Stockhaus, asked Mr. King, so your lines are your priority, so if there's a birch tree that goes up between the middle of the lines that does not have a tag on it. Mr. King agreed and stated that he saw that. Pastor Stockhaus stated that he thinks that there are a couple of trees that are dug up from the plows and they are eventually going to go. Tiffany Hill Road is in a similar situation of gouged trees from the plow, where it's a hazard for cars going by never mind just protecting the lines and asked if some of those trees can be addressed. Mr. King agreed to and stated that he could go for a ride with any member. Pastor Stockhaus stated that there is one that is tagged that sticks out into the road as well as the one at an angle.

John Edge had a couple of questions. First, he had a tree come down and they were like 30, 40 or even 50 feet off the road and they took out the power lines, how far off the road does Eversource go? Mr. King stated it's that 8'. Mr. Edge interrupted and said these are 100 foot trees. Mr. King stated that he understand that and when they do outage investigations the vast majority of them come from outside the zone. Unfortunately, being New Hampshire, there is no way they can clear 90 feet on either side of the power line. Mr. Edge, stated that he is not looking to clear that far, but if a tree is defective and it's 60-70 feet off the road and it's a 100 foot tree. He has had the power lines come down near his house twice in the past year, who makes the zone. Mr. King stated that the only way to remove hazard trees is to remove all trees and he didn't think we want to get rid of all trees. Mr. Edge replied that he felt that was a little pushing it a bit. Mr. King stated that there could be root damage the he can't see. There also could be heart rot that he can't see there is no way he can possibly determine every tree that could possibly hit the lines. Mr. Edge added, so the 10-12 trees that you are going to cut down isn't really going to make

any difference then, in his opinion when there's 200 trees that need to be taken down take them down. Mr. Edge, asked, who pay's Eversource every time the power goes out, the Town. Meaning when the truck comes and the tree company comes because the tree came down, who pays the bill? Chairman Francisco replied that everyone does it's passed off in your light bill. Mr. King stated that he understands the frustration. This is part of a 4 year trimming plan. Mr. Edge honestly thinks that they are not doing enough. Mr. King states that there is a sensitivity part there as well and they can certainly move things back.

Frank Bolton asked if they could go onto someone's property and cut a tree that they knew was going to fall down. Mr. King, replied no they need permission. There is a caveat to that ant that is if it imminent to fail. Today he saw two trees where they were cantilevering over and splitting out the back, they are going to be on the ground tomorrow because they're going to go across a road and take out wires and god knows what else.

Tim Beckley, asks that as a land owner if there is a tree that is a hazard to the power lines can we contact Eversource outside of this meeting to get it rectified. Mr. King replied, absolutely. There are currently 4 in the town road that have been severely under rooted by the grader and hit by the plow. Mr. King stated that normal trimming is over this meeting this is to remove the hazard trees.

Chairman Francisco read a letter that was received from Neal and Heleen Kurk into the record. The letter reads as follows:

"Dear Board Members:

We live on Mt. Dearborn Road and we were notified of tonight's hearing on the removal of trees along a scenic road.

We looked at the trees marked with purple checkboard tape and have no objection to their being removed with one exception; we question the need to remove the oak tree on the south side of the road southwest of the Morley's house. Reasonable trimming of those branches near the wires should be considered as an alternative to removal.

Please read this letter into the record of the meeting.

Very truly yours,

Neal and Heleen Kurk"

Vice Chairman Fillmore asked if there was any chance that the Board can go take a ride and view these trees. Mr. King stated that they can be available and agree to that. The board would like schedule a site walk for 6 PM on May 26<sup>th</sup>, which is 1 hour before the next Planning Board meeting.

**Vice Chairman Fillmore moved to continue this hearing to May 26<sup>th</sup> so that the Board can attend a site walk at 6 PM on May 26<sup>th</sup> to look at the trees; Pastor Stockhaus seconded the motion. The board will meet at the church on Route 149. Vote: Passed 5-0-0**

**Conceptual Hearing:** Heather Crosby, 21 Center Brook Lane was present for a conceptual hearing. Ms. Crosby stated that she would like to open up a small shop in the basement of her house. It would be a gift shop to support local crafters and hobbyists. She had been in corporate finance her entire career up until her daughter was diagnosed with leukemia in 2013. Hobbyists and crafters seem to wait for one time a year to sell all their items. She is looking to have a small place, very affordable for these people to put their items for sale. She was hoping to possibly hold a couple of classes for the vendors, so they can teach their skills to others that are interested in it. She wants to do more sales online. Ms. Crosby would be the only employee and maybe her daughter when she comes home from college. Ms. Crosby stated that she is thinking she may have 1-2 customers at one time. She is not located on a main road. She is set back off the road with plenty of off-street parking. The Board asked how many square feet would she be utilizing. Ms. Crosby gave the dimensions which calculated out to be 425 square feet, which you are allowed 500 square feet per zoning. The Board reviewed Article 17.2.4 for allowed uses. This property

is zoned residential. The Board agreed that the words “no limited to” leaves things open. Ms. Crosby stated that she will be doing a small rental fee and then items on consignment usually have something like a 60/40 split. There are other options as well that can be worked out. She would like to hold small workshops and classes, which fit under 17.3.7 like a music teacher. Chairman Francisco and the other Board members agreed that it is an allowed use. The board reminded her that as long as she says below the 500 square feet and only her and her daughter she doesn’t need to come in for a site plan review application. Chairman Francisco asked about signage. Ms. Crosby stated that she has an A-frame sign that she would like to put at the entrance of Center Brook Lane and an “open” sign at the mailbox. The Board referred her to the zoning ordinance and she is allowed 6 square feet one sign. A sign permit would need to be applied for with the Building Department and obtained before she can open.

### III. OTHER BUSINESS

- Discuss the possibility of combining the Subdivision Regulations & Site Plan Regulations into one “Land Use Regulations” document: Chairman Francisco stated that he works in many communities and they have one regulation document combining Subdivision and Site Plan Regulations together. He would like to do this but will need some professional help. Site Plan Reviews is for Commercial and Multi-Family whereas Subdivision is for subdivision and lot line adjustment. The idea of refining would be to have one application and make it simpler and straightforward for the applicant. Frank Bolton asked if Chairman Francisco could bring in an example from another community, which he will do.
- Discuss the wetlands buffer ordinance: Chairman Francisco stated that the other issue he has is our wetlands buffer ordinance which is very simple. If it’s wet you have a 50-foot setback. If it’s wet you have a 25-foot buffer. It doesn’t matter if the wetlands is the size of a piece of paper or if the land is 25 acres. It doesn’t matter if the wetland has endangered species or nothing in it. He would like to propose varying the buffer and the setback depending upon the value of the wetland. If you have a little wetland that’s smaller than 3,000 square feet it doesn’t have very much of a buffer. If you have an acre of wetland it’s going to have a buffer. If it’s over an acre you’re going to have a bigger buffer. If it has a vernal pool where you have frogs living and no fish eating them, then you have wood frogs like craziness of endangered species you get a bigger buffer. On 8/12/21 the Board was provided with the Kingston ordinance. Tonight Chairman Francisco was reading from the Amherst ordinance, which he likes better. Selectman Burdick had a question. She asked about the area when you turn into the transfer station no one is doing anything with the corner and how come.
- Discuss the Board’s procedure when asked for recommendations concerning Class VI or Private Roads from the Board of Selectmen: Chairman Francisco stated that he has a question for Town Counsel. He stated that if you have a Class VI road and there’s no culvert, so it’s running over the top of the road and then you turn it into a driveway; naturally he’s going to put a culvert in here, now the water is going to be concentrated and going onto the neighbor’s property, do we have a right to do that? Chairman Francisco stated that his other concern is upgrading using driveway standards for an upgrade of Class VI roads and what if other permits are needed that the town didn’t make sure were needed, like a wetlands permit or an alteration of terrain permit. We do as far as when we do subdivision and site plan. When we are looking at an upgrade to driveway standards should we be looking for those permits as well? The DPW inspects the entrance onto any town road, but they felt the Fire should be the ones to look at the rest of the driveway as per NFPA codes. Vice Chairman Fillmore stated all this Board can do is to make recommendations to the Board of Selectmen. Pastor Stockhaus pointed out the discrepancy of the zoning article that was passed and then we were informed it was not legal/or has standing. Vice Chairman Fillmore stated that when they get the variance from the ZBA to build. All we can do is make specific recommendations back to the Selectmen on a case by case issue. Chairman Francisco stated that he will email the rest of the board regarding roads and the wetlands issue.

#### **IV. NEXT MEETING:**

May 26, 2022

**Being there was no further business to come before the Board, Chairman Francisco moved, Selectman Burdick seconded to adjourn the meeting at 8:33 pm. Passed 5-0-0**

A True Record

*Naomi L. Bolton*

Town Administrator Bolton

From YouTube Video