

DRAFT



**WEARE ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
June 7, 2022**

PRESENT: JACK DEARBORN, CHAIRMAN; MICHAEL MEYER, VICE CHAIRMAN; BOBBI-JO PLAMONDON, MEMBER; MARC MORETTE, MEMBER; MALCOLM WRIGHT, MEMBER; NAOMI BOLTON, INTERIM LAND USE COORDINATOR

GUESTS: Richard Keiser; Kevin Cahill; Attorney Cooley Larroyo

Chairman Dearborn called the Town of Weare Zoning Board of Adjustment June 7, 2022 meeting to order at 7:30 pm.

I. INTRODUCTION/ADMINISTRATIVE ITEMS:

The Chair stated there tonight we are here for one case which is a continued rehearing request for Case #03-2022 Highlands Farm and Forest Acquisitions.

II. PUBLIC HEARING:

CONTINUED REQUEST FOR REHEARING: Case #03-2022 – Highland Farms & Forest Acquisitions

Chairman Dearborn stated this was continued from last month because we received a rebuttal for the request for rehearing from the applicant's counsel. Chairman Dearborn continued to say that for a rehearing basically the Board considers the merits of the letter. A letter was provided to the Board by an abutter, Kevin Cahill and his wife Jill. We were going to consider that last month and then the Board received a packaged last week requesting the Board deny the rehearing request by filing an objection to the motion for rehearing of Case #03-2022.

Whenever the Board gets requests for rehearing the practice has been, it automatically gets sent to Town Counsel for two reasons. First is to see if the Board has a due process problem that could blow up in our face, should we go to court. Second, to see if we have documented the merits of the case well enough to be defended if it goes to court. That being the case, we got a response back from Town Counsel and one of the things Chairman Dearborn asked was to please review the case to see if the Article 3.5 variance was actually a variance. What Chairman Dearborn meant by that was, typically a variance asks for a relaxation of the zoning and if you scrub all the way through the application, only on question 5 – Ai is the only reference to Article 3.5. That reference basically says 3.5.1, 3.5.2 and 3.5.3 are basically compliant. As Chairman Dearborn looked after the fact and asked Town Counsel if this is actually a variance. He also went and did some checking and to his knowledge, after asking twice, whether the map or wetlands were completed or not that application never went through the building department to be scored for compliance for zoning setbacks, via sidelines, front lines, well radiuses, septic and wetlands. The building department is still going to score that at the time of application. Chairman Dearborn admitted that he personally got himself wrapped up on the wetlands not being appropriate for Article 17.1.1. The Board probably should have nixed the 3.5 and basically state it as irrelevant.

Chairman Dearborn stated that once the Board received the objection to the rehearing it was forwarded to Town Counsel for opinion. Town counsel's position is to rescind 3.5 and the way to do that is to vote down the rehearing request. The applicant still needs to get a building permit. The building inspector or the one that issues building permits will have to score the documentation. There has been a lot of discussion and hearsay on work on the wetlands and setbacks and all that kind of stuff. After all the information gets to the building inspector's desk and he finds that there is an encroachment to a setback he would fail the application pending a variance to correct it. The applicant would then have to come back and file for a variance and the Board would consider it based on the five points of hardship. The will act without prejudice meaning that the applicant can come back if needed. Basically the processing of this application missed a step. Article 17.1.1 was recognized appropriately and it was done appropriately, Article 3.5 didn't follow and Chairman Dearborn wasn't sure why it was put there other than the fact that Article 3.5 speaks to non-conforming lots with setbacks of 30 and 15 feet setbacks. If those setbacks can be met there is no need to ask for any relief.

Chairman Dearborn stated that at this point for the best interest of the Town he would request a motion to accept the rehearing. All motions are made in the positive, which means if you want to hold a rehearing you would vote yes, if not no. **Vice Chairman Meyer moved to accept the rehearing request, Malcolm Wright seconded the motion.** Discussion: Vice Chairman Meyer stated that for him, it was probably an oversight of the Board, but even in the meeting in March when the Board originally heard the case, it was pretty clear that there was no request in the application for any kind of relief to Article 3.5 of the zoning. Certainly none was granted by the Board that evening. The request for rehearing in Vice Chairman Meyer's opinion is asking for a request from something that the Board didn't grant, so he feels it's not needed. As previously mentioned that when it comes time to build and any of the setbacks are violated that would be another reason to come back to the Board. For right now there is no need based on what we have. Bobbi-Jo Plamondon stated that her understanding after re-reading this and having contemplated this, there is no relief asked for. The application made statements regarding the Article 3.5 but no relief asked for, so the Board did not grant anything to that article. Marc Morette stated that he is clear, it's just unfortunate that it has taken some time. Chairman Dearborn added that it's okay to combine variances together as it happens quite often. The Board got distracted on Article 17.1.1 and didn't recognize the shortcoming of Article 3.5. Ms. Plamondon stated that the building department didn't send them here for Article 3.5 and that's what was skipped. Chairman Dearborn stated that he didn't know that didn't happen and he got distracted with the discussion of wetlands in 17.1.1, which was absolutely processed correctly. Without any further discussion Chairman Dearborn asked for a vote. **Vote: 0 – yes and 5 – no, so the request for rehearing is denied.**

IV. MINUTES:

May 3, 2022 Minutes: **Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept the minutes of May 3, 2022 minutes as written. Passed 5-0-0**

V. NEXT MEETING:

Due to the upcoming holiday (July 4th) the next meeting will be July 12, 2022.

The same will apply to September (Labor Day), meaning the September meeting will be September 13, 2002.

Being that there was no more business to come before the Board, Vice Chairman Meyer moved, Marc Morette seconded to adjourn the meeting at 7:45 pm., passed 5-0-0.

ADJOURNMENT

A True Record.

Naomi L. Bolton

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Recording Secretary