

**Town of Wakefield, NH
Planning Board
Minutes of the Meeting
March 17, 2005**

Members Present John Blackwood, Selectmen Rep.; Joe Fluet, Chairman; Rod Cools, Member; Ed Morrison, Member; Nancy Spencer-Smith; Desiree Tumas, Secretary.

Others present: Steve McDonough, Code Enforcement.

Public Attendance (As signed in) Al Huntoon, Marion Winkler, Erin Cotton, Carol Ann Kosinski, Ed Kosinski, Elaine More, Dom More, Ted Johnston, Dave Mankus, Bruce B. White, Larissa Mulkern, Donna Faucette, Mark Cotton, George Frothingham, Carol Fournier, John Fournier, David Lee, Mark Swain, Wassim Frazali, Randy Walker, Thomas Dube, Susan Hayes.

Pledge of Allegiance

Mr. Fluet called the meeting to order following the Pledge of Allegiance.

Public Hearing

1. **The Applicants, Mark & Erin Cotton, have applied for a Home Occupation Review in which they seek approval to operate a dog day care and boarding business from the residence located at 54 St. Anthony Road, Sanbornville, NH as shown on Wakefield Tax Map 30 Lot 73.**

Mr. Fluet recognized Erin Cotton, explaining that the Board conducted preliminary discussions at which time the Board requested Mrs. Cotton speak to neighbors and provide a waste disposal plan.

Mrs. Cotton explained that she was unable to procure an outside contractor to pick up the waste and consulted with employees of the transfer station that concluded that waste matter could be disposed of in the compost pile.

Mr. Fluet read into the record an abutter letter dated, March 7, 2005 from, Dennis Clough, which expressed concern regarding the following:

- Customers using the driveway to turn around and blocking of the driveway when customers drop off and pick up.
 - Mrs. Cotton explained that customers would not block or use the driveway for turning around.
- Waste pick up if dogs are walked on the street
 - Mrs. Cotton stated waste would be picked up during walks on the street
- Early morning and late night barking
 - Mrs. Cotton explained barking dogs would be brought into the house and that dogs that persistently barked would no longer be allowed to attend the day care. Mrs. Cotton further explained that dogs would be required to attend the day care for a couple hours prior to acceptance.

Mr. Fluet called for Board discussion; Ms. Smith questioned if the proposal was a home occupation with regard to the outside evidence of the enterprise. Adding that the property is located in the Agricultural/Business and Commercial split zoning district.

Mrs. Cotton explained that the dogs would be contained within an existing fenced area that in the future plan to create a further enclosure to contain the dogs.

**Planning Board
Minutes of the Meeting
17 March 2005**

Ms. Smith questioned the waste disposal in the compost pile explaining that information available indicated that dog and cat waste are not suitable for compost due to the bacterial components. Ms. Smith additionally expressed concern regarding the resale risk of the town compost as well as increased and disease potential with dog waste included.

Mr. Fluet questioned use of a dumpster for disposal; Mrs. Cotton explained that commercial waste companies do not accept dog waste.

Mr. Fluet opened the public discussion, hearing none; Mr. Fluet called for further Board discussion.

Ms. Smith moved the proposal to operate a dog day care from her home does not meet the criteria of the Home Occupation due to the exterior evidence of the enterprise with the dogs being outside, not hearing a second to the motion; the motion dies.

Mr. Fluet reviewed the Home Occupation criteria outlined; Board Members discussed the percentage of gross living space utilized by the proposed business concluding that the amount of square footage of the gross living space would not be near the 49% maximum allowable per the zoning ordinance.

Mr. Fluet called for further Board discussion, hearing none; Mr. Fluet entertains a motion to conditionally approve the home occupation pending compliance with the following:

- Barking dogs will be brought indoor;
- Dogs that persistently bark would be disqualified
- Proper waste disposal plan to be submitted
- Parking and turning around in neighbors driveway will be prohibited
- Waste pick up for dogs that are walked along the street

Mr. Cools moved to conditionally approve the home occupation pending compliance with conditions outlined, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Mrs. Cotton agreed to further research the issues of waste disposal and will submit in writing a written plan of disposal.

Having nothing further, discussions are concluded.

- 2. The Applicant, North Coast Construction, LLC, have applied for a Minor Subdivision Review in which they seek approval to subdivide the existing 5.54-acre parcel shown as Wakefield Tax Map 28 Lot 30 creating 1-additional 1.28-acre parcel. Said property is located on Governors Road, Sanbornville, NH.**

Mr. Fluet recognized Mark Swain and Ted Johnston who come forward. Mr. Fluet explained preliminary discussions have been conducted as well as Technical Review.

Brief discussion regarding the minimum lot requirement concluded that the proposal meets the minimum lot requirements.

**Planning Board
Minutes of the Meeting
17 March 2005**

Mr. Fluet reviewed Town Counsel's opinion submitted which address the following:

- Letters from all property owners regarding the relocation of the temporary turn-around
- Paving requirements to be addressed
 - Mr. Swain and Mr. Johnston have agreed to pave the roadway to town specification in front of the proposed lot and that paved area would extend approximately 100' in front of the parent parcel allowing for a driveway to be within the 100' paved area.
- Bond and subdivider agreement to ensure the turn around is maintained
 - Mr. Johnston argues the burden of paving the temporary turnaround where the location placement was prior to property ownership and the relocation is as close as the original approved location with consideration of the existing wetlands and located on property owned by George Frothingham.
 - Mr. Blackwood suggests a gravel hammerhead type turn around instead of a cul-de-sac for reasons of ease winter maintenance.
 - Mr. Swain and Mr. Johnston agreement with the suggested hammerhead design of the temporary turnaround.
- Added notes to the plan referencing the original agreements, covenants and conditions of approval.
 - Mr. Swain and Mr. Johnston agree to compliance with all agreements, covenants and conditions of the original subdivision approval.

Mr. Fluet called for further Board discussion, hearing none; Mr. Fluet opened the public discussion, hearing none; Mr. Fluet closed the public discussion.

Mr. Fluet entertains a motion to accept the application as complete; ***Mr. Cools moved to accept the application as complete, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.***

Mr. Fluet went on to address the submitted waivers explaining that as a result of the current moratorium the Board only accepts minor subdivisions of no more than one lot and that our regulations do not permit further subdivision following a minor subdivision.

- **Subdivision Regulation §1.03 B** – Minor Subdivision: The division of a parcel into three or fewer new parcels fronting on an existing street, with no potential for re-subdivision, and not requiring the upgrade of municipal services.

Mr. Cools moved to accept the waiver, Ms. Smith seconds the motion as stated; the motion passed unanimously.

- **Subdivision Regulation §4.10 B-4** – Approximate location of buildings, wells and septic systems, in plan view, within 100' of the site.

Mr. Blackwood moved to accept the waiver, Mr. Cools seconds the motion as stated; the motion passed unanimously.

Mr. Fluet called for further Board discussion, hearing none; Mr. Fluet entertains a motion conditionally approving the subdivision pending compliance with the following:

- Compliance with all original agreements, covenants and original conditions of approval.
- Relocation of the temporary gravel turnaround to be a hammerhead or cul-de-sac.

**Planning Board
Minutes of the Meeting
17 March 2005**

Mr. Cools moved to conditionally approve the subdivision pending compliance with the conditions outlined, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Revised plans will be provided to the Board for later signature and recording to reflect the conditions outlined.

Having nothing further, discussions are concluded.

- 3. The Applicant, David Mankus and Co-applicant, Bruce White have applied for a Boundary Line Adjustment in which they seek approval to adjust the Boundary Line between the properties shown on Wakefield Tax Map 40 Lot 96 and Tax map 40 Lot 60 by adding 43,247 square feet to Tax Map 40 Lot 60 from the existing 105.74± acre parcel shown as Wakefield Tax Map 40 Lot 96 located on Dearborn and North Shore Roads, East Wakefield, NH.**

Mr. Fluet recognized Mr. Mankus and Mr. White who come forward. Mr. Fluet explained a Boundary Line Adjustment is the transference of property between contiguous properties. Mr. Fluet went on to explain that deed research and survey indicated that the property lines go to the middle of North Shore Drive making TM 40 LT 96 and 60 contiguous property.

The proposed BLA would make TM 40 LT 60 less non-conforming by adding the property; the North Shore Drive Right-of-Way will be maintained as a town road.

Mr. Fluet completed the Boundary Line Adjustment Checklist indicating the application meets the completion requirements.

Mr. Fluet called for Board discussion, hearing none; Mr. Fluet entertains a motion to accept the application; ***Ms. Smith moved to accept the application, Mr. Cools seconds the motion as stated; the motion passed unanimously.***

Mr. Fluet entertains a motion to accept the following waivers submitted by Mr. Mankus and Mr. White as follows:

- **Subdivision Regulation §4.10 B-2** – Delineation of hydric soils
- **Subdivision Regulation §4.10 B-3** – Existing buildings, wells, septic systems, water lines, sewer lines, drainage facilities, utilities and other such improvements, in plan view, with description of uses and sizes, if applicable.
- **Subdivision Regulation §4.10 B-4** – Approximate location of buildings, wells and septic systems, in plan view, within 100' of the site.

Mr. Cools moved to approve the submitted waivers, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Mr. Fluet open the public discussion; Ed Kosinski questioned what the end result of the Boundary Line Adjustment would be.

Mr. Fluet reiterated that a Boundary Line Adjustment is the transference of property between two contiguous properties. The application begins with two parcels and ends with two parcels and in most cases makes a non-conforming lot either conforming or less non-conforming by the addition of land.

**Planning Board
Minutes of the Meeting
17 March 2005**

Intent of the property was questioned; Mr. White explained he intended to build a garage on the property and that an additional dwelling would not be permitted because a dwelling already exists on the property shown as TM 40 LT 60.

Mr. Fluet called for further public comment, hearing none; Mr. Fluet closed the public discussion and redirects to Board discussion, hearing none; Mr. Fluet entertains a motion to approve the Boundary Line Adjustment as submitted.

Mr. Cools moved to approve the Boundary Line Adjustment as submitted, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Board Members signed the plans, which will be recorded at the Registry of Deeds and sent to Cartographics.

Having nothing further, discussions are concluded.

Public Hearing Continued from 17 February 2005

- 1. Notice is hereby given that applicants, Pat and Jennifer McCawley request, pursuant to RA 676:4-a,I(a) that the Wakefield Planning revoke the approval granted to them on December 20, 2002 as shown on a plan entitled "Boundary Adjustment Lands of Patrick & Jennifer McCawley and Charles & Karen Farley Country Acres Wakefield, NH." Anyone requesting a hearing thereon shall notify the Planning Board in writing within 30 days as provided by RSA 676:4-a, II. If, no timely written request for hearing is received by the Planning Board, it shall act upon the applicant's request to revoke the approval at its March 17, 2005 regular meeting.**

Secretary Tumas explained discussions to revoke the approved plan were conducted at the 17 February 2005 Planning Board meeting at which time began the time clock of thirty days to allow for appeals of which none were received to date and that the Board is now able to act on the request to revoke the approved plan.

Mr. Fluet called for public discussion, hearing none; Mr. Fluet closed the public discussion and entertains a motion to approve the request to revoke the approved Boundary Line Adjustment granted to Pat and Jennifer McCawley on December 20, 2002; returning the parcel to the original configuration prior to the Boundary Line Adjustment approval of December 20, 2002.

Mr. Fluet went on to explain the Board's action to revoke the approved plan is at the applicants request and is the result of a conditional approval granted to the McCawley's for a Variance from the Zoning Board of Adjustment.

Mr. Cools moved to approve the request to revoke the approved Boundary Line Adjustment granted to Pat and Jennifer McCawley on December 20, 2002, returning the parcel to the original configuration prior to the Boundary Line Adjustment approved December 20, 2002, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Board Members signed the submitted plans to be sent to Cartographics and the Registry of Deeds.

Having nothing further, discussions are concluded.

**Planning Board
Minutes of the Meeting
17 March 2005**

**Insignificant Change of Use
Discussion**

1. Donna Faucette – to become a Planning Board Alternate Member

Mr. Fluet recognized Donna Faucette; Ms. Faucette explained she is a resident of Wakefield and would like to participate on the Planning Board as an Alternate Member.

Mr. Fluet questioned if Ms. Faucette was a real estate agent or developer or involved in the construction industry; further explaining the Board is not officially opposed to developers and members of the construction industry participating on the Board, but that people in these professions have found it problematical to serve on the Planning Board because of frequent recusals.

Mr. Fluet went on to explain the responsibility of gathering evidence pertaining to subdivision and site plan review applications before the Board and the conflict that arises where Members directly associated with a particular application have had to recuse themselves.

Mr. Fluet briefly explained past issues of Members or Alternate Members who were real estate developers or in the construction industry had to recuse themselves repeatedly raising issues on the Board.

Ms. Faucette explained she is a real estate agent, but does not see issues with conflict; further stating understanding of the recusal process should a conflict arise.

Members of the public questioned the Planning Boards ability to nominate the Alternates whereas other municipal boards and committee's must receive approval from the Board of Selectmen.

Mr. Fluet explained that NH RSA 673:6 II dictates that the elected planning board may appoint 5 alternate members of 3 years and the Planning Board is an independently elected Board, not subject to the Selectmen.

Mr. Fluet called for further public comment, hearing none; Mr. Fluet closed the public discussion and redirects to Board discussion, hearing none; Mr. Fluet entertains a motion to approve the nomination of Donna Faucette as an alternate member for a term of three years.

Mr. Cools moved to nominate Donna Faucette as an alternate member for a term of three years, Mr. Morrison seconds the motion as stated; the motion passed unanimously.

Preliminary Discussion

1. Phil Wood/Attorney Thomas R. Walker, Wakefield Tax Map 41 Lot 1 & 1A-1S – Ivanhoe Subdivision road development.

Mr. Fluet recognized Attorney Walker and Wassim Frazali who explained 95% of the road has been treed and rough graded and that a the house lots have been partially cleared as well, briefly discussing the winter weather that has kept the work halted. It was further explained that it is expected that the road improvements will be complete before the Bond expires in October 2005.

Attorney Walker explained that the "green space" restrictions approved in 1998 have been unfavorable with prospective buyers and question if there is possible relief by a waiver of restrictions 1 and 4 on the plan.

**Planning Board
Minutes of the Meeting
17 March 2005**

Board Members briefly discussed the major snowmobile trail that exists connecting Lake Ivanhoe with Balch Lake, concluding that the property owner bore no liability by allowing the right to pass to the snowmobile club.

Mr. Fluet explained that in the State of New Hampshire, property unless otherwise posted is "Open Wilderness".

Following much discussion, the Board concluded that the conditions of approval could not be amended without resubmitting application for a new subdivision.

Mr. Fluet went on to explain that the current moratorium does not allow for major subdivision and application could not be heard until the 1-year time period expires in March 2006 or the Board completes its mandated business of amending the ordinance, regulations and other documents.

Mr. Fluet called for further discussion, hearing none; discussions were concluded.

2. Craig Farley, Wakefield Tax Map 24 Lot 58 – BLA approved November 2004 TM 24 LT 113; TM 24 LT 58 was included on the plan but was not included in the subject easement adjustment and resulting restrictions.

Mr. Fluet recognized Mr. Farley who came forward explaining to the Board that during the Boundary Line Adjustment that was approved in November, 2004 for Mr. Szirbik was to deed the specific area of an easement already enjoyed by the residents who were subject of the original easment.

Mr. Farley's parcel shown as Wakefield Tax Ma[24 Lot 58 was included in the Boundary Line Adjustment on a separate sheet and was no subject to the easement restrictions.

Board Members request copy of the Minutes of the Meeting before making final determination.

Mr. Farley scheduled discussions at the April 12, 2005 planning board meeting to allow time to review the original easement approval.

Having nothing further, discussions are concluded.

**Code Enforcement Q & A
Approval of the Minutes**

1. 03 March 2005

Mr. Blackwood moved to approve the 03 March 2005 Minutes of the Meeting as amended, Mr. Cools seconds the motion as stated; the motion passed 4-in favor, 1-abstained vote by Member Smith.

2. 10 March 2005

Mr. Cools moved to approve the 10 March 2005 Minutes of the Meeting as amended, Mr. Morrison seconds the motion as stated; the motion passed 3-in favor, 2-abstained votes by Member Smith and Selectmen Blackwood.

**Planning Board
Minutes of the Meeting
17 March 2005**

Correspondence and Miscellaneous

1. SRPC Invoice: Subdivision/Site Plan Regs Notebook

Mr. Fluet signed the invoice for payment.

Having nothing further, discussions are concluded.

3. SRPC - 2020 Planning Process Schedule for 2005

Information provided to the Board.

Having nothing further, discussions are concluded.

4. UNH – NH Estuaries Project Survey – Board Members to complete

Information provided to the Board for completion and mailing.

Having nothing further, discussions are concluded.

Unscheduled

1. Change of Planning Board Meeting Schedule

Board Members briefly discussed the scheduling of meetings to allow for two administrative meetings in order to complete the site plan regulation, subdivision regulations and other planning board documentation as mandated by the recently approved mortorium.

Board Members agree to conduct the Administrative Meetings on the 1st and 2nd Thursday of each month and conduct regular planning board business at the 3rd Thursday.

Mr. Fluet called for further discussion, hearing none; Mr. Fluet entertains a motion to change the meeting schedule to allow for two administrative meetings to be conducted on the first and second Thursday of each month and regular planning board business on the third Thursday of each month.

Ms. Smith moved to approve the meeting schedule change to conduct administrative meetings on the first and second Thursday of each month and to conduct regular planning board business at the third Thursday of each month, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Mr. Fluet requests a public notice to run in the Granite State News.

Having nothing further, discussions are concluded.

2. Vacation time – Secretary Tumas

Secretary Tumas requested the week of April 25 –29, 2005 as vacation time; Board Members have no objection to the requested time.

Having nothing further, discussions are concluded.

**Planning Board
Minutes of the Meeting
17 March 2005**

3. Planning Board Officer Nomination

Mr. Fluet requested the Officer Nominations added to the April 07, 2005 Planning Board Agenda

Having nothing further, discussions are concluded.

Adjournment

Mr. Fluet called for further business to come before the Board, hearing none; Mr. Fluet entertains a motion to adjourn the meeting.

Mr. Cools moved to adjourn the meeting, Mr. Morrison seconds the motion as stated; the motion passed unanimously.

Respectfully submitted,

Desiree Tumas, Secretary