

## Final



### WEARE PLANNING BOARD MEETING MINUTES March 25, 2021

**PRESENT VIA ZOOM:** CRAIG A. FRANCISCO, CHAIRMAN; BRUCE FILLMORE, JR., VICE CHAIRMAN; JOHN (JACK) MEANEY, EX-OFFICIO; FRANK (CHUCK) BOLTON; WILLIAM (BILL) STOCKHAUS; RAYMOND (RAY) MENARD, ALTERNATE; KELLY DEARBORN-LUCE, LAND USE COORDINATOR

#### **GUESTS VIA ZOOM:**

For B&B Lane Case: Sandra Guay, Chris Tymula, Peter Kropp, Jody Ameden, Kyle Thrasher

For Bart Clough Case: Jordon & Brianna Estrada, Tom Page

For Look N2 Storage: Tim Wilkins, Chad Branon, Samantha Walton, Dave Wilusz

**ZOOM HOST:** Town Administrator Naomi Bolton

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

The Chairman called the meeting to order at 7:01 pm., and explained due to Covid-19 orders from Governor Sununu's Stay at Home 2.0 directives, the meeting was conducted via Zoom. Chairman Francisco welcomed Bill Stockhaus as a full member and Ray Menard as an alternate member.

#### **II. DISCUSSION**

A.) **Site Plan design review application** for ENI 55 B&B Lane LLC for the existing business on property located at 55 B&B Lane, Map 411, and Lot 197 in the Industrial District. The applicants propose to add (2) above-ground propane fuel storage tanks and subsurface disposal system.

There are no waivers requested. **Vice Chairman Fillmore moved, Chuck Bolton seconded to accept application as complete. Passed 4-0-0**

Vice Chairman Fillmore made it known, though he is not an abutter he lives a couple hundred feet away.

Sandra Guay, Archipelago Law, LLC., permitting Attorney for Energy North Inc., stated the property is located at 55 B & B Lane, 2.6 acre parcel, currently Putnam Fuel location. The property consists of a two-bay mechanic shop and bulk fuel storage facility that will remain in use. The proposal is to add two thirty thousand gallon liquid propane storage tanks in the Industrial District, fuel storage and distribution are allowed by right.

Chris Tymula, Project Manager, Greenman-Pedersen, Inc. shared existing conditions and proposed rendering site plans. Site is mostly gravel, surrounded by industrial uses on all sides with two existing driveways. Bulk of

the fuel storage located in the rear of the property, also, a centrally located diesel fuel canopy along with a one-story metal garage. Terrain is mostly flat, pitching from midpoint with drain swale and culverts along frontage. The two new proposed tanks set on small concrete foundations with guardrails, to be accessed by gravel driveways with new gravel added. Bobtail, rig w/o the trailer, parking provided. The plan includes four new light poles with dark sky compliant fixtures. Entire front area fenced and gated. Grading and drainage plan tying into existing, left/right side and front silt fence to prevent erosion. There is a proposed temporary gravel construction exit for tracking vehicles. Utility plan, test pits for septic system showing a 4K septic for garage along with a private onsite non-public water supply. Currently, garage workers use a port-a-potty, no existing water or septic on site. Septic system in progress, waiting on State approval once completed.

Chairman Francisco asked do you have the existing impervious area.

Chris Tymula replied it is the canopy, building and concrete, gravel not impervious.

Chairman Francisco stated the compacted gravel is impervious, if existing is over 10% total lot it requires a conditional use permit, must maintain the same permeability.

Chris Tymula responded the notes to be updated; existing is greater than 10%.

Chairman Francisco stated he has done several site walks in this area, conditional use permit needed.

Chris Tymula stated all tanks, existing/proposed, are above ground, also, impervious, added to calculation.

Chairman Francisco commented gravelly soil, infiltration easily obtained. Where will leach field be located? How many employees?

Chris Tymula replied four test pits, seasonal high 48" to 72" down, leach field area, outside of 75 ft. and 100 ft. radius. Two employees, small 300 gallon system, approximately 6" grade, overall same elevation.

Chairman Francisco stated the 75 ft. well radius has to be entirely on the lot.

Chris Tymula responded 10 ft. within property line meets the well radius requirements.

Vice Chairman Fillmore stated it is now 5 ft., in how close you can put a septic tank to a plotline. Move it another twenty feet, it will not be a problem.

Chris Tymula to look into this, flexibility in well location.

Chairman Francisco suggested silt sock instead of silt fence.

Chris Tymula answered yes.

Vice Chairman Fillmore stated the Town of Weare's engineering firm, Keach-Nordstrom Associates Inc., will need to review the plan.

Chuck Bolton asked if this needs to be reviewed by the Fire Department.

Vice Chairman Fillmore stated the Fire Department hasn't replied yet.

Jody Ameden, Crown Energy Solutions, stated she walked the site last December with Fire Chief Vezina. He provided training levels, response times and water capability. She continued Chief Vezina had no concerns and is in receipt of the Fire Safety Analysis she prepared December 10, 2020.

Chairman Francisco stated he would defer to Chief Vezina. He also questioned the chain link fence and guardrail in front.

Chris Tymula stated there is no fencing around entire property currently. Energy North is looking to enclose the entire property with 6 ft. tall chain link. Guardrail is a crash barrier.

Alternate Menard inquired about emergency shutoff switches.

Jody Ameden replied there are four ESVs, one at each stanchion, transport load/offload and by code one between 25 ft. and 100 ft. Any driver or office staff can access, thermal link pneumatically charged with nitrogen, killing the nitrogen valve, shutting off all valves. Driver has to open/charge the lines before loading or offloading, valves are in a neutral/closed position.

Vice Chairman Fillmore asked how many trucks a day are anticipated.

Peter Kropp, Director, Supply & Trade, Energy North Inc. replied during the peak winter season one large transport truck per business day to load the tanks, October to March, summer months one or two a week. Two or three Bobtail, small home delivery trucks loading up, operating daily out of this location, roughly six trips/day.

Chairman Francisco asked the Board or public at large for questions. There was none. Public comment closed at 7:24 pm.

Chairman Francisco asked what is the time frame?

Chris Tymula responded Energy North is looking to move forward, to update the plans and start soon.

Vice Chairman Fillmore and Alternate Menard to walk the property once notification is given to the applicant. All other Board members are familiar with the property.

Chairman Francisco stated plan is simple, grade hump down, 6" fill, sandy soil, with a dry hydrant down the road. No worry of propane tanks per Fire Department.

Bill Stockhaus questioned notes regarding the Aquifer Protection.

Chris Tymula referenced Note #3. No plan for storm water management systems. Is this required?

Chairman Francisco stated you have to infiltrate as if there is no increase to impervious status. All disturbance to drain towards B & B Lane, correct? Shallow basin?

Chris Tymula stated yes, and all four test pits had a 4 ft. water table, shallow basin or stone trench to be added along pavement edge.

Chuck Bolton stated a ditch already exists along B & B Lane on the left side.

Chris Tymula answered yes and culverts underneath driveway to headwall, swale along frontage.

Chairman Francisco indicated a waiver for a full drainage study. How big is the disturbance area?

Chris Tymula responded 24,000 sq. ft.

Vice Chairman Fillmore asked if the delivery trucks run on propane.

Peter Kroop replied no, diesel fuel.

Chairman Francisco stated he has no further questions.

Chris Tymula asked what is the date to have the updated plans back to the Board.

LUC Dearborn-Luce stated approving with conditions, April 22<sup>nd</sup> next meeting, so April 1<sup>st</sup>?

Sandra Guay asked if the current use permit is a separate application, form not found in ordinance.

Chairman Francisco replied yes, there is a separate application, filing simultaneously with application.

Jack Meaney joined in at 7:36 pm. as he was in another meeting. He questioned the plans, is the gas island for fueling station and diesel tank pre-existing.

Chris Tymula answered yes, to remain unaltered.

Chairman Francisco asked the applicant if they had any questions.

Chris Tymula replied they would update their plans for resubmission.

**B.) Conceptual for Jordan Estrada for proposed access off Bart Clough Road. Proposed building to share driveway which may be new private road and require a conditional use permit.**

LUC Dearborn-Luce stated this new driveway to be shared by three properties.

Chairman Francisco asked Kelly for plans and Map/Lot #.

Kelly forwarded plans to the Board; Map/Lot should be on agenda. She suggested Jordan Estrada explain.

Jordan Estrada, the applicant, stated it is Map 49, Lot #20. There is an existing private drive off Bart Clough with four lots. Theirs would be the third lot with a building on it.

Tom Page, Bart Clough, lot #187, abutter, stated there are two house lots and a house trailer lot already permitted on the 614 ft. ROW. The only undeveloped lot belongs to Louis Page.

Chairman Francisco, while looking at Google Earth, notes the house on left is a couple hundred feet in, then road curves back to the right with a house.

Tom Page answered, correct, a third lot has a house trailer further back on the left.

Jordan Estrada stated the Assessor's tax card shows it as a shed, uninhabitable.

Tom Page clarifies the permit was for a shed near the pond, house trailer closer up.

Chairman Francisco asked are there three people using the road now.

Jordan & Briana Estrada replied correct, one appears to be seasonal, cabin near lake, trailer uninhabitable. They stated the proposed property, owned by Louis Page, who currently resides in Florida, Tom Page's father, is currently under contract contingent on Town's approval to build a single-family home. They are looking to move to Weare, though challenges with topography, is this a buildable lot. If approved they are looking to improve, plow and maintain the road. Also, looking for a variance, a non-conforming use, do not want to convert private road to Class V. They have submitted an application with the Zoning Board, hearing scheduled for April 6<sup>th</sup>. They are here tonight under the new approved Zoning Article, must come to PB before ZBA.

Chairman Francisco stated a conditional use permit is needed to build on a private road.

Vice Chairman Fillmore researched these lots at the Registry. Each lot created in the early 80's, one lot at a time, three separate subdivisions to create three separate lots. A remainder parcel was never shown on any plan, but this remainder owns this ROW, described on the subdivision plans as a future ROW. Deed grants owners to use this ROW for access and utilities. Perhaps done under the old Bonafide Gift Rule, subdivide without frontage, assigned by the Planning Board at the time. Lot #18 has no frontage on Bart Clough Road. All four lots accessed through the 50 ft. ROW.

Jordan Estrada added he pulled the subdivision deed dated October 1977 for Lot# 20.

Jack Meaney stated warrant article #6; modifying article 4.1, inserting the definition of the term private road shall mean an access to 3 or more lots. The private road must be shown on a survey plan dated prior to March 1988 or be shown on a plan approved by the Planning Board. The Planning Board may only approve additional private roads upon approval of a conditional use permit application.

LUC Dearborn-Luce asked what is the procedure since 37.5 ordinance passed; do they do a conditional use first, then go to ZBA for their variance, and then back to the PB and BOS? Chairman Francisco answered the PB first. LUC Dearborn-Luce clarified first they file a conditional use permit with the PB. Zoning scheduled for April 6<sup>th</sup>.

Chairman Francisco replied yes.

Vice Chairman Fillmore asked if they are going for two variances with the ZBA. LUC Dearborn-Luce replied they have applied for a variance on a private road. Vice Chairman Fillmore questioned LUC Dearborn-Luce as the lot has zero frontage. LUC Dearborn-Luce replied they have a ROW in their deed. Vice Chairman Fillmore responded that is not frontage. Frontage is needed on a Class V road. LUC Dearborn-Luce answered it is an existing lot. Chairman Francisco replied it does not matter. Vice Chairman Fillmore stated to get a building permit you need 50 ft. of frontage.

Jordan Estrada stated he is happy to apply for a double variance.

Chairman Francisco replied you have to.

LUC Dearborn-Luce responded notices already went out.

Vice Chairman Fillmore suggested a continuance with the ZBA, come back to the PB for a conditional use permit first.

Chairman Francisco suggested a Site Walk is needed. Vice Chairman Fillmore concurs.

LUC Dearborn-Luce commented conditional use, two variances, site walk first. Chairman Francisco responded yes.

Louis Page is in Florida, he signed an affidavit for Jordan & Brianna Estrada. Is a written permission needed for a site walk asked LUC Dearborn-Luce.

Jordan Estrada added the property is in current use.

Chairman Francisco stated he will be on the road not Louis Page's property.

While looking at the letter Louis Page signed, Vice Chairman Fillmore suggested to LUC Dearborn-Luce the conditional use and variances need to be added.

Tom Page spoke up stating he is a steward of Lot #19 that is for sale, he can grant permission for Site Walk.

Vice Chairman Fillmore suggested conditional use on April 22<sup>nd</sup> to allow for notices.

Site Walk scheduled for Thursday, April 8<sup>th</sup> at 5:00 pm.

Chuck Bolton requested LUC Dearborn-Luce email him a map of this lot.

Vice Chairman Fillmore stated he will pull files from the Registry, copies for the Board.

Jordan Estrada confirmed the date of site walk, and asked is the variance application on April 6<sup>th</sup>?

LUC Dearborn-Luce replied she is not sure, to check with ZBA Chair to see if it can be amended with notice already posted.

Jordan Estrada reiterated the conditional use on April 22<sup>nd</sup>? LUC Dearborn-Luce replied yes.

Tom Page, steward of the property, stated he sent a lot of documents in for tonight's meeting, but it appears they couldn't be opened. One was the deed that clearly states the owner of the lot has to do construction on the road. No owners, previous or current, has helped on the ROW. He has paid for everything himself, blasting, etc. Another 415' needs upgrading not fit for two-way traffic only 8 or 9 ft. wide. The Town requires 22' in width and proper height of gravel. Granting a building permit without the road being fixed first, it will never get done. The previous owner, his father, was denied a building permit back in 2002 because he would not upgrade the road.

Chairman Francisco responded that is why we will be having a Site Walk. Jordan Estrada asked for permission to rebut. Chairman Francisco answered no, Site Walk first.

Hearing ended at 8:06 pm.

C.) Conceptual for Tim Wilkins for updated plans on 695 Concord Stage Road, LookN-2 Store (storage facility). Previous (amended) site plan dated 2005

Chairman Francisco opened the hearing at 8:06 pm.

Tim Wilkins, Managing partner of All Purpose Storage, 4023 Dean Martin Drive, Las Vegas, Nevada, is under contract to purchase 695 Concord Stage Road. The site was originally approved for three buildings, only two were built. What is needed to allow for third single story, metal building to be built, approved on the drawings as 80 x 160 sq. ft.? What are the requirements for future expansions? The original approved plan shared with the Board. Two buildings 40' x 150' and 30' x 120' exist, the last building 80' x 160' was never constructed. His plan is to build the third building and remove the sea containers just sitting there.

Chad Branon, Engineer, Fieldstone Land Consultants, PLLC., stated it is a gravel lot where the sea containers are located, vested with the site plan, just need to pull a building permit. Originally, two lots, Lot #403.31 and 32, merged into one 5.1 acre property looking to expand as well. Proposing Phase 1, build the third building, Phase 2 future expansion.

Vice Chairman Fillmore asked if the site plan expired.

Chad Branon replied, site plans do not expire when vesting has occurred, a function of the prior approved work, a good portion completed. Graveled site, imperious, no change, consistent with approved plan.

Chairman Francisco responded he agrees the plan is vested and vested from Zoning Ordinance changes for only five years. So, you would have to comply with any Zoning Ordinances. Though not sure when the two lots we merged, there is a 50' wetland setback and 25' non-disturbed buffer around the wetlands. The site plan does not allow.

Vice Chairman Fillmore suggested the applicant stake out the four corners of the proposed building in order for the Board to see.

LUC Dearborn-Luce commented the merger was done in 2006.

Chairman Francisco stated that is before the wetland setback.

Chad Branon asked if it is a 25' non-disturbance and then a 50' building setback. Chairman Francisco replied yes.

LUC Dearborn-Luce stated the wetland buffer came out in 2007.

Chairman Francisco stated the wetland 50' setback is only applicable for lots of record after that date. If merged before that date, no setback, but a 25' buffer. Wetland near Route 77 and any other grading near wetlands are possible issues.

Chad Branon does not see any need for grading. Building four corners can be staked, wetland scientists can flag the wetland edge.

Bill Stockhaus questioned the containers to be removed with the construction of the new building and where will the RVs go.

Tim Wilkins replied yes containers removed and RVs parked west of the two existing buildings.

Bill Stockhaus inquired if the area is sufficient in accommodating the RVs.



Tim Wilkins stated the area is sufficient, but they own four other facilities in a 15 to 20 mile radius that they could be relocated to.

Chairman Francisco stated this falls under LUC Dearborn-Luce's department. With the site plan approved, she decides if the property is vested or not. Best if the PB never sees it.

Bill Stockhaus explained not until Phase 2.

Vice Chairman Fillmore concurs.

LUC Dearborn-Luce to look into it.

Chairman Francisco stated the storage units off to the left in the back could be illegal in this approved site plan, a Code Enforcement issue.

Tim Wilkins responded that is not a problem, he can remove them.

Hearing ended at 8:21 pm.

### **2021 Appointments / Officers**

**Jack Meaney moved, Bill Stockhaus seconded Craig Francisco as Chairman, passed 5-0-0**  
**Craig Francisco moved, Jack Meaney seconded Bruce Fillmore Vice Chairman, passed 5-0-0**  
**Craig Francisco moved, Jack Meaney seconded Bill Stockhaus Secretary, passed 5-0-0**

LUC Dearborn-Luce to prepare folder for Alternate Menard.

Secretary Stockhaus reminded the Board the PB By-Laws are on the Town website.

Vice Chairman Fillmore suggested the OSI PB Training virtual meeting is May 15<sup>th</sup>.

### **III. MINUTES**

**March 11, 2021 Minutes: Jack Meaney moved, Secretary Stockhaus seconded to accept the minutes of March 11th as amended, passed 5-0-0.**

### **IV. NEXT MEETING**

Thursday, April 8, 2021 at 7:00 pm.via Zoom.

**Being there was no further business to come before the Board, Vice Chairman Fillmore moved, Jack Meaney seconded to adjourn the meeting at 8:33 pm.**

A True Record

*Karen Nelson*

Karen Nelson transcribed from

You Tube Recording, TA Bolton notes