



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
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**Office Hours:**  
Monday  
thru  
Friday  
8 AM – 4:30 PM

**PLANNING BOARD  
MINUTES  
JULY 26, 2007  
(Approved as amended 8/9/07)**

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

**GUESTS:** Brian Haynes; Glenn Morrell; Robin Morrell; Maurice Duval; Peter Vast; Joseph Nelson; Eileen Duval; Michael Jones; Judy Rogers; Stephen Najjar; Michael Colburn; Chet Colburn; Art Siciliano; Mike Dahlberg.

**I. CALL TO ORDER:**

Chairman Paul Morin called the meeting to order at 7:00 PM at the Weare Town Office Building. Chairman Morin appointed Neal Kurk to sit in place of Frank Bolton for tonight's meeting.

**II. APPROVAL OF MINUTES:**

JULY 12, 2007 MINUTES: The board just received these in hard copy form and wanted to wait as they are lengthy.

**III. PUBLIC HEARINGS:**

HIGH ROCK DEVELOPMENT – SUBDIVISION (CONTINUED HEARING), TWIN BRIDGE ROAD, TAX MAP 110-077: Chairman Morin opened this hearing at 7:03 PM. A letter was submitted for a continuation of this application until the August meeting. The reason for the request is that the Town traffic engineer as well as Town Counsel has not submitted their review for this application. A letter was received from the Weare Police Department, but the board asked Naomi to request further information for detailed traffic information from the Weare Police Department. Craig Francisco moved to continue this hearing to August 30, 2007, Tom Clow seconded the motion, all in favor. Chairman Morin closed this hearing at 7:20 PM.

MICHAEL E. CICCIU & NANCY L. MOONEY – CONDOMINIUM CONVERSION, 317 SOUTH STARK HIGHWAY, TAX MAP #109-020: Chairman Morin opened this hearing at 7:21 PM. Brian Haynes from Promised Land Surveying was present. Since the last meeting they have obtained State Subdivision approval. They have corrected the plans, abutters and notes. They did show the water and notified the abutters across the lake. The monuments for

Bob Nichols have been set. The only outstanding issue that he knows of is the Town Counsel review of the condominium documents.

Neal Kurk asked if there could be a broader detailed explanation of the beach. When the board took the site walk across the lake on the Daniels Lake property there seemed to be a lagoon off of Daniels Lake. The lagoon was connected to Daniels Lake by a waterway and there was a chain link fence that goes along part of that, apparently parallel to the shore line that seems to have been knocked down. He is wondering if the lagoon is part of the property, where the line is, whether that was put there illegally. Mr. Haynes stated that he unfortunately doesn't know that area very well. The abutting campground has access to the beach. Mr. Kurk stated that he would like to actually take this map and a site walk out there to see the accuracy. Chairman Morin asked the relevancy of this to the type of application we are looking at. The property is developed and is only asking to be converted to condominiums. Chairman Morin asked Mr. Haynes what he had done to the plans since the last meeting. Mr. Haynes stated that they have located the physical location of the lake. Mr. Kurk felt that this plan does not accurately reflect the existing condition.

Craig Francisco reminded the board that this board did the site walk across the lake in November and the water levels are much lower then.

Mr. Kurk stated he would like the opportunity to look at this. Mr. Kurk asked why the flood line is shown away from the edge of water line. Mr. Haynes responded that the line is taken from the FEMA map. The only real way to put it on the map is to locate it from the FEMA to this map. He felt it was accurate. Mr. Francisco stated that the FEMA maps are done off the 1969 USGS topo maps, 20 foot contours and the best you can do is to try to accurately place it on the map.

Craig Francisco moved to accept the application as complete; Chairman Morin seconded the motion for discussion. Neal Kurk asked if the lagoon has been shown. Mr. Kurk pointed out that the first plan shows a straight line and this plan revised on 7/17/07 now shows a cove not a lagoon. Mr. Kurk's concern is that we have an accurate plan in front of the board and from his recollection he doesn't recall it looking like that. He is concerned it is not an accurate reflection. Chairman Morin sympathizes with Mr. Kurk's concern, what are you doubting that you are looking at? You have physical evidence as to the points. There is no abutter disputing the lot line. Mr. Kurk's concern is that the marketing of this property would be considered waterfront by physical facts. Tom Clow stated that it is up to the buyer as to is it or is it not waterfront. The buyers should make the decision on what is physically on the ground. Vote: 5 in favor.

Chairman Morin stated not the application is considered complete, what is the pleasure of the board. Mr. Kurk stated that he is inclined to continue the application so that some informal investigation can be done as to the accuracy of

the plan. Chairman Morin pointed out that we have not gotten the review from Town Counsel of the proposed condominium documents.

Tom Clow moved to continue this hearing to August 30, 2007 to allow Town Counsel to submit his information for the board to review; Neal Kurk seconded the motion. Vote: 4 in favor (Kurk, Clow, Francisco and Morin) and 1 opposed (Malette). Chairman Morin closed this hearing at 8:10 PM.

BEVERLY TOWNES (MIKE DAHLBERG) – CONCEPTUAL HEARING, SUGAR HILL ROAD, TAX MAP 403-019: Chairman Morin opened this hearing at 8:11 PM. Mike Dahlberg was here representing Beverly Townes and her son Arthur. They have property in the RC (rural conservation) zone on Sugar Hill Road. There is a remainder parcel of 23 acres and what he is trying to accomplish is to get 4 lots for her grandchildren. The frontage interpretation is clear how they determine the lot size is where the question is, does it include wetlands or not. It is being proposed as a non-conventional cluster. The board discussed whether in the RC zone you have to double table 1-1, irrespective of the slopes and wetlands. Chairman Morin closed this hearing at 8:47 PM.

CHARLES, SYLVIA, JEFFREY & ANN BROWN – LOT LINE ADJUSTMENT, EAST ROAD & PEASLEE ROAD, #405-045 & #405-047: Chairman Morin opened this hearing at 8:48 PM. Mike Dahlberg was present. Mr. Dahlberg explained that Charlie Brown is looking at conveying 3.33 acres to Jeffrey Brown before he transfers 68 acres to a conservation easement to the Society for the Protection of NH Forests and Town of Weare. There were waivers requested for topography, wetlands, soil types and slopes and locations of roads, utilities, offsite improvements, major grading and other improvements. Mr. Dahlberg explained that the waivers are requested because these two lots are existing developed lots, one in decreasing and one is increasing. There were waivers requested for the part two of the design review checklist as it is a lot line adjustment. Waivers were also requested for the studies required in the design review checklist. Neal Kurk moved to grant the waivers requested; George Malette seconded the motion, all in favor. George Malette moved to accept the application as complete; Neal Kurk seconded the motion, all in favor. Mr. Kurk asked if this is part of a process for further lot line adjustments or further subdivisions. Mr. Dahlberg responded, no this should complete it. The majority of Charlie's Brown property except for 4 acres around his house and his barn and 5 acres on the other side, the balance is going into conservation easement. All the fields will be protected and there is a very urgent time frame to file it all by August. This project has been approved for funding to protect this. Neal Kurk moved to approve the plan subject to the correction of note #2 to correct the frontage to show 250'; Tom Clow seconded the motion, all in favor. Chairman Morin closed this hearing at 8:55 PM.

At this time the board took a 2-3 minute recess.

DIANA L. SPRING – SUBDIVISION, HELEN DEARBORN ROAD, #411-316:

Chairman Morin opened this hearing at 9:00 PM. Mike Dahlberg was present. Jim Spring and Judy Rogers were also present. Mr. Dahlberg explained the purpose of the plan is to subdivide the existing property containing 30.36 acres into three building lots. All of the lots have frontage and access from Helen Dearborn Road. All the houses would be encouraged to build close to the road because the back of the property becomes steep. Neal Kurk moved to accept the application as complete with the exception of the supplemental items; George Malette seconded the motion, all in favor. The following items are outstanding:

- reference previously approved lot line adjustment plan in the reference plan #35550
- fix the frontage on note #2 to 250' and 10 acre minimum lot size
- add a note for the 25' non-disturbance error
- correct the spelling of "Deering Center Road" on the Rogers address

The Conservation Commission did send comments but the Board of Firewards has not. Naomi pointed out that when the board changed the hearing to the fourth week it helped out the Conservation Commission it appears to have done the reverse for the Board of Firewards. They meet the Monday before the deadline. Mr. Dahlberg stated that he didn't have any issue waiting for their input. Tom Clow moved to continue this hearing to August 30, 2007; George Malette seconded the motion, all in favor. Chairman Morin closed this hearing at 9:25 PM.

LAKE SHORE VILLAGE RESORT TRUST – LOT LINE ADJUSTMENT, COTTAGE ROAD, TAX MAP #103-006 & #103-006.2:

Chairman Morin opened this hearing at 9:26 PM. Arthur Siciliano, Chester Colburn and Mike Colburn were present. Mike Colburn explained that the purpose of this plan is to remove a unit from the time share program (lot 103-6) and add it into the condominium association (lot 103-6.2) which currently has 8 buildings and after the lot line adjustment it will have 9.

Chairman Morin interrupted and stated that he didn't realize what property this was and he has a very close friend that has a time share and he will be stepping down. George Malette took over as Acting Chairman.

The following items are outstanding:

- well radius needs to be shown
- show leach fields, driveways and parking areas for each building
- application fee is not paid
- labels on all bounds as to whether existing or to be set

Waiver requests were requested for items 13, 14 & 15 which are topo, delineate wetlands and mapping of soils types. Neal Kurk moved to grant the waiver requests for #13, #14 & #15; Tom Clow seconded the motion, all in favor.

Steve Najjar, Weare resident raised the issue in reviewing the actual survey plat it appears that the boundary of Horace Lake has not been located. His reasoning is based on the deed at Book 1008 Page 42, from the Weare Improvement and Reservoir Association to the State of New Hampshire. According to Mr. Najjar's read of the deed all of the land is bordered by a 30 feet strip of land owned by the State. The problem he claims is that you have to go back thru the deeds with the most recent being from 1921. Mr. Najjar contacted the Department of Environmental Services and they own to the elevation of 659 feet. The State has flow rights up to 662 feet, but only maintains it at 655.49 feet. Mr. Najjar further pointed out that the Town according to RSA 31:95-a called Tax Maps shall:

- a. show the boundary lines of each parcel of land in the city or town and shall be property indexed
- b. accurately represent the physical location of each parcel of land in the city or town
- c. show on each parcel of land the road or water frontage thereof

Mr. Najjar is requesting that the board have the applicant accurately show where the line really is.

Mr. Kurk asked if the State claiming ownership or the right to flow. The response is fee simple ownership of the State land is to 659 feet.

Art Siciliano commented that he hasn't had time to review the ownership of what Mr. Najjar is talking about. The line on the plan represents where the shore line is today. It is a big expense for the lot line adjustment and he didn't see the necessity of it.

Tom Clow commented that he understands what Mr. Najjar is saying and it applies to all the lots around the lake. He didn't think we should hold up this lot line adjustment without going around to all the lake owners. This information is really better served at the Board of Selectmen level and not here. It appears that the State of New Hampshire has knowledge of this but has kept it under the radar. The repercussion of this would appear to be huge. It could involve reducing all the assessments and then having all the owners purchase leases from the State of New Hampshire, it could be a nightmare. Mr. Najjar stated that he felt the board would be not acting in the best interest.

Craig Francisco stated that he felt the board should continue this to allow Mr. Siciliano time to do some further research.

Tom Clow moved to continue this hearing to August 30, 2007; Craig Francisco seconded the motion, all in favor.

Acting Chairman George Malette closed this hearing at 10:10 PM.

Paul Morin returned to the board as Chairman.

**IV. OTHER BUSINESS:**

EMAIL FROM CHAIRMAN REGARDING RSA 674:39: Chairman Morin stated that he emailed all the members information regarding RSA 674:39, the 4 year exemption that Mr. Kurk had questioned him personally on. The questions raised were to the threshold of activity necessary to gain vesting. On the bottom of the email there are some court cases that should be read through as well.

SNHPC DUES: The board was interested in having SNHPC coming in to discuss what we are getting or possibly could be getting that we are not taking advantage of for the annual fee.

**V. ADJOURNMENT:**

As there was no further business to come before the board, Tom Clow moved to adjourn at 10:15 PM, George Malette seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator