



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Office Hours:
Monday
thru
Friday
8 AM – 4:30 PM

**PLANNING BOARD
MINUTES
APRIL 26, 2007
(Approved as amended 5/10/07)**

PRESENT: Paul Morin, Chairman; Frank Bolton, Vice Chairman; George Malette, Secretary; Tom Clow, Exofficio; Craig Francisco; Neal Kurk, Alternate; Naomi L. Bolton, Land Use Coordinator

GUESTS: Scott Hogan; Justin Fitzgerald; Kathie Groce; G. Groce; Judy Coburn; Dave Coburn; Ron Nippe; Dan Farrell; Lorraine McNeill; Richard Monahan; Glenn Morrell; Robin Morrell; Michael Lewis; Donna Manion; Jeff O'Hora; Bob Farr; Bill Weber; Wayne Daniels; Biron Bedard; Marlene Grossman; Paul Hughes; Robert L. Hines, Jr; Marc Phillips; Sue Phillips; Robert Todd, LLS.

I. CALL TO ORDER:

Chairman Paul Morin called the meeting to order at 7:00 PM at the Weare Town Office Building.

II. APPROVAL OF MINUTES:

MARCH 8, 2007 MINUTES: Tom Clow moved to approve the March 8, 2007 minutes as written; Neal Kurk seconded the motion, all in favor.

MARCH 29, 2007 MINUTES: George Malette moved to approve the March 29, 2007 minutes as written; Frank Bolton seconded the motion, all in favor.

III. PUBLIC HEARINGS:

JEFF O'HORA (WEARE MOBIL) – CONCEPTUAL HEARING, NORTH STARK HIGHWAY, TAX MAP 203-035: Chairman Morin opened this hearing at 7:06 PM. Bob Farr and Jeff O'Hora were present. They are the current owners of the Mobil Station that currently houses the gas station and Aweare Auto and Truck. Steve Lacharite and Gordon Brown, owners of Aweare Auto have expressed an interest in staying. They currently have 3.869 acres. They would like to subdivide the lot to allow Aweare Auto to have its own lot to build a new building and they would keep the existing building to be able to expand the store. The board indicated that their first stop would be the zoning board for a variance for the lot sizing problem. The lot is zoned commercial meaning each lot would need to have 2 acres and 200 feet of frontage. Craig Francisco thought that he should seek information from DOT for the driveway access for the new lot as

well. The new lot would be created to the Center Woods end of the lot and the store would be rebuilt and updated somewhere in the vicinity of the current location. Frank Bolton stated that it sounds like a good idea, but he is not sure what would happen when the soils analysis is done. George Malette suggested that a new ordinance for commercial be looked at particularly at the buffer zones. Neal Kurk stated that it seems to him that this end (the one they are looking at creating) looks like it might be difficult to develop and get good access. If there was some chance to purchase the lot in the middle would make it more desirable. Chairman Morin stated that assuming they are able to overcome the ZBA, what strikes him is the activity that currently exists won't really increase it gives them only their own lot. He is unsure about any wetlands, ingress or egress problems that could become an issue. He is not sure that safety would be increased or decreased if it gets separate lots. Chairman Morin reminded Mr. Farr that this is all non-binding. Tom Clow asked if it would be a major convenience store with the renovation that might be proposed. Mr. Farr responded that the renovation would be a larger convenience store, yes. Chairman Morin stated the first step would be to go to the zoning board. Chairman Morin closed this hearing at 7:23 PM.

HIGH ROCK DEVELOPMENT – SUBDIVISION (CONTINUED HEARING), TWIN BRIDGE ROAD, TAX MAP 110-077: Chairman Morin opened this hearing at 7:24 PM. Scott Hogan, Attorney was present on behalf of the applicant. Mr. Hogan wanted to reiterate the process and update the board on the status review. In a nutshell they are proceeding to the Conservation Commission on May 9th then back to the Planning Board for their May 24th hearing. Mr. Hogan handed around a letter to provide status of the project. Mr. Hogan wanted to talk about the extent of the access to Daniels Lake. After the decision was made to go with the cluster, the access issue is still unresolved. They are moving forward with the cluster and the Conservation Commission (CC) has a list of items they are looking for, so they are going to talk to the CC about whether the open space should be open to the public. The concern is the overuse of the road, the lake and that particular area. There are three access points to the water. The first is by the dam, the second is where the power lines come through and the third is in the middle of the open space. They are going to discuss the issues and they are hopeful they will recognize the value. It would really be an overburdening of the road and the lake. The road, under the original design was that Daniels Road, most of it would be utilized by the traffic and now with the revision only a small portion of Daniels Road will be upgraded. They have talked about the reality that really is ultimately the ownership should go to the residents themselves or a homeowners association. Now the road area of Daniels Road is currently part of the lot. Once it is approved that road that would not be upgraded would still be part of the lot. The applicant is proposing to upgrade Daniels Road to the new road and the remainder of Daniels Road would be left as status quo. Mr. Hogan stated that this came about when the cluster development was the chosen route of development. Mr. Hogan suggested that an offsite improvement might be in line for the remainder of the road. Chairman Morin asked where the

State RSA that would give the right of the Planning Board to take the current situation and turn it over to the homeowners. Chairman Morin asked about the documents in black and white for the board to try to sort out, deeds, P & S agreements, etc. Attorney Hogan stated that the P & S will be produced tonight but there is no other written documents for the board to understand the ownership. Attorney Hogan stated that he could provide the board copies of the chain of title and the tax map deed research and the individual properties.

Biron Bedard, Attorney for the Daniels' was present. Mr. Bedard handed the board a package of information. Mr. Bedard asked the board to turn to the page 3 of 3 of the P & S agreement which goes to the discussion of the road upgrade. Mr. Bedard stated that he disagrees with Mr. Hogan about an offsite improvement it is an onsite improvement. The board is talking about the entire tax map and are not talking about a 2 lot subdivision and then re-subdividing the lot into 14-16 lots. Mr. Bedard stated that he realizes that it is civil issue, but to invest in litigation would not be productive and fruitful. Mr. Bedard stated that there has been an ongoing title dispute. Neal Kurk asked if the board has legal right to act upon this subdivision. Chairman Morin stated that he is unsure and we should look at this. Some of what Mr. Bedard has relevance tonight. Mr. Bedard stated they oppose public at large as well as the public that will reside in the subdivision, having access to the lake.

Richard Monohan, resident on Daniels Lake had a couple of questions. First, there is a recorded deed for the parcel of land around the dam. Mr. Bedard stated there is a recorded deed but it references all the land before there was a lake there. No legal action has been taken between the parties. Mr. Monohan stated that there is a letter from the State regarding some Dam repairs that need to be done. Mr. Monohan stated that he will provide a copy of the letter but doesn't have it with him. He will get it to the board. The lake comes under the Shoreline Protection Act, which are typically done by violation, complaint and DES follow up to that.

Mike Lewis, 90 Daniels Road, had a couple of questions, the first being, how is it going to be beneficial to them if they have to maintain Daniels Road. Chairman Morin asked historically how the road has been maintained in the past. Mr. Lewis stated that the Daniels have maintained it. Mr. Lewis stated that he purchased the house in 1995 and the first year the Daniels would maintain it and after that year the maintenance would be up to them as residents. The Daniels have been maintaining it since they have been there.

Glenn Morrell, resident on Daniels Road, said he has been on the lake a little longer, he has been on the lake and he hasn't had to sign anything. Mr. Morrell stated that when the original lot conventional subdivision was going to happen, the road was going to be brought up to Town standards. On the site walk it wasn't discussed that the road upgrade wasn't going to happen. He wasn't in favor of the cluster development. On the maintenance of the road, when it was

first transferred, High Rock took over the maintenance once or twice and never came back, then the Daniels' came back to do the maintenance. He is unsure and feels the cluster is going against what the residents were going to be looking for.

Dave Coburn, 40 Old Town Road, who lives across the lake from Daniels Road, was wondering when the board took the site walk. He said in July the weed growth is terrible and you can almost walk across the lake. The average depth of the lake is 5'. More public access will just destroy the lake.

Wayne Daniels stated that the board suggested the road upgrade would be a benefit to his undeveloped lots, but they are all 75' x 75' and he doesn't feel they are build able. The only reason they have the lots were for access to the lake.

Attorney Hogan stated that there is another agreement that he will give the board for the file. There is no dispute only discussion. Mr. Hogan stated that there would be some development and the intent of the P & S being a Class V accepted road would be the Town's responsibility. Chairman Morin asked Mr. Hogan if the board could assemble the documents; give them to Town Counsel for an opinion at his client's expense. Attorney Hogan responded, yes. Chairman Morin asked Attorney Hogan to put that in writing.

Dan Farrell, 77 Daniels Road, stated that the road condition is second nature, but you can't be adding more lake traffic. The beach access under the power lines is deeded to three owners. Their access is exclusive. He will provide a copy of his deed.

Glenn Morrell said the lake can't take 14 more families and friends with access to the lake. The site walk access was asked about and the contractor responded that he didn't really think about it.

Chairman Morin closed this hearing at 9:25 PM. Chairman Morin stated that there are still some submittals missing, traffic study. Mr. Kurk asked if the traffic study shows that the increase in traffic is unsafe, could that stop this project. Chairman Morin responded that it could. Chairman Morin further stated that each subdivision that comes before the board has to prove ownership. He is interested in having our Town counsel review all the documents and not just the testimony. Neal Kurk stated that several people have mentioned that Daniels Lake can't take any more traffic. Could the applicant pay for the study to determined what the consequence is if more people are added to the lake? Frank Bolton stated that he was under the opinion that the open space was entirely along the shore line and the board can possibly control that in the open space easement. This board can make that determination in conjunction with the CC. George Malette agreed with Mr. Kurk regarding the capacity of the lake to be done independently, hired by the Town and paid for by the applicant. Craig Francisco stated that as far as the lake, he remembered 4-5 years Daniels Lake had a nitrate problem. Also, we talk about this title dispute and there is not a dispute until two

surveyors disagree. The lake access he believes is covered in the Shoreland Protection which would only get them 2-3 people access. The beach will never happen because DES won't permit it. The common area really surprised him. At the time of the site walk the conventional subdivision was being proposed. Chairman Morin stated that the study may not be necessary because under the law shoreland protection it may not be permissible. Chairman Morin would like to set a date certain for all interested parties to get information to Naomi to send to Bill Drescher. The board agreed that May 10th would be the deadline to get information to Naomi to send to Town Counsel at the expense of the applicant. George Malette moved to continue this hearing to May 24, 2006; Craig Francisco seconded the motion. Discussion: Frank Bolton asked about the deadline date. Naomi stated that tonight was the deadline and that an extension is needed. Attorney Hogan stated that they will get an agreement for an extension in writing as soon as possible. Vote: all in favor.

THOMAS V. & DAVIDEEN LEWIS – LOT LINE ADJUSTMENT, SOUTH STARK HIGHWAY, TAX MAP 411-117, 411-118 & 411-120 (CONTINUED HEARING): Chairman Morin opened this hearing at 9:40 PM. Due to no representation, Chairman Morin moved to continue to May 24, 2006; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 9:41 PM.

NWS STORAGE, LLP – LOT LINE ADJUSTMENT, NORTH STARK HIGHWAY, TAX MAP 201-014 & 201-014.001: Chairman Morin opened this hearing at 9:42 PM. Bill Weber was present. Mr. Weber explained that the purpose of this lot line adjustment is to adjust the lines by 250 square feet. The ninth green was constructed longer than what was proposed. Paul Hughes, who was present, has purchased the storage unit lots. This plan is to adjust 250 SF and it is not changing the lot sizes as it is an equal swap. The board felt that this was pretty straight forward. Craig Francisco moved to accept the application; George Malette seconded the motion, all in favor. Craig Francisco asked about the driving range tees. Mr. Weber stated they are not touching those. Tom Clow moved to approve the lot line adjustment as presented; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 9:49 PM.

FREDERICK & LINDA KNIGHT – SUBDIVISION, NICHOLS ROAD & EAST SHORE DRIVE, #404-059: Chairman Morin opened this hearing at 9:50 PM. Bob Todd, surveyor was present. Mr. Todd explained the purpose of the plan is to subdivide the existing house with approximately 15 acres off of this parcel and leave a remainder lot of approximately 43 acres. The remainder lot will have access off of Nichols Road. The board pointed out that the frontage for this lot needs to be compliant with the March vote, which is 250 feet, not 200 feet. The following items need to be corrected:

- A correction needs to be made to the lot sizing chart
- Add note regarding aquifer zone

Mr. Todd was going to review the final checklist. He is also going to meet with the Conservation Commission and Board of Fire wards.

Bill Weber, abutter stated that what happened when this house got built they blasted in the foundation and when they did that at the time, there is a brook that was seasonal and it is now a wetland. Behind his house there is a culvert used to have a trickle and now has a 3" flow in the summer. The culvert goes towards the lake. Their concern is the water and it is raising havoc it is silting the lake and causing damage to their home. He would not like to see anything more done to the west. They would also like to see drainage calculations be done and require that culverts be sized accordingly to handle the amount of water that is flowing. He suggested a site walk might be beneficial to the board. Mr. Weber also stated that he would like to see that any development of the remainder parcel must be off Nichols Road.

Marlene Grossman wanted to point out the topo on this plan is done in 10' intervals and not 5'. The board would get a better idea of how steep this property really is if it was shown in 5' intervals.

Mr. Todd responded that they are looking at a two lot and not a four lot subdivision. If there is some date in the future that the owner wants to increase this lot 4 more lots these issues should be taken up at that time.

Neal Kurk asked if we are supposed to ignore the future. We should be looking beyond the two lot subdivision. Chairman Morin stated that if there are plans that look like there is further subdivision the board should be looking at a master plan. A note should possibly be put on the plan that if a driveway gets put in on East Shore Drive a return visit should be made back to the Planning Board for drainage calculations. Mr. Todd agreed that a note could be added to the plan.

George Malette asked about fire suppression. Mr. Todd stated that he was going to go to the Board of Firewards for their input. Naomi explained that the previous subdivision of another lot from the original parcel required a note to be added to the plan regarding fire suppression. George Malette moved to continue this hearing to May 24, Craig Francisco seconded the motion, all in favor. Chairman Morin closed this hearing at 10:40 PM.

MARC PHILLIPS AUTOMOTIVE SERVICE (OWNER: GEORGE BURPEE) – SITE PLAN REVIEW, 7 RENSLOW ROAD, TAX MAP 411-107 (CONTINUED HEARING): Chairman Morin opened this hearing at 10:41 PM.

Marc and Sue Phillips were present and explained that he is here tonight to obtain a change of use from the existing approved landscaping supplies and now he is looking at converting it back to an automotive service. The consensus of the board is that the new sign ordinance should be governed. Mr. Phillips stated that his business would be open Monday – Saturday. The hours of operation would be Monday – Friday, 8 AM to 5:30 PM and Saturday's from 8 AM to 1 PM. Craig

Francisco pointed out that the parking in the setback would require a special exception from the Zoning Board, even though the parking already exists. Chairman Morin then went around for each board members input. Neal Kurk stated that he didn't have any issues. Tom Clow stated that where it was an existing garage he didn't see it was necessary. George Malette wanted to ask the Board of Firewards and other boards to see what type of activities would require their approval. Frank Bolton stated that he had no comment. Mr. Kurk suggested that the number of vehicles won't exceed the number of allotted parking spaces shown on the plan which is 27. Craig Francisco moved to conditionally approve the plan subject to a special exception being obtained for the parking; George Malette seconded the motion, all in favor. Naomi was asked to inform Chip Meany, Code Enforcement Officer that the sign would have to fall under the guidelines of the new ordinance. Chairman Morin closed this hearing at 11:16 PM.

IV. OTHER BUSINESS:

POSTING MINUTES ON WEBSITE: Chairman Morin stated that several years ago Tina was going to be updating the website, which hasn't been done for a few years. Chairman Morin wanted to know the board's input on putting the minutes on the website. The consensus of the board was to put only the approved minutes on the website.

LOOK-N-2-STORE: Neal Kurk asked that a number of months ago Dave Wilusz was not compliant until a restoration plan was approved by DES for the illegal filling of wetlands. Naomi informed the Mr. Kurk and the board that a letter was received by DES that they received his after the fact restoration plan, so it would appear that Mr. Wilusz is working on regaining compliance.

OTHER NHDES CORRESPONDENCE: Neal Kurk also asked about all the correspondence they have been receiving from DES for various things. Naomi responded that NHDES copies the Planning Board on a lot of things that go to the Conservation Commission or Board of Selectmen and it was just a way of trying to keep the board as informed as possible.

V. ADJOURNMENT:

As there was no further business to come before the board, George Malette moved to adjourn at 11:30 PM, Frank Bolton seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator