



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Land Use Coordinator

Office Hours:
Monday
thru
Friday
8 AM – 4:30 PM

**PLANNING BOARD
MINUTES
FEBRUARY 28, 2008
(Approved as amended 3/13/08)**

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

GUESTS: Steve McDonough; Andy Fulton; Art Siciliano; Attorney Scott Hogan; Mike Dahlberg, LLS; Attorney Biron Bedard; Wayne Daniels; Robin Morrell; Glenn Morrell.

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:

FEBRUARY 14, 2008 MINUTES: George Malette moved to approve the February 14, 2008 minutes as written; Tom Clow seconded the motion, all in favor.

III. PUBLIC HEARINGS:

MEM PROPERTIES, LLC (STEVE MCDONOUGH) – AMENDMENT TO SITE PLAN, 107 NORTH STARK HIGHWAY, TAX MAP 203-036: Chairman Morin opened this hearing at 7:08 PM. Steve McDonough was present. Mr. McDonough stated that the approval was granted in October of 2007. He felt that there was a misconception that the car wash would be a big busy establishment. After dark things quiet down considerably. Some cars do trickle through. The more hours he is able to be open is the more opportunity to get more revenue. The building is up but he wanted to come discuss this amendment before the equipment is purchased so that if he could get more hours he wouldn't have to turn around and then buy different equipment for that. One of the concerns at the time of approval was this would be a place for people to loiter. He would be willing to look at a probationary period. Start out at 24 hours and after two months, return to the board to see if there are any problems. He would appreciate that consideration. The economics are not an issue for the board, but the state of the economy is something where he is looking to be accessible to the clientele as much as possible.

Chairman Morin stated that this board has tried to be very open and when we received the letter from Mr. McDonough he felt that there was no reason why he couldn't come discuss this with the board. He felt that there shouldn't be a revote just because some of the different people might be sitting on the board. We should not necessarily entertain a vote because it might come out differently because different members are sitting in voting status now. The question should be is there a reason to consider a revote.

Frank Bolton stated that he didn't have a comment if we are not going to vote but he would have a comment if there was going to be a vote. He chaired the meeting and he didn't think there is anything that Mr. McDonough just said that wasn't different from that evening. He felt it was in the village and didn't think that there should be any all night business.

George Malette stated that we shouldn't take a vote tonight, but we should discuss it. He felt that Neal Kurk should be here. It was Mr. Kurk's motion that the board voted on. He felt that Mr. Kurk should be here for the discussion.

Chairman Morin stated that all he is saying is that this board acts as a body. Just because there are different people here on different nights is not a reason to reconsider something. Is there any information given tonight that wasn't discussed that would make the board change their mind. He disagrees that Mr. Kurk needs to be here because the board acts as a group not individuals.

Mr. McDonough agrees but he felt that it was a disadvantage with having only four board members that evening. There was some side discussion was held and at the end of the meeting it wasn't as normally would happen. He felt that there was some question as to how the meeting was closed out.

Tom Clow stated that he is tired of hearing about the private meeting going on. He felt that at any time a board member should be able to lean over to someone else.

Chairman Morin stated that he did visit with Mr. Clow the next day and he was satisfied that what was said had no bearing on the outcome of the vote. Chairman Morin added that what he came away with after speaking with Mr. Clow was that you as an applicant were not treated unfairly. He did look into the matter to make sure that there was no impropriety and is comfortable with the outcome.

Steve McDonough felt that 9 PM was too restrictive. There are people that leave town at 4 AM and they can't wash their car either.

Chairman Morin explained that four does make a quorum to hold the meeting. Now you've gotten started and before you've opened are not happy with the hours of operation. If you weren't happy with the outcome then you should have asked for a continuance to allow for a full board to act upon the application. Mr.

McDonough was represented by Meridian Land Services and was told by their representative that he could come back at a later time to amend the hours.

Tom Clow stated that there is an avenue for an amended site plan and this is what is being asked.

Mr. McDonough asked is he could re-approach at a later date to maybe extend it to 11 PM. He will admit he was pushing hard to get the shovel in the ground, but based on information from the paid professional is why he is here.

Naomi informed the board that this was noticed as a public hearing for amendment.

Frank Bolton stated again that he felt that he isn't hearing anything different tonight from the night he got approved.

Mr. McDonough felt that the request was something he could do.

George Malette stated that one thought he had was to see if the board might be willing to consider the 11 PM closing as Mr. McDonough stated earlier.

Tom Clow stated that following up with what Mr. Malette said, if this was taking place after you opened it would seem like a better solution because we would have some tracking to see if there are any problems.

Chairman Morin asked Mr. Clow, if this situation something that the Weare Center Advisory Committee (WCAC) would have an opinion to share with the board on this. Mr. Clow stated probably not because they don't want to give people the understanding that they would be expanding the district. This property is not in the Weare Center zone. His only objection to this is the outside cleaning bays on the front of the building, now after looking at it he sees it wouldn't work.

Chairman Morin asked if there was any input from the Economic Development Committee (EDC). He would like to suggest to Mr. McDonough that the EDC be made aware of this request and have Mr. McDonough meet with them and have them make a recommendation for this.

Frank Bolton felt that the WCAC should look at this request and the ramifications it could have. He would be interested in what they thought about this. Mr. Bolton felt that the WCAC could be treated like an abutter in this case where this lot is just outside the district.

Mr. McDonough was encouraged to get feedback from EDC and WCAC and then possibly return to the board for another hearing with abutters being notified.

George Malette asked if Mr. McDonough if he would be willing to meet with the two committees for their input. Mr. McDonough stated that he would pursue that.

Chairman Morin stated that the board will leave this tabled and at some point in time when and if he would like to come back for an amendment a hearing could happen and the abutters would be re-notified.

Chairman Morin closed this hearing at 7:52 PM.

HIGH ROCK DEVELOPMENT – SUBDIVISION (CONTINUED HEARING), TWIN BRIDGE ROAD, TAX MAP 110-077: Chairman Morin opened this hearing at 7:53 PM. Art Siciliano was present. Attorney Scott Hogan, Attorney Biron Bedard, Wayne Daniels, Glenn Morrell and Robin Morrell were also present.

Chairman Morin stated that we attempted to conduct a joint meeting with the Weare Conservation Commission (WCC) but the weather didn't cooperate. There was a brief meeting of the Planning Board, but there was no quorum for the WCC. There has been another joint meeting scheduled with the WCC on March 12, 2008.

Attorney Scott Hogan stated that Art Siciliano handed out two documents at the joint meeting. The first was the draft open space deed. The second was the deed to the lot for the lake front piece. Between High Rock Development and Daniels Lake Development, they've talked about restricting use like the open space easement deed does. Daniels Lake Development will have the access for maintenance and will have to abide by what restrictions are in place of the public use. One of the primary issues was the extent of public access to this lake front piece.

Attorney Hogan wanted to mention the status of the existing Daniels Road, which is also a concern. Right now there is a prescriptive right to pass and repass granted to all the lot owners. They've suggested that some sort of an association be formed. It is his understanding that there has been some discussion. They would be willing to put something in the deed or a note on the plan to satisfy this concern.

George Malette stated that one concern is that they shouldn't be using that lake front lot as part of the overall open space calculations. Daniels Lake Development Corp can't be the qualified organization to take the open space according to our zoning ordinance. They are hoping that the WCC would be the secondary interest in the easement, which Attorney Hogan feels would satisfy the requirement.

Andy Fulton stated that he wants to be clear and he feels there is a fundamental misunderstanding on this. In considering the possible future easement, the WCC

made the recommendation to the two parties that to manage this lake front, most to the liking of the WCC is to have Daniels Lake Development Corp take fee ownership. This plan is not the jest of what was suggested to both parties a few months back. He also believed that there will be a good discussion regarding this at the March joint meeting.

Scott Hogan stated that the WCC had expressed their interest in this piece but just didn't want the maintenance issues they wouldn't have discussed this for the past six months. He felt they are still accomplishing what the WCC wants just under a different mechanism.

Tom Clow wanted some clarification and from what he is getting out of this is that the ownership would stay with High Rock Development and the easement would be held by the Daniels Lake Development Corp and the Town would be a secondary easement holder.

Frank Bolton asked if there is an association that is a player here for the roadway. Attorney Hogan stated that they been urging them to do this.

Attorney Biron Bedard stated that he is the person to blame for the actual drafting. What he did while trying to draft this was to create easement using old Conservation language in old towns he has done work in. He used a lot of language from New Hampton.

Chairman Morin stated that hopefully we will have a good joint meeting.

George Malette moved to continue this hearing to the joint WCC meeting of March 12, 2008; Tom Clow seconded the motion, all in favor.

Chairman Morin closed this hearing at 9:07 PM.

Arthur Townes stated that he will be stepping down for the next hearing.

BEVERLY TOWNES-CLUSTER SUBDIVISION (CONTINUED HEARING), SUGAR HILL ROAD, #403-019: Chairman Morin opened this hearing at 9:08 PM. Mike Dahlberg was present. Art Townes was present. Chairman Morin stated that this was also attempted to meet as a joint meeting in February. Mr. Dahlberg stated that article 27.3.11 talks about common land and open space. The proposed open space connects directly to two already protected parcels. There will be a strip of land across 19.5 to allow for access to the open space, which is what the WCC wanted. The back 100' feet of lots 19.5 & 19.6 would be a no build area. It will still be owned by the lot owner to harvest, farm, etc. His client wasn't in favor of designating a building pocket on those lots, so instead offered this solution.

Andy Fulton stated that they have looked at this layout before and are happy with this type of layout. He hasn't heard any argument that would so elevate the field to warrant cutting the driveways through the fields into the woodlands.

George Malette stated that the reason he asked for the joint meeting was that we will have the opportunity to discuss this as it has to do with prime agricultural soils.

Frank Bolton stated that he has an opposite opinion that he doesn't think it would prevail. He wanted to know if his client would extend the 100' non build area to the first three lots that were previously subdivided. Mr. Dahlberg stated that he can ask his client. Mr. Bolton stated that he doesn't think the board can approve this because of the language of the ordinance in the RC overlay. He felt that the proposed zoning change would make this approval allowable and he would like to see the final approval take place after the vote in a couple of weeks.

Tom Clow stated that he felt it would be cleaner if we waited but felt that Mr. Dahlberg also has a good argument.

The consensus of the board was that this was a good layout.

Chairman Morin then asked about the status of the Board of Firewards. Mr. Dahlberg stated that the first phase (subdivision) was required to have sprinkler systems only. This is the second phase and it would seem the same would be required. They are proposing that the houses are sprinkled as well. It should be consistent with the previously approved plan.

Craig Francisco moved to continue this hearing to March 27, 2008; Frank Bolton seconded the motion, all in favor. Chairman Morin closed this hearing at 9:55 PM.

Arthur Townes returned to the board for the remainder of the evening.

IV. OTHER BUSINESS:

NH BUSINESS REVIEW ARTICLE: Frank Bolton had an article from the NH Business Review magazine and wanted some clarification. Chairman Morin stated that it allows planning board to make regulations regarding design review requiring something more than just a napkin drawing to vest them. It tightens up some open of the time limits that exist. It says you can adopt certain procedures and you can define when design review ends.

RECOMMENDATION OF ZONING AMENDMENTS: George Malette stated that he had suggested that the actual vote be shown on the recommendation that follows on each zoning article. He brought in a copy of the Town of Epping's ballot in which they do show the vote on theirs.

RSA 674:17: George Malette handed around copies of RSA 674:17. This was discussed back when the gentleman wanted to have the solar power ordinance put on by the Planning Board. It was mentioned by Mr. Kurk that he didn't think it should be part of the zoning ordinance. According to RSA 674:17, I (j) indicates that zoning ordinances shall be designed "to encourage the installation of use of solar, wind, or other renewable energy systems". He just wanted to point it out that it really should have been part of the zoning amendments and not a petitioned article.

FEBRUARY 13, 2008 MINUTES: Tom Clow moved to approve the February 13, 2008 minutes as written; Frank Bolton seconded the motion, all in favor except for Craig Francisco and George Malette abstained.

SITE PLAN REVIEW REGS UPDATE: Chairman Morin wanted to remind everyone that we are going to be working on these updates at the next meeting on March 13, 2008.

V. ADJOURNMENT:

As there was no further business to come before the board, Tom Clow moved to adjourn at 10:00 PM; George Malette seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator