



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
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Charles F. Meany, III  
Land Use Coordinator

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

**PLANNING BOARD  
MINUTES  
JANUARY 28, 2010  
(Approved as written 2/25/10)**

**PRESENT:** Chairman Craig Francisco; Frank Bolton, Vice Chairman; Tom Clow, Exofficio; George Malette, Secretary; Neal Kurk; Chip Meany, Land Use Coordinator

**GUESTS:** Philip Mansour; Richard Townes; Christine Ivinjack; Brian Ivinjack; Andy Fulton

**I. CALL TO ORDER:**

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

**II. PUBLIC HEARING:**

ROUTE 114 VILLAGE PLAZA, LLC – CHANGE OF USE – SITE PLAN REVIEW, 33 NO. STARK HIGHWAY, TAX MAP 203-024: Chairman Francisco opened this hearing at 7:01 PM. Brian & Christine Ivinjack were present. Mrs. Ivinjack was present and explained that they would like to add another apartment in their building. The plan is to convert the previously used storage area into a one bedroom apartment.

Neal Kurk asked where in the zoning ordinance it states that these apartments are allowed. Article 22 has to do with the Village districts and the ordinance indicates that up to two apartments within an existing building is a permitted use.

Tom Clow asked where in the building this apartment will be located. Mr. Meany showed the board the large entire septic plan. Mr. Clow asked about the access to the apartment. Mrs. Ivinjack stated there would be back stairs and there are double doors on the side, which will be renovated to create a separate hallway. Mr. Meany stated that the entry way goes in from the doors.

Mr. Kurk asked if the back stairs were exclusive for this apartment. Mr. Ivinjack responded yes. In case of fire they would be able to get out either stairway. Mr. Kurk stated that he is concerned that a potential renter for the office part may block off the stairway. Mrs. Ivinjack stated that they are going to have a portion of the area renovated to have a common hallway with one door to the apartment and one door to the office portion.

Mr. Meany stated that he has no issues with it. If this gets approved it will have to go before the fire department for life safety issues. They have applied for a State approved septic system for this increased apartment.

Mr. Kurk stated that it appears that the septic design was submitted for the smallest amount of usage. Mr. Kurk stated that if there is a change to an occupant they would have to come back and may possibly have to increase the septic system. Mr. Meany stated yes and no permits can be issued until the septic system is approved by the State.

Chairman Francisco asked for any abutters or public to speak on this hearing. There was no one present to speak on this; therefore Chairman Francisco closed the public portion of this hearing.

Neal Kurk moved to accept the application as complete; George Malette seconded the motion; all in favor. Frank Bolton moved to approve the change of use from the storage area to a one bedroom apartment subject to the state approved septic system; Tom Clow seconded the motion, all favor. Chairman Francisco closed this hearing at 7:16 PM.

LYNDA R. TOWNES – CHANGE OF USE – SITE PLAN REVIEW, 64 NORTH STARK HIGHWAY, TAX MAP #203-044.001: Chairman Francisco opened this hearing at 7:17 PM. Rick Townes and Philip Monsour were present. Mr. Townes explained that the video store will be going out and the orthodontist /dentist would like to occupy that area. The interior of the building will be slightly remodeled to accommodate this business. The outside of the building might be altered slightly to change the front window.

Neal Kurk asked about the signage and stated that he didn't think we ever had a formal sign plan. Mr. Townes stated that the original sign was used for the video store. This business is going to use that same size. Mr. Kurk asked about the sign on the building. Mr. Townes stated that at the time the video store was put in, there were no regulations that did not allow the sign on the building. Mr. Kurk asked what change to signage will be seeing. Mr. Townes again stated that it will be the same size as the video store. He stated there will be four signs on two sets of posts. Mr. Kurk read the details in Article 34 that had to do with the village. Mr. Townes contends that back in 1985 when the video store was approved Article 34 was not there.

Tom Clow stated that we have two issues here, the change of use and the sign. He feels that the change of use will be generating less traffic and he has no issue. Neal agreed. George Malette wanted to point out that on page 67 the ordinance states that if you replace the sign the new sign has to conform to the ordinance.

Mr. Meany stated that all we are doing with this sign is altering the verbiage and that is not changing the sign nor is it a change of use for the sign. Legally once a sign is a sign you can't dictate what is on the sign. It is the same size and not a change of use.

Rick Townes stated that he would like to change the signs to conform with all the other ones so that Mr. Mansour can adequately advertise his business.

Frank Bolton stated that if we are truly just putting new verbiage on the same sign this is not an issue. Mr. Townes stated that he was given permission for a 4 x 8 sign back when the video store was approved and now he is going to have to shrink it to conform. Right now his sign is 6' above ground with one post and now he would like to add a post and use the same size sign that is there. The new requirement allows only 5' above the ground level.

Neal Kurk asked if the board could approve the site plan and reserve the sign part until Mr. Townes can come back with a plan that as close as possible meets the ordinance. Mr. Townes stated that he can do that. Mr. Kurk stated that on a temporary basis Mr. Mansour could put his sign over the one on the building.

Tom Clow moved to accept the application as complete; George Malette seconded the motion, all in favor.

Chip Meany suggested that if Mr. Townes would apply for a sign permit then they could sit down to come up with a plan and then Mr. Meany would bring the plan forward to the Board for approval.

Neal Kurk moved to approve the change of use from the video store to the orthodontist, but not approve the signage change, with the understanding that the applicant can come back with a different signage change; Tom Clow seconded the motion, all in favor. Chairman Francisco closed this hearing at 7:39 PM.

### **III. OTHER BUSINESS:**

CREATE QUESTIONS JOINTLY WITH CONSERVATION COMMISSION TO ANSWER SOME OF THE WETLANDS BUFFER ISSUES: Chairman Francisco stated that he received an email from Mike Dahlberg, member of the Conservation Commission (WCC) with his questions. There were no WCC members present. Frank Bolton handed around copies of some suggested questions he would like to have the attorney answer, which had to do with open space in cluster developments. Chairman Francisco passed around copies of the Town of Bedford's Zoning Ordinance that talk about management requirements. The board discussed narrowing down some questions so that we don't have a large legal bill.

Andy Fulton asked if we could adopt language especially if we were going to consider density bonus could it be tied to creating open space that would be attractive to a bona fide trust to be the steward.

Chairman Francisco will forward the following question(s) to Attorney Bill Drescher that will be further discussed at the February 11<sup>th</sup> work session.

What legal document would best achieve the following for the open space in a cluster subdivision development that does not abut any land that the town owns any interest in:

1. Perpetuity – Keeping the land in conservation forever.
2. Low or no cost or liability to the Town.
3. Public access – The zoning ordinance requires public access to the open space

CONSERVATION PLAN FOR LANIER SUBDIVISION: Chairman Francisco stated that he has conditional approval per the Planning Board using 18” culverts and per DES the culverts are 36”. We received an engineer report stating that the 18” culverts were going to be used to hold back the water, but now DES is requiring 36” culverts, which may or may not cause water flow toward the abutters. Chairman Francisco stated he is bringing it to the board’s attention because he has not signed the plan yet. Tom Clow felt that the bigger culvert would allow better flow after the site walk, but got a very quick no. Now the State is requiring it because it would allow for Blanding turtles to be able to pass, as this area could be a habitat for the turtles. Neal Kurk stated that if the size of the culverts were increase for habitat then we need some proof, because our intention was not to allow more flow onto the abutting property. Chairman Francisco will contact Mr. Siciliano and DES to see if the increased size was for habitat only.

UNSEALING NON-PUBLIC MINUTES: Chairman Francisco stated that we need to address this again per Attorney Drescher’s request. Tom Clow stated that Attorney Drescher is recommending that we release the letter. If we end up going to court this opinion becomes a public document. Neal Kurk stated that as he understood it, as far as the ZBA, that letter is no longer a legal recommendation it is a piece of evidence that they will look at during the administrative appeal process. Chairman Francisco moved to release the letter to the public; George Malette seconded the motion. Vote: 3 in favor (Craig, George, Tom); 1 opposed (Neal) and 1 abstention (Frank).

CONSERVATION COMMISSION CONCERN REGARDING WETLANDS ARTICLES: Andy Fulton, Chairman of the Conservation Commission has a question from the WCC regarding wetlands. Mr. Fulton stated that Steve Najjar pointed out that Article 28.6.7 seems to give a lot of consideration to opinion of the WCC when it comes to uses in the wetlands buffer. His question is how is this supposed to be interpreted? It appears that the end part of that article seems too open ended. His concern is that we have an ordinance that we are not honoring, or do we have a WCC that is interpreting it different. He would like to get a legal

opinion on that as to what is required by the Planning Board and what is required by the WCC under this article. What is the extent and what is the authority of this article would be Mr. Fulton's question. At this point this could be a big issue and that is his concern. Chairman Francisco stated that maybe SNHPC could help us out with that instead of spending legal monies.

**IV. ADJOURNMENT:**

As there was no further business to come before the board, Tom Clow moved to adjourn at 9:17 PM; George Malette seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Town Administrator  
(Minute Taker)