



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 24, 2007
(Approved as written 6/14/07)**

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: Sally Galloway; Mark Galloway; Tom Lewis; Mike Lewis; Donna Manion; Patricia J. Delzell; Glenn Morrell; Stephen Pope; Heidi Pope; Francis J. Cormier; Michael J. Thibeault; Michelle Ekstrand; Mike Dahlberg; Eric Mitchell; Don Rogers; Judy Rogers; Randy Dearborn; Darcie Dearborn; Jonathan Dowst; Vinny Iacozzi; Greg McDowell; Diane McDowell; Robert Palmer, LLS; 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:

MAY 10, 2007 MINUTES: George Malette moved to approve the May 10, 2007 minutes as amended, Craig Francisco seconded the motion, all in favor.

III. PUBLIC HEARINGS:

HIGH ROCK DEVELOPMENT – SUBDIVISION (CONTINUED HEARING), TWIN BRIDGE ROAD, TAX MAP 110-077: Chairman Morin opened this hearing at 7:10 PM. Chairman Morin stated that he has been told by the Land Use Coordinator that this hearing would like to be continued. Art Siciliano turned a letter in on behalf of his client High Rock Development requesting a continuance to next month, June 28th. Chairman Morin read the letter from Mr. Siciliano out loud to all those present. George Malette moved to continue this hearing to June 28, 2007, Tom Clow seconded the motion, all in favor. Chairman Morin closed this hearing at 7:20 PM.

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 7:21 PM. Bob Palmer was present. This is a proposed lot line adjustment between these parcels. Lot 120 basically doesn't meet the zoning requirements, due to the amount of wetlands on

the property. Craig Francisco stated that lot 120 looks like it is probably conforming now, but after the lot line adjustment it would be non-conforming because some of the uplands is being proposed to be added to lot 117. Chairman Morin then asked if we know that lot 120 is conforming before the lot line adjustment. Mr. Palmer stated that it is conforming. Chairman Morin stated that if it is conforming now and the lot line adjustment will create a non-conforming lot then it wouldn't seem feasible for this board to take any action until a variance could be obtained. Chairman Morin asked about the wetland delineation. Craig Francisco and Chairman Morin did go out on the site walk and only found one wetland flag and they would have liked to have see wetlands flag showing that. Chairman Morin stated that if you are successful with the zoning board, they would like to see the wetlands re-flagged. Mr. Palmer stated that it has been quite a while since it was delineated and they could be missing. Mr. Palmer stated that at this time they would like to withdraw the application so that they could proceed to the zoning board. Chairman Morin closed this hearing at 7:40 PM.

FREDERICK & LINDA KNIGHT – SUBDIVISION (CONTINUED), NICHOLS ROAD & EAST SHORE DRIVE, #404-059: Chairman Morin opened this hearing at 7:41 PM. Bob Todd, surveyor was present. Mr. Todd put up the plan that he had at the last meeting. Mr. Todd explained that there are revisions made on 5/7/07 to the first plans. Mr. Todd stated that they finally did get to the Conservation Commission and they were going to send written comments to this board. Chairman Morin did get an email from the Conservation Commission at 5:30 PM this afternoon. Chairman Morin read the email and the Conservation Commission recommends that the 25 foot wetlands non-disturbed buffer be shown on the plan; the final plan be stamped by the wetlands delineator and the 75 foot septic setback from the wetlands be shown on the plan. The Conservation Commission also understands that any future building on the new lot will be proximal to Nichols Road. Mr. Todd stated that this is a little bit different from what he was told at the meeting. He was told the 75 foot wetland setback requirement was not given to him as an instruction. What the Conservation Commission suggested to Mr. Todd verbally was that the 4K area on lot 59.6 be shown 75 feet by dimension from the wetlands and that was accomplished. The other issue that they brought up, meaning the 25 foot non-disturbance buffer along the wetlands border has been added to the plan and shown in a crosshatched section. Craig Francisco stated that what Mr. Todd has shown on the plan is fine with him. Mr. Todd stated the other review was with the Firewards, which was done without them being present. Chairman Morin read a memo dated May 20, 2007 which states that this requirement supersedes the decisions made at the April 9, 2007 meeting of the Board of Firewards due to a misunderstanding of the Board of Firewards regarding the property in question. The requirements would be that a 15,000 gallon cistern is to be located in the southeast corner of the proposed lot 404-59.6 on the west side of Nichols Road and due to the length of the driveway the house will have to be sprinkled. Mr. Todd stated that he understands the cistern requirement, but is confused about the sprinkler requirement. Mr. Todd stated that the other issue was trying to get the driveway

location approved by the Road Agent, which he has been busy because of the floods. They got verbal notification today from the Road Agent's secretary and that notification was that he has made an inspection and his only concern was that they must conform to the usual limitations, width of the driveway, drainage, 10% slope, etc. but he has nothing in writing. Mr. Todd stated that an issue that came up last month from the abutter, implied that we should make people aware that on the westerly side of the large lot, that there should be consideration for the volume of water runoff and also water quality. What he is trying to say is that if there is anyone that wants to build on that left side they have to come back to the Planning Board and have to show that their development is not going to cause any excess water runoff that would occur from the naturally vegetated upland in that area and furthermore that any runoff from roofs and hard surfaces would not contribute to nutrient overloading on their property. So to make people aware of this, Mr. Todd has added a note #18 to the plans to address the Boards concerns and the abutters concerns. The board discussed this issue. Mr. Todd submitted four waivers on this subdivision. The first was for the topography at 5' intervals. Mr. Todd has shown it at 10' intervals because he felt that 5' intervals may result in inaccurate depictions of the true contours. Frank Bolton moved to grant the waiver request; Craig Francisco seconded the motion, all in favor. The second was request was to waive the traffic, fiscal, environmental and noise impacts and the reasoning was that this involves only one new residential lot. Craig Francisco moved to grant the waiver as requested; George Malette seconded the motion, all in favor. The third waiver was asking to sediment and erosion control plans and storm water drainage plans. He believes that at this point the lot is not going to be built on right away, so he felt it was unnecessary. Craig Francisco moved to grant the waiver request; George Malette seconded the motion, all in favor. The fourth waiver was for the site specific soils map. The reason for the waiver was that they are not proposing a new road and a large subdivision, rather a small one lot subdivision, which they have done test pits and perc tests in the area to confirm that the soils are suitable for a septic system. George Malette moved to grant the waiver request; Craig Francisco seconded the motion, all in favor. Chairman Morin stated that the last time they didn't have a completed application. Mr. Todd asked that items #16, #17, & #18 on the checklist being considered not applicable because it is only for a one lot subdivision. Craig Francisco moved to accept the application as complete; Tom Clow seconded the motion, all in favor.

Neal Kurk stated that he thinks there are a couple of issues with this plan. The first is the recommendation from the Board of Firewards, of which he doesn't understand. The second was the Conservation Commission's understanding that any development will occur in a certain area. Mr. Kurk was concerned the board has received a recommendation from the Conservation Commission that was based on assumption. If the recommendation has any validity then the assumption needs to be made real, then the recommendation would be appropriate. That's why he asked about notes that say, 59.6 can only be developed close to Nichols Road that is to say that no future development would be allowed on the western portion of the lot. George Malette stated that note #18

to him directs the owner or any interested person back the Planning Board before anything can be done with the western section. Mr. Todd stated that was his intent with that note. Mr. Kurk asked if the Planning Board can a revise a note in the future. In other words they change note #18 to say development only next to Nichols Road. In twenty years, they come back and state that things have changed and now they want to develop the western part of the lot, does the Planning Board have the authority to change the new note #18 or does that become a variance. The board agreed that they could change that. Mr. Kurk further asked what the further value or legal standing of the notes on plans. Chairman Morin responded that absent our changing it that is essentially a condition of developing this lot, you have to go by the way it was approved and conditions that are listed on the plan that are recorded at the registry. Mr. Kurk stated that if that is the case he would be more comfortable with deleting this note #18 and making a new note #18 that reflects the Conservation Commissions recommendations so that if there is to be future development it must be next to Nichols Road. If they want to develop elsewhere in the future, they would have to come back to this board and at that point the board could re-look at the new #18, change it if we felt it was possibly to build there safely, and yet give everybody notice. Craig Francisco stated that he disagrees and feels that as soon as the plan is recorded it is a deed restriction. Tom Clow stated that he felt the present note serves the purpose by protecting both parties. Frank Bolton stated that he felt the new note that is being suggested would require anyone that wants to develop the back would have to come back before the board. Chairman Morin stated that the existing note #18 is for the building permit. Craig Francisco offered a modification of the existing note #18 by adding the words "or any construction activity" after the word development. Mr. Todd stated that he doesn't want to see note #18 changed, because it puts forth the owner's intent and at the same time helps the concern of the abutter. He doesn't see any harm in that. Chairman Morin asked Mr. Todd if he would be in agreement with the addition of Mr. Francisco's words. Mr. Todd stated that he didn't have a problem with the addition of the four words. The board discussed the May 20th memo from the Board of Firewards. Mr. Todd explained that this is the first he has heard of this changed decision. Chairman Morin asked Naomi how the Board of Firewards gets the plans. Naomi explained that each month after the deadline date, plans get sent out to all the other boards for their input. The Board of Firewards met on April 9, 2007 and sent a memo indicating there was no recommendation at this time, but further development of lot 59.6 would require further review by the board. Mr. Todd explained that after the meeting on April 26th he called to get on the agenda and was told that it was already reviewed. Then the board received another memo dated May 20th and Mr. Todd still has not been in attendance at a meeting. Chairman Morin stated that Mr. Todd should ask again to personally meet with the Board of Firewards and have Naomi send over a memo sufficient in detail to say that the applicant needs to make sure that he is there personally or represented by someone in order to explain the intent and answer any questions, otherwise these comments are not complete. Mr. Todd agreed that they need to address the location they want,

because where they want it would be in the middle of the wetland. The following items need to be added, corrected or addressed on the plans:

- Note #5 needs to be fixed for lot size (5 acres / 250 feet frontage)
- Add a note regarding the aquifer protection zone
- note #18 – add the words “or any construction activity” after the first word development
- Board of Firewards clarification

Tom Clow moved to continue this hearing to June 28, 2007; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 8:40 PM.

Tom Clow stated that he was concerned that the Planning Board only got comments ½ hour before this meeting. Mr. Clow stated that the reason for moving our meeting was to accommodate their schedule and we are still only getting input minutes before. The board stated that they would like to see comments from the Conservation Commission at least seven days prior to the meeting. George Malette stated that will pass the information on to the Conservation Commission.

MARK & SALLY GALLOWAY – SITE PLAN REVIEW, 71 SOUTH SUGAR HILL ROAD, TAX MAP 403-176.004: Chairman Morin opened this hearing at 8:41 PM. Mark and Sally Galloway were present. Mrs. Galloway explained that they would like to put up a 40 x 40 garage behind the house to be used for her husbands business. The garage will be about 200 feet off the road. He does fabrication work on race cars. The fabrication business is mostly welding. He basically takes 8 x 4 sheets of metal and cuts them up and makes race cars. There is no painting, oils, etc. The hours of operation will be Monday through Friday from 8 AM to 6 PM. They will be using the same driveway that they use for their home. They have a letter from one of the neighbors stating they are in favor of their business. Mrs. Galloway stated that they have spoken to some of the other neighbors who didn't have a problem but she doesn't have anything with them in writing. Mr. Kurk asked about making noise and Mr. Galloway stated that there might be the occasional air compressor. He uses the English wheel to form the metal. Mr. Kurk asked if they for some reason he changes the method of fabrication from the English wheel to banging with hammers would they have to come back. The consensus of the board was that it would because if approved, it would be granted based on a level of noise that would be expected to come from the business. Mrs. Galloway pointed out that when she goes to his current shop location she can't hear the noise inside from just outside the door. The Galloway's handed out pictures of his current operation to show the board what he does as well as pictures of the proposed location and surrounding grounds. Mr. Galloway also had with him a proposed building design.

Greg McDowell, abutter stated that he is totally opposed to this. He lives in the house directly across the road from them and he has been there for 23 years. Mr. McDowell stated that they already have on going disturbances from noise from

their lawn tractor that he uses for snow removal at all hours of the day and night. He didn't feel it was necessary to have an OSHA back up alarm on a residential piece of equipment like that. He just bought a brand new lawn tractor and it doesn't have a backup alarm. All hours of the day and night during a storm is very annoying. He is a crane operator and when he is not doing that he is a truck driver that hauls LG (liquefied gas) which is very dangerous to handle and he needs to get his rest. He has to sleep with ear plugs just for the traffic going down the road. He is a very light sleeper. The other problem they have had is since they built the three bay garage is a lighting problem. They used to leave them on all night and now they are on a timer. It is very annoying and it illuminates the whole front of the house. It's very annoying to have the whole front of your house illuminated when you live out in the country. You would expect that in downtown Manchester but not on South Sugar Hill Road in Weare. It is very annoying. They have put them on a timer and they go off at random, again when they are on they are very annoying. They also seem to be at a very high wattage rate bulbs. It looks like O'Hare International Airport in Chicago, the world's busiest airport. He just has a problem with it. Mr. McDowell continued that they just haven't been good neighbors in that respect being considerate of neighbors. Sometimes he leaves at two or three o'clock in the morning, sometimes he is getting home at two or three o'clock in the morning, his schedule varies. The other problem he had was when the garage was under construction someone had a light on at 2-3 o'clock in the morning facing out of the garage towards his house with a "ghetto blaster" blasting so loud you could hear it down here. He can't believe the homeowner's were there they had to be away because he didn't think they would have allowed that themselves. Mr. McDowell pointed out that there has already been documented actions that speak louder than their words now and they've already demonstrated as a homeowner that isn't true. They don't seem to be considerate to other neighbors. Mr. McDowell stated that this is the second time this has come before the board, the first time it was denied and he strongly suggested that the board should deny it again this time permanently.

Neal Kurk stated that as he understands this new building will be behind the house, would it be visible? Mr. McDowell looked at the proposed location on the map and stated that it would be visible. Mr. Kurk then asked if Mr. McDowell felt he would be able to hear an air compressor. Mr. McDowell responded, he would imagine so because when his kicks on his whole house vibrates. Mr. Kurk stated that the reason for the question is that you state there are problems now and he just wanted to find out if you would think that this would make it worse or is the real problem what they are doing now. Mr. McDowell stated that he doesn't want to take the chance.

Tom Clow asked Mr. McDowell if he has ever spoken to the Galloway's about the lights. Mr. McDowell stated that he went over and spoke to the contractor at the time that was doing the interior.

Frank Bolton stated that you made a comment about a denied application. Naomi informed the board that the first application was before the zoning board because the same building was being proposed in the front setback. Mr. McDowell stated that based on their previous actions he is 110% against it.

Chairman Morin asked about the pictures if that is being done in the existing garage or is it done off site. Mr. Galloway stated that he currently is renting a garage off site.

Chairman Morin closed the public portion of the hearing at 8:55 PM.

The only outstanding item is the comments from the Board of Firewards. The board discussed if that item was needed or not. Naomi stated that it was her understanding that the building permit would go over to them because it is a building to be used for a commercial venture. Sally Galloway stated that she would like to request a waiver for the Board of Fireward's comments. George Malette moved to accept the waiver; Craig Francisco seconded the motion for conversation. Frank Bolton expressed his concern that we had a site plan that went over to the Board of Firewards and the requested information needed was the deal killer and he certainly doesn't want to discourage business. Chairman Morin stated that he understands the issues but still felt it needed to go over to the Board of Firewards. Vote: 1 in favor and 4 opposed. Chairman Morin closed this hearing at 9:15 PM. Tom Clow moved to continue this hearing to June 28, 2007, George Malette seconded the motion, all in favor.

DIANA SPRING – LOT LINE ADJUSTMENT, HELEN DEARBORN ROAD, TAX MAP 411-315, 411-316, 411-317.001: Chairman Morin opened this hearing at 9:16 PM. Mike Dahlberg was present. The purpose of the hearing is to adjust the lines between three contiguous parcels. Mr. Dahlberg stated that there are a few issues that he needs to bring to the board's attention. Lot 411-315 has no legal frontage, meaning on a Class V road. All the frontage is on the Class VI portion on Helen Dearborn Road. Lot 317.1 also has no legal frontage on Helen Dearborn Road it has access via a right of way, Mudgett Lane. What he did was add legal frontage to 315 and reconfigure the lot lines between 316 & 317.1. Lot 315 would now have 50 feet of frontage and 7.26 acres. Lot 317.1 would have 189.76 feet of frontage and 10.05 acres after the adjustment. Lot 316 would have a total of 750 feet of frontage and 30 acres. Lot 315 currently has no legal frontage. It is an existing non-conforming lot because it is a lot of record with no legal frontage. By adding 50 feet he feels it is reducing the non-conformity.

Jon Dowst, abutter, asked how can you become a build able lot on a gravel Class V road under 10 acres by adding only frontage? Lot 317.1 gets above the 10 acres but it does have some wetlands, does that count? Does reducing nonconformity turn a non-build able lot into a build able lot?

Chairman Morin closed this hearing for public input at this point. The board proceeded through the checklist to see if the application is complete.

Neal Kurk stated that it seems pretty obvious that this is a three lot subdivision, not a lot line adjustment. Mr. Dahlberg disagreed, there was three lots to begin with and the end result will still be three, just configured differently.

Waiver request for item #8 (wells & radii): Craig Francisco moved to grant the waiver request, George Malette seconded the motion. Vote: 4 in favor (Clow, Malette, Morin and Francisco) and 1 opposed (Bolton). Waiver request for item #11 (wetlands breakdown): George Malette moved to grant the waiver on #11, Craig Francisco seconded the motion. Vote: 5 in favor. Waiver request for item #16 (improvements): George Malette moved to grant the waiver for item #16, Craig Francisco seconded the motion. Vote: 5 in favor.

Chairman Morin stated that he would recommend that items 1-9 that are listed as necessary to complete the application (page 2 of the application) are not applicable. Craig Francisco moved to waive items 1-9 on the second page of the application; George Malette seconded the motion. Vote: 4 in favor and 1 opposed (Bolton). Therefore the motion passes and the board proceeded to the formal consideration checklist.

Craig Francisco moved to waive items #9, #10, #11, #14, #15, #16, #17 & #18; George Malette seconded the motion. Vote: 5 in favor.

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

Tom Clow expressed his concern that the end lot containing 7.7 acres should have 10 acres or more because of the road surface types.

Frank Bolton moved to deny the plan; there was no second, therefore the motion fails. George Malette moved to approve the lot line adjustment with the condition that the 25' buffer is to be shown on the plan; Craig Francisco seconded the motion. Frank Bolton stated that if they were to go to the ZBA they would without question deny this because they have the opportunity to make compliant lots. Vote: 4 in favor (Clow, Malette, Morin and Francisco) and 1 opposed (Bolton).

Chairman Morin closed this hearing at 10:40 PM.

Neal Kurk stated that all of the discussion in the minutes above is his personal opinion. Mr. Kurk wanted to the minutes to reflect that any hardship that arises from this it is a self created hardship. He personally disagrees with Mr. Clow's statement that if he complies with the rules we have to approve.

THIBEAULT CORPORATION OF NE – LLA & SUBDIVISION, 274 CLOUGH PARK ROAD, TAX MAP 409-102, 409-104, 409-105: Chairman Morin opened this hearing at 10:42 PM. Eric Mitchell was present. Chairman Morin stated that he has had some personal interaction with Mr. Mitchell but it has nothing to do with this. He asked if anyone on the board had an issue with him sitting on this hearing to speak. No one had an issue. Mr. Mitchell explained that the purpose of this plan has two steps the first is to consolidate tax map 409 lots 102, 104 and a portion of 105 and the second step is to subdivide the consolidated lot 104 into two lots. Lot 102 that will contain 5.11 acres. Lot 104 will contain 209 acres and lot 105 will still contain 9 acres. Mr. Mitchell explained that they will be applying for State Subdivision approval and the reason is that after putting on the shoreline protection information lot 102 would require state approval. George Malette moved to accept all the waivers that have been applied for; Frank Bolton seconded the motion, all in favor. Craig Francisco moved to waive items #9, #15 & #16 on the formal consideration checklist; George Malette seconded the motion, all in favor. Craig Francisco moved to accept the application as complete; George Malette seconded the motion, all in favor.

Eric Mitchell requested to have the plan approved with the following two outstanding conditions:

- Fix notes #6 & #13 to reflect the accurate information
- State Subdivision Approval
- Show 25 foot wetlands buffer with note describing

Craig Francisco moved to approve the plan subject to the three outstanding conditions noted above; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 11:06 PM.

IV. ADJOURNMENT:

As there was no further business to come before the board, Frank Bolton moved to adjourn at 11:15 PM, George Malette seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator