



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Naomi L. Bolton
Land Use Coordinator

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

**PLANNING BOARD
MINUTES
MAY 22, 2008
(Approved as amended 7/10/08)**

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

GUESTS: Chip Meany, CEO; Jim Donison; Bill Weber; Bill Tiffany; Art Siciliano; Glenn Morrell; Robin Morrell; Andy Fulton; Lee Quimby; Rick Townes

I. CALL TO ORDER:

Chairman Paul Morin called the meeting to order at 7:05 PM at the Weare Town Office Building. Chairman Morin explained that we have an item that needs to be discussed and taken up at the beginning of the agenda as we have other boards and professionals that were invited to participate and we don't want to keep them waiting.

II. PUBLIC HEARINGS:

HIGH ROCK DEVELOPMENT: Chairman Morin stated that this application has only conditional approval. The project has started by means of tree cutting and some other moving of property. Chairman Morin indicated this is a public meeting but not for public input. Chairman Morin stated that he would like to figure out what we know right now that are issues or potential issues that the owner will have to take care of. Chip Meany, Code Enforcement Officer has issued a cease and desist. Chairman Morin and Conservation Commission Chairman Andy Fulton met yesterday with Naomi at the town office and came up with a list. The list of what has been produced:

1. Zoning infractions and violation of note 7 – 25' wetland buffer, article 28.9. There were approximately 5 infractions to this.
2. Lack of State/Federal permits (alteration of terrain; dredge & fill; SWPPP)
3. Possible violations of environmental law (shore land protection; wetland impacts)
4. improper/inadequate controls (poor silt fence installation; less silt fence than shown on plans)
5. ignored conditions laid out in pre-construction (install silt fence first, then call for inspection before any activity was to take place)
6. construction should have not begun without final approval
7. absence of wetland flags

8. property markers were supposed to be marked prior to tree cutting

Bill Weber stated that there were a few reports that he had done, the first one was what was going on when he arrived on the site after getting a phone call from Naomi. The second one was when he went back out and looked at the site on Monday. The wetlands that were delineated on the plan, but there was only 1 wetland flag he could find. The third report was to see if he had conformed with regard to the installation of silt fence. Mr. Weber stated that it didn't matter if it conformed but it wasn't installed right. It is ineffective the damage is done. If we received heavy rain the silt fence will not work as it was installed over brush, etc.

Jim Donison stated that at the pre-construction meeting we were very specific that he was to do all the erosion control measures installed and call for an inspection before proceeding. They never received a phone call and they went there on their own.

Mr. Weber stated that he felt guilty that he hadn't gone down but again he didn't get a phone call. He stated that he won't take the blame for not showing up. Mr. Fitzgerald asked Mr. Weber to sign off on the erosion control and he has declined to sign it because of the activity that has taken place.

Tom Clow stated that to him it is a little unbelievable that right away there are flagrant violations before it gets off the ground. After all the time that was taken on this it is maddening.

Neal Kurk asked about violations and what happens. Chairman Morin stated that DES has been notified and will be coming out.

Bill Weber stated that he would like to clear up one thing. When he went down there he was told a logging skidder went through the brook. The tree was skidded through the brook, which did expose underlying soils on both sides of the brook. Again the logging skidder didn't go through the brook just the tree was dragged through it.

Andy Fulton, Chairman of the Conservation Commission stated that he has been over to the project site, and going back there yesterday, the silt fence towards Twin Bridge Road towards Otter Brook was better but not adequate, particularly down to the sides of it. It would hold well with a stiff rain. His main immediate concern is any siltation that might get into Otter Brook. There was some significant pooling just below that area. Straw bales could help and reseeding could help and possible an extension to the south if the fence is to hold and if there is run off it would be along the fence to the south.

Chairman Morin wanted to point out with the site under a cease and desist the applicant has to come back into compliance or else the approval is revoked.

Mr. Kurk stated there are several provisions in the ordinance that relate to enforcement, article 5.1 and article 9 and perhaps others. Mr. Kurk read articles 8 and 9; non-conforming issues must be brought into compliance within 30 days and then a fine of \$275 per day fine. Chairman Morin pointed out that the first step has been taken. Mr. Kurk replied then they have 30 days to bring everything into compliance. He doesn't know what the process involves putting this all together, is it court like a hearing or trial or does the CEO give the applicant a list and allow them 30 days to make things compliant. Mr. Kurk stated that this is an egregious violation. It shows not only ignorance but a disregard of the process.

Chairman Morin and Chairman Fulton talked about letting the applicant propose the restoration plan and get the Conservation Commissions comments then get CEO authority to see it is done. Mr. Kurk suggested that Chairman Morin call Attorney Bill Drescher to make sure we are going things legally.

Mr. Clow stated that there should be somewhere in the process to allow the applicant to come in and express the other side, like a hearing process. Chairman Morin responded that they were invited, but we weren't going get into any give and take.

Mr. Kurk asked Chip Meany, CEO if somebody acts in developing a site prior to final approval is there a penalty on that. Mr. Meany stated that it becomes a legal matter in reality. His authority is not as unlimited as it appears. In order to be able to assess fines we need to get legal counsel to start. The best thing is to ask for is voluntary compliance.

Mr. Siciliano stated that obviously his client wants to do the project. He made a mistake but he would be willing to comply with the list, but 30 days will not probably work. Mr. Siciliano pointed out that Chairman Morin's list of infractions contain items that are out of this board's control, like at the State and Federal level. Mr. Siciliano further added that the best way to control is to have the Town engineer present while the restoration portion is being done. Chairman Morin asked Mr. Fulton how a restoration plan would work. Mr. Fulton stated that someone with that type of expertise would come up with a restoration plan. The restoration plan would then be directly submitted to the Conservation Commission for their input.

Mr. Siciliano stated that he has worked with Meridian Land Services on restoration plans and that is who they would hire. Mr. Weber stated that when he met with Mr. Fitzgerald on site there are two sites that should be stabilized immediately. He felt that the ditch along the road should be rip rapped approximately 100 feet. On the other side of the road from the pine tree for approximately 250 feet (left side of the road.) there should be silt fence and hay bales. These were not on the plan but due to the recent activity should be done right away.

The following solution was arrived at:

1. The applicant should meet with Jim Donison or Bill Weber (Northeast Engineering) ASAP and have them show the applicant what is not adequate with regard to the silt fence. If the Towns engineers feel there is a need for some additional silt fence, hay baling and rip rap it should be done as a directive to the applicant.

Mr. Donison stated that tomorrow they will contact the applicant and arrange a site meeting, to at least stabilize the site immediately. Mr. Donison stated the he will follow up with an inspection report.

Chairman Morin stated that he would like the following to occur:

1. Hire a firm (Meridian is fine) to do a restoration plan and submit to both Conservation Commission and Planning Board.
2. Fully re-flag the wetlands; and
3. See the open space line flagged and the bounds need to be set.

So that when the applicant comes back into compliance things can begin properly.

Tom Clow stated that in a previous application hay bales contain some species that should not be introduced to wetlands. Chairman Fulton stated that is correct straw bales are the best.

Chairman Morin stated that he will draft a letter, share it with the board and then with Attorney Bill Drescher to make sure the board is on solid ground.

CAR WASH: Neal Kurk wanted to ask Mr. Meany, Code Enforcement Officer a question regarding another site plan before the board moved on. Mr. Kurk asked if the sign at the car wash is the type form, face and size in compliance with what was approved. Mr. Meany responded the he received a letter from Meridian Land Services stating compliance.

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

BEVERLY TOWNES-CLUSTER SUBDIVISION (CONTINUED HEARING), SUGAR HILL ROAD, #403-019: Chairman Morin opened this hearing at 7:52 PM.

Chairman Fulton from the Conservation Commission stated that if the agricultural language is going to be added the Conservation Commission would like another look, but if there was no agricultural language going to be added they are fine with it.

Frank Bolton stated that he was looking at one draft and now has a new one. The new draft, item number seven he feels will dampen any farming. At the district meeting the town voted in the right to farm, but an attempt was made and he didn't think it is proper. He thinks it needs more work.

George Malette stated that the right to farm exists on all the privately owned land and what we are concerned about is the conservation area.

Mr. Bolton stated that he is in agreement that the land owner is still the land owner and being a right to farm Town he felt that with item #7 would certainly impose a problem.

Chairman Morin suggested adding “or farm equipment necessary for allowed agricultural activities” on number 7 to fix that issue.

Chairman Morin stated overall, where is the board on the agricultural uses? Mr. Bolton stated that it is up to the land owner, but he thinks we need to look at the right to farm and RSA and that is the law. He would like to see the language cleaned up. Mr. Clow stated that he felt there was a lot in between those two objectives. Mr. Malette stated that the one thing he was surprised is that if the owner wants to allow agricultural that is there right but the Conservation Commission should have information in place for the proper balance, but should be at the right of the owner. Mr. Clow stated that the new language is because of the new right to farm ordinance. Craig Francisco stated that we stated we wanted something in there for farming if they want to do something they should have that right. He felt that we should probably get Attorney Drescher involved at some point.

Chairman Morin would like to have someone make a motion to allow the Conservation Commission to review this easement. Mr. Bolton wanted to speak to the hunting issue, section 1.10. He would like to see hunting allowed without permission. Mr. Francisco agreed with Mr. Bolton.

Tom Clow moved to continue this hearing to June 26, 2008; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 8:45 PM.

LYNDA R. TOWNES – SITE PLAN REVIEW, NORTH STARK HIGHWAY, TAX MAP 203-044.001: Chairman Morin opened this hearing at 8:46 PM. Art Siciliano and Rick Townes were present. This is a similar plan you saw last month. The existing video building is looking to be shared with a hairdresser. The hours of operation for the hairdresser would be: 8-8 Monday thru Thursday; 8-5 Friday; 8-4 Saturday and closed Sunday. Craig Francisco moved to accept the application as complete; Tom Clow seconded the application, all in favor.

Lee Quimby, abutter stated that they have no problems with what he is doing. They have concerns about what is going on in the surrounding projects. There is a concern with the water supply. They were not aware the car wash was going in or the Animal Hospital. He was told that because of the water and septic is why the post office didn't stay there. They are concerned with the water situation.

They don't have as much water as they used to have. The other thing is that they find it hard getting in and out of the driveway, the more the area is developed has the board thought about putting in traffic lights.

Tom Clow responded with regard to the car wash and pointed out that that actually has a minimal water use because everything is used and reused through a filtration system. It only uses about one gallon of water per car.

Mr. Bolton stated that there is the Weare Center Advisory Committee that would be very interested in Mr. Quimby's concerns and have discussed other development that might be larger.

Tom Clow stated that with Mr. Townes businesses, the martial arts is not water intensive but the hair dresser is. Mr. Quimby felt that the more you put into that area the worse things are going to get that is his major concern.

Chairman Morin addressed the traffic issue by stating it was a state road and by virtue of him getting a state driveway permit we would have to see that it was looked at.

Chairman Morin closed the public hearing at this time 9:10 PM.

The following items are outstanding:

- Any construction or alterations must be in compliance with all current building codes and applicable NFPA requirements
- State of NHDOT amended driveway permit (to include the hairdresser as well)
- Any proposed sign would require approval of the Planning Board
- Add dimensions and locations of all existing signs to the plan
- Receipt of NHDES septic approval

Frank Bolton moved to conditionally approve the site plan subject to the above conditions; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 9:18 PM.

Arthur Townes returned to his seat on the board.

CLEONE TIFFANY (ART SICILIANO) – CONCEPTUAL HEARING, TIFFANY HILL ROAD, TAX MAP 104-037: Art Siciliano explained that this property is at end of East Shore Drive. There is a total of 47 acres but it encompasses three tracts. They want to do a lot line adjustment they currently have a 2 acre lot; a 4 acre lot and a 41 acre lot. They want to adjust the lines between the parcels so that it makes three 15 acre parcels. Bill Tiffany was present, asked questions and expressed his concerns. Mr. Siciliano was going to be looking into some of the issues that Mr. Tiffany brought up.

III. APPROVAL OF MINUTES:

MAY 8, 2008 MINUTES: George Malette moved to approve the May 8, 2008 minutes as amended; Tom seconded the motion, all in favor.

IV. OTHER BUSINESS:

COLD SPRINGS: Craig Francisco asked when there was going to be stabilization done on the back wall. He felt the back slope should be stabilized. The board wanted a memo sent to Mr. Meany to make sure all they are complying with all the approved plans.

LOOK-N-2-STORE: Naomi informed the board that she received a letter dated May 16, 2008 from NHDES regarding an alteration of terrain permit to disturb approximately 155,000 SF for the construction of an additional storage building. The letter was asking if the Town wanted to submit data of comments relating to the technical aspects of the application. Naomi called DES to see what exactly was going on. Gloria Andrews from the State of NHDES explained that on February 13, 2007 a letter of deficiency was sent to Mr. Wilusz. In the letter it outlined what information Mr. Wilusz needed to supply the State. On July 23, 2007 the State sent another letter to Mr. Wilusz requesting a wetland restoration plan and either an Alteration of Terrain permit application or a stamped, surveyed plan indicating that the disturbance on the property was less than 100,000 SF. On July 2, 2007 the State received a wetland restoration plan but no Alteration of Terrain permit application. So, now in May of 2008 the Alteration of Terrain permit was applied for which is why we got the letter. Naomi informed Ms. Andrews at DES that on January 11, 2007 the Planning Board voted to suspend the approval that was granted site plan approval with the date of 9/8/05 and if Mr. Wilusz wants it restored he has to provide the board two things (four really but only 2 are items for DES). The first is that once the DES issues are resolved the board needs to have an as built plan provided of the entire site to make sure there are no other violations or lot line issues. The second is that a copy of an approved wetlands restoration plan with the State of NH to be submitted to this board. Naomi has also made Mr. Meany aware that no building permits can be issued until the site plan approval gets reinstated.

V. ADJOURNMENT:

As there was no further business to come before the board, George Malette moved to adjourn at 9:40 PM; Tom Clow seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator