

FINAL



WEARE ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
November 3, 2020

PRESENT: JACK DEARBORN, CHAIRMAN; MICHAEL MEYER, VICE CHAIRMAN; MALCOLM WRIGHT, MEMBER; MARC MORETTE, MEMBER; BOBBI-JO PLAMONDON, ALTERNATE; GARY SHELTO, ALTERNATE (absent); KELLY DEARBORN-LUCE, LAND USE COORDINATOR

GUESTS: Frank & Mary Jo Campana, Tom Cooper, Carl & Martha Petersen, Denise Purington, Amanda Eaton, Jeff & Tracy Sheperd and J. D. Reade

Chairman Dearborn called the meeting to order at 7:30 pm.

I. INTRODUCTION/ADMINISTRATIVE ITEMS

Chairman Dearborn asked all members present to introduce themselves. Chair explained all applications before the Board come through the Land Use Coordinator, who makes sure they are put together correctly. The Board only hears cases before them.

Tonight's agenda item is for an Administrative Appeal. A case where someone from the town of Weare made a zoning judgement or land use judgement. In this case, Land Use Coordinator Dearborn-Luce granted permission and someone said they did not agree, hence the Administrative Appeal.

The Chair will ask for a motion to accept the application, to hear it. Not yes or no, is it complete enough or are there any outstanding issues to consider before it is heard. Once the Chair has a motion from a Board member and a second, he will open the discussion. After the discussion, Chair will ask for an up or down vote. Three votes are needed in order to forward it for the hearing. Less than three votes it is not forwarded, the case will not be heard.

Once the case is before the Board, at that point, Chair will read the excerpt, overview, of the application. He will ask the Board if they have any questions. If they have none, Chair will ask the applicant to come forward, state his/her name. The Board can ask questions of the applicant. If no questions, Chair will open the Public Hearing. All questions go through the Chair. One person at the podium at a time. The applicant will be asked to state the purpose of the question and the answer of what his/her concern is. Again, the Board will be asked if they have any questions of the applicant, if none, the Chair will ask the applicate to sit down.

Next, any approving abutters will be asked to speak, one at a time, state their name, state their approval of the application, then disagreeing abutters will speak. All speakers must speak at the podium. Then, other boards and public at large may speak. Once that is done, the applicant can rebut anything or not. The process is then repeated. Once the process has gone through twice, the Public Hearing will be closed, no more comments. Chair will then ask for a motion to accept the application.

Everything is done in the positive, yes means yes, no means no. Three votes is affirmed, less than three it is a no.

II. PUBLIC HEARING

Case #11-20

Administrative appeal from Applicant Frank Campana of 322 Quaker Street, Weare, NH, abutter, to the owner of the property, Tom Cooper, 534 Brandy Road, Front Royal, Virginia. Location is a question mark on 232 Quaker Street, Tax Map 404, Lot 201-113-1 RA zone, attachment has the rough bounds of the property.

Chair read from the application:

Proposed Use: a driveway on a ROW easement granted to Thomas Cooper, of 334 Quaker Street, fronting on Quaker Street.

Description: This is an appeal for the issuance of Thomas Cooper's driveway permit, issued 9/21/2020 by DPW Director Benjamin Knapp. This was in violation of 36.3.5.1, also by definitions of Driveway, Common and Driveways.

Chair explained there is no sketch attached, but a list of abutters. Chair said he would accept a motion to accept the application.

Malcolm Wright moved, Bobbi-Jo Plamondon seconded to accept the application.

Discussion on the motion as follows:

Chairman Jack Dearborn found a prior approval for a standing driveway permit that was issued in 1993 and plan approved in 1994, compliant to the town of Weare's zoning requirements at that time that the planning board used. Chair has a concern as the Board is to judge on the merit of the case. Chair wonders if there is some underlying RSA, legal decisions, that the driveway permit is valid or not. If valid, what affect would it have on getting the next one, in order to document, provide a house address on Quaker Street or get the property in the name of the new owner? Chair is concerned on the path for this evening without the benefit of Town Counsel. These administrative appeals are unique, not a variance or a special exception. Chair believes this is a dispute with the town. His concern is if the Board goes through this whole case, have a judgement for or against, someone could hire a lawyer if they do not like the answer. There would be a good chance of going to court, a lot of time and expense to the town or the applicant.

Chair is more comfortable getting an opinion from Town Counsel. Is there any precedent to this case of the 1993 existing driveway permit? What will happen to a second driveway permit based on the legitimacy of the 1993 permit? Chair asked the Board to consider before they went any further. The stakes are high.

Malcolm Wright moved, Michael Myer seconded to continue this (Administrative Appeal, Case #11-20), pending town counsel's opinion on this case as the evidence presented. Passed 5-0-0

Continuation pending on Town Counsel's opinion of this case. Hearing is set for the next scheduled Zoning Board meeting of December 1, 2020.

MINUTES:

October 6, 2020 Minutes: tabled

Being there was no further business to come before the Board, Chairman Dearborn made a motion, Vice Chairman Meyer seconded to adjourn at 7:45 pm. Passed 5-0-0

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from
YouTube recording