



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
15 Flanders Memorial Road  
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Naomi L. Bolton  
Land Use Coordinator

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

**PLANNING BOARD  
MINUTES  
DECEMBER 18, 2008  
(Approved as written 1/22/09)**

**PRESENT:** Paul Morin, Chairman; George Malette, Secretary; Tom Clow, Exofficio; Frank Bolton; Neal Kurk, Alternate; Dani-Jean Stuart, Alternate (arrived at arrived at 8:05 PM); Naomi Bolton, Land Use Coordinator

**GUESTS:** Bruce Fillmore; Nancy Fillmore; Andy Fulton

**I. CALL TO ORDER:**

Chairman Paul Morin called the meeting to order at 7:05 PM at the Weare Town Office Building. Chairman Morin appointed Neal Kurk as a voting member for tonight's meeting.

**II. PUBLIC HEARING:**

DISCUSS ZONING AMENDMENT PROPOSALS FOR INCLUSION ON THE MARCH 2009 TOWN WARRANT: Chairman Morin opened this public hearing at 7:06 PM. Chairman Morin explained that tonight is the first hearing for the 2009 warrant articles. There will be a second public hearing in January at which minor changes can be made. Chairman Morin pointed out that tonight's public hearing will be somewhat of a loose meeting. We will handle discussion on the amendments in different order if those of the general public are here for a particular article. The board discussed the following amendments:

*Amendment No. 1: add a new Article 35 "Small Wind Energy Systems" as part of recent legislation that requires Towns to allow wind powered turbines to be set up, but empowers Towns to regulate them.* George Malette explained that only large wind energy systems are to come before the Planning Board as a site plan review and not every residential one. Mr. Malette stated that he felt that Mr. Kurk's could be used with some changes for the guidelines for large wind energy systems. The consensus of those members present agreed that the residential systems can be handled by the building permit versus site plan review. The consensus of the board was to use Mr. Malette's version with some minor additions and changes that Mr. Kurk drafted.

*Amendment No. 8: add a new Article 33 – "Growth Management and Innovative Land Use Controls".* George Malette stated that he would like to point out something that he feels might save the board some time. Under the amended

“RSA674:22, a growth management ordinance may be adopted only if there is a demonstrated need to regulate the timing of development, based upon the municipality’s lack of capacity to accommodate anticipated growth in this absence of an ordinance.” Mr. Malette felt that in the statutory wording alone, there is no basis for a growth management ordinance, based on competent evidence. Chairman Morin stated that we did have a subcommittee and this is a public hearing so he would like to hear it. Frank Bolton, a member of the Growth Management Subcommittee handed around some points for supporting a Growth Management Ordinance at this time. Mr. Bolton stated that this article was unanimously recommended by the subcommittee. This article was closely modeled after Londonderry’s existing regulations, which have been deemed legally defensible. Be aware that from 1970 through 2007 Weare’s population grew 5% faster than Londonderry’s. If adopted at this time there is minimal chance that anyone would be impacted in the next few years. This or a similar regulation would be more difficult to implement in the midst of a building boom. As the demand for new homes grows builders have the regulations spelled out. The stockpile of phased (developer guaranteed) building permits will be limited to the existing 76 per year for a period of time. Actual available building permits will be greater than 76 to account for non-developer request. This means that Weare will be subjected to the same 50% higher growth rate than that of our surrounding communities for years to come. If or when this or a similar proposal is presented as a petition article, the Planning Board has the option to support or not support, there is no chance to alter the petition. The Planning Board can offer an alternative, which could result in voter acceptance of both proposals. This proposal is designed to regulate the timing of growth, which in turn will help regulate the demand for services. Keep in mind that the 10 subdivisions that the committee researched were all cost negative, a total of over 1 million dollars collectively. Chairman Morin stated that for the purpose of tonight, are there any technical items that need to be corrected before it goes to the January 8<sup>th</sup> public hearing at which time we will vote to put it on the agenda or not. There appears to be enough interest by those members present to allow it to stay on the agenda for the January 8<sup>th</sup> meeting.

*Amendment No. 3: amend Article 27.3.11 for further farmland protection in the Cluster Ordinance.* Neal Kurk spoke to this proposed change. Mr. Kurk stated that this language was put in so that farmlands were protected. The original proposal was to require such land in open space, in Chairman Morin’s suggestion a priority list was generated so that each of the soils to be in the list. The amendment is designed so that the decision from the board is a thoughtful decision. In other words it doesn’t change what land should be in open space it just requires a separate vote. In default farmlands will be in the highest priority unless some of the other factors are higher. Andy Fulton felt that this change seems reasonable and sensible. George Malette stated that he thought at the last meeting we removed the part of the bottom section “the vote”. Naomi explained that it was discussed but was not decided to be removed, the issue was

procedurally how we were going to do it. The board will leave this amendment as it shows.

*Amendment No. 6: amend Article 27.3.11 to allow the open space to be protected by "covenants" and to be able to be held by "land owners" and such open space "may" be deeded to the Town in fee.* Chairman Morin spoke to this change. He wanted to add in the ability to allow permanent covenants or conservation easements to be held by the land owners. Also the last sentence was to allow suitable public access unless the Planning Board determines such access is not in the public interest. The board made a few changes to this that will be discussed further on January 8<sup>th</sup>.

*Amendment No. 7: amend Article 28 to allow temporary disturbance if there is a restoration plan and add an exception for any disturbance associated with an approved dredge and fill issued by the NHDES.* Chairman Morin stated there are two (2) amendments to this. The first allows a disturbance, recognizing that if 25 feet from the wetlands is disturbed it could be with the condition it get put back to its pre-construction condition. This amendment somewhat mirrors these recently updated Shore land Protection Act. The second part if the change is being proposed because it seems to him that the only exception to this is to build a road is ridiculous particularly if a state dredge and fill has been issued. He felt is over regulating on this. Mr. Fulton stated that he spoke tonight with Steve Najjar, the original author, who feels this change just guts the whole reason for the ordinance. He felt that the board might as well remove the whole article instead of this which effectively is taking the bite out of it. The board discussed some changes that will be made and discussed at the January 8<sup>th</sup> meeting.

*Amendment No. 2: amend Article 32.4.1 to eliminate cell towers in the historic districts by changing the first sentence.* This will appear as written for the January 8<sup>th</sup> meeting.

*Amendment No. 4: amend Article 4 to eliminate the last sentence in the definition of the word "lot".* This will appear as written for the January 8<sup>th</sup> meeting.

*Amendment No. 5: amend Article 9.1 to add a subsequent offense enforcement fee.* This will appear as written for the January 8<sup>th</sup> meeting.

*Amendment No. 9: to amend the flood plain ordinance as necessary to comply with requirements of the National Flood Insurance Program.* This will appear as written for the January 8<sup>th</sup> meeting.

*Amendment No. 10: amend the Town of Weare Zoning Map by modifying the zoning of Tax Map 202, Lot 043.1, and said parcel being located on Concord Stage Road, to change from Commercial (C ) to Residential (R). (By Petition)* This is a petitioned article that will be left and discussed at the January 8<sup>th</sup> meeting.

*Amendment No. 11: to amend articles 19.1.10 and 19.1.10.1 that deal with accessory dwelling units and who can occupy them. This will appear as written for the January 8<sup>th</sup> meeting.*

*Amendment No. 12: to amend the definition of “dwelling unit” in Article 4, by adding the word kitchen. This will appear as written for the January 8<sup>th</sup> meeting.*

*Amendment No. 13: to add a definition of “conservation land”. This will be added as a new amendment for the January 8<sup>th</sup> public hearing. Chairman Morin will find a definition and send it around to everyone.*

**III. OTHER BUSINESS:**

DECEMBER 11, 2008 MINUTES: Due to the lateness of this meeting, these minutes will be taken up at the January 8, 2009 meeting.

**IV. ADJOURNMENT:**

As there was no further business to come before the board, George Malette moved to adjourn at 12:30 AM; Tom Clow seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator