



TOWN OF WAKEFIELD, NEW HAMPSHIRE
PLANNING BOARD

2 HIGH STREET
SANBORNVILLE, NEW HAMPSHIRE 03872
TELEPHONE (603) 522-6205 FAX (603) 522-6794

Minutes of the Meeting
21 April 2005

Members Present John Blackwood, Selectmen's Rep.; Rod Cools, Vice-chair; Donna Faucette, Alternate Member; Joe Fluet, Chairman; Al Huntoon, Alternate Member; Desiree Tumas, Secretary.

Others Present Robin Frost, Town Administrator; Steve McDonough, Code Enforcement.

Pledge of Allegiance

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

Mr. Fluet welcomes for the first time, Alternate Member, Al Huntoon who is seated in the absence of Member Morrison and Alternate Member, Donna Faucette who is seated in the absence of Member Smith.

Public Hearing No hearings were scheduled

Board Business

1. **Alternate Member Appointment**
 - **Richard Atwater**

Mr. Fluet suggests continuing Alternate Member appointment for Mr. Atwater until Member Blackwood arrives to facilitate the three member signatures that are required; Board Members agree to continue discussions until Member Blackwood's arrival.

Insignificant Change of Use

1. **Wakefield Tax Map 30 Lot 173 – John Citron & Fred Morrill**

Mr. Fluet recognized Fred Morrill, Jr. to discuss an Insignificant Change of Use at the property located at 19B Meadow Street.

Mr. Morrill submitted a written summary which explained the relocation Armor Insurance Company within the commercial space previously occupied by the Wakefield Child Care Center and seeks the Boards approval for an Insignificant Change of Use. (See attached copy)

Mr. Fluet reviewed the Site Plan Review Regulations §202 Insignificant Change of Use criteria and addressed the following.

- **§202.6** *“It will not increase the sanitary waste loading of the site beyond that which the site can absorb”*
 - Member Blackwood stated that the reduction of sanitary waste load that will result in the change of use would not require additional approval from the Board of Selectmen.

Following brief discussion regarding the current occupancy of the building; Mr. Fluet called for further Board discussion, hearing none; Mr. Fluet opened the public discussion, hearing none; Mr. Fluet closed the public discussion.

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Having completed the Insignificant Change of Use Checklist, Mr. Fluet called for further Board discussion, hearing none; Mr. Fluet entertains a motion to approve the Insignificant Change of Use from the Wakefield Child Care Center to Armor Insurance Company.

Mr. Cools moved to approve the Insignificant Change of Use from the Wakefield Child Care Center to Armor Insurance Company, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Having nothing further, Mr. Fluet thanked Mr. Morrill for attending and discussions were concluded.

2. Wakefield Tax Map 30 Lot 176 – Bob & CeCe Smith

Mr. Blackwood stated that Mr. & Mrs. Smith have decided not to pursue opening the restaurant, no further discussions will be required at this time.

2nd Call: Board Business

1. Alternate Member Appointment
• Richard Atwater

Members Blackwood, Fluet and Cools signed Mr. Atwater's appointment form. The form will be forwarded to the Town Clerks office at which time Mr. Atwater can be sworn in for a 3-year term as an Alternate Member.

Secretary Tumas will notify Mr. Atwater that the appointment form has been completed.

Having nothing further discussions were concluded.

Discussions

1. Wakefield Tax Map 71 Lot 4 – Tom Dube 1987 subdivision

Mr. Fluet recognized Tom Dube, to discuss the right-of-way created during the 1987 proposed subdivision which, created, a now association owned right-of-way, that has been used since 1989 when access via Gold Coast Drive was no longer accessible because of culvert issues and North Desmond Drive became the only other access, dividing the TM 71 LT 4 into 2 lots.

Mr. Dube explained, he spoke with Mrs. Bickford in the Assessing office to obtain a tax map and lot number and he was advised to meet with the Planning Board for determination.

It is Mr. Dube's belief that the association ownership of the right-of-way separates the parcel into two lots and that a separate lot number should be assigned to the 8± parcel.

Mr. Fluet explained the discussions were preliminary, non-binding to either the Board or Mr. Dube and discussions are for advisory purposes only.

Mr. McDonough briefly discussed, for identification purposes, the wetlands area which floods frequently, and indicated the area using the GIS Mapping.

Following much debate pertaining to deeds and right-of-way access; the Board concluded that to their knowledge the property was never approved for subdivision. Therefore, a right-of-way was created and deeded to the property owners who use the right-of-way, with ownership and responsibility of maintenance going to the association.

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Mr. Fluet went on to explain, deed issues are a civil matter, for which the Planning Board has no purview, suggesting, that Mr. Dube seek legal counsel regarding the deeded and vested right to pass and re-pass currently existing for residents, as well as possible deed research of any approved subdivision which would have created a road.

Mr. Fluet called for Board discussion, Board Members state agreement that Mr. Dube should seek legal counsel and request further discussions, if additional evidence of an approved subdivision is discovered.

Mr. Fluet called for further discussion, reiterating the preliminary nature of discussions; hearing none, Mr. Fluet thanked Mr. Dube for attending and discussions are concluded.

2. Wakefield Tax Map 48 Lot 11A – Tim Rioux

Mr. Fluet recognized Tim Rioux to discuss clarification of Zoning Ordinance §1.13 Definitions – Agricultural which states, *“The production, keeping, or maintenance, for sale, lease or personal use, of plants and/or animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutation or hybrids thereof; bees and apiary products; fur animals; fruit of all kind; vegetables; nursery, floral, ornamental, or any greenhouse products; or lands devoted to a soil conservation or forestry management program.”*

Mr. Rioux explained it is his intent to produce bedding plants grown in the greenhouse as well as those produced by local growers, providing apples, corn, and pumpkins, with supplemental sales of seasonal winter items such as Christmas Trees and other seasonal plants with a small amount of associated items which had been determined to be exempt from site plan review by the Planning Board.

Mr. Rioux explained, he has received what he perceives as hostile and conflicting information from the code enforcement office with regard to items and sales that are acceptable under agricultural use and seeks the Boards determination as to what is acceptable agricultural use.

Mr. Fluet explained that code enforcement’s purpose is to enforce both State and Local regulations, and ordinances. From time to time conflict does arise with regard to the interpretation of regulations and ordinances and that is when discussions with the Planning Board can resolve conflict when applicable.

Additionally, Mr. Fluet explained that if Mr. Rioux felt that there was malfeasance by the Code Enforcement Office, that issues should be address to Robin Frost, Town Administrator.

Mr. Fluet went on to explain that following discussion with Town Counsel, it was determined that a farm roadside stand shall remain an agricultural operation and not be considered a commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

Following much discussion and debate regarding the permissible sale items, Mr. Fluet reiterating that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner, suggesting accurate record keeping of sales.

- Board Members questioned the location of the farm stand with regard to the Stoneham Road entrance;
 - Mr. Rioux stated that the stand would be approximately 100 feet from the entrance.

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Brief discussion regarding vehicles traveling on Rte 16 and entering Stoneham Road in the event, that a customer is waiting to turn concluded, that there appears to be sufficient roadway to accommodate a vehicle waiting to turn as well a couple other vehicles without issue; adding that the property will not be accessed directly from Rte. 16.

Mr. Fluet reiterated that the Board, following due diligence concluded that if at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner, then it is a farm stand, not a commercial enterprise, again suggesting, accurate record keeping of sales.

Mr. Fluet went on to explain that should it be determined those outside sales exceed 65 percent of product sales in dollar volume, it would no longer be considered a farm and the State and local rules are applicable and enforceable. It is the job of code enforcement to enforce the State and Local regulations and ordinances.

Mr. Fluet again reiterated that compliance would be met, provided that at least 35 percent of the product sales in dollar volume can be attributable to products produced on the farm or farms of the stand owner.

Mr. Fluet further explained that should it be determined, that the farm exceeds the ordinances and regulations requirements, attributable to products produced on the farm or farms of the stand owner, a home occupation or site plan review could be applied for. However, the following considerations must be made:

- A home occupation must provide that there is no exterior evidence of the enterprise other than a permitted sign.
- A Commercial venture is not permitted in the agricultural zone.

Mr. Fluet again reiterated, that at least 35 percent of the product sales in dollar volume must be attributable to products produced on the farm or farms of the stand owner, again, suggesting accurate record keeping of sales.

Mr. Fluet called for further discussion, hearing none; Mr. Fluet thanked, Mr. Rioux for attending and discussions were concluded.

3. Wakefield Tax Map 89 Lot 2A – Jim Tully

Mr. Fluet recognized Jim Tully, to discuss further development on the property shown as TM 89 LT 2A.

Mr. Tully explained he seeks the Boards direction with regard to constructing an additional 36' x 130' cold storage building for warehousing woodstoves and accessories.

Board Members state concern regarding the additional run-off resulting from the additional building, recommending PE review of the existing data and providing updated calculations for the proposed building.

Mr. Tully went on to explain he plans to pave in front of and between the buildings as appropriate.

Mr. Fluet reiterated the need for PE review and updated drainage calculations, cautioning that the proposed building cannot exceed the maximum amount of impermeable surface.

Mr. Tully went on to explain that he has entertained a 48' x 100' building but because of snow-load concerns with the wider building, the smaller building might be more suitable.

Board Members reviewed the following:

Site Plan Review Regulation §522 Impermeable Surfaces which states, *“Building coverage shall not exceed 45%.*

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Impermeable coverage shall not exceed 80% except in the Aquifer Conservation District, where it shall not exceed 50%. For the purposes of determining impermeable coverage it shall be assumed that unpaved parking area, driveways and walkways are paved.

Mr. Tully thanked the Board for the information provided.

Mr. Fluet called for further discussion, hearing none; Mr. Fluet thanked Mr. Tully for attending and discussions were concluded.

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

1. April 7, 2005

Mr. Cools moved to approve the April 7, 2005 Minutes of the Meeting as amended, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

2. April 14, 2005

Mr. Cools moved to approve the April 14, 2005 Minutes of the Meeting as submitted, Mr. Blackwood seconds the motion as stated; the motion passed unanimously.

Correspondence and Miscellaneous

1. FEMA – Preliminary Flood Maps

Secretary Tumas presented preliminary flood maps for approval by the Board.

Mr. Fluet recommends PE review and entertains a motion to have White Mountain Survey Review the maps; ***Mr. Cools moved to enlist the services of White Mountain Survey for PE review of the preliminary flood maps submitted for approval; Ms. Faucette seconds the motion as stated; the motion passed unanimously.***

The maps will be forwarded to White Mountain Survey; having nothing further, discussions are concluded

2. May 19, 2005 Agenda

Secretary Tumas explained that 6 applications have been processed for the May 19, 2005 regular Planning Board Meeting and seeks the Board recommendations for accepting additional discussions.

Following brief discussion, Mr. Fluet entertains a motion to close the May 19, 2005 Agenda, scheduling additional requested discussions on the June 16, 2005 Agenda.

Mr. Blackwood moved to close the May 19, 2005 Planning Board Agenda, scheduling additional requested discussions on the June 16, 2005 Agenda, Mr. Cools seconds the motion as stated; the motion passed unanimously.

Adjournment

Mr. Fluet called for further business to come before the Board; Ms. Mulkern of the Granite State News question enforcement of the 35% grown or produced sales; Mr. McDonough explained that there would have to be extreme and obvious violation of the 35% requirement to initiate any enforcement action.

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Mr. Fluet added that the Board clearly indicated the need for accurate record keeping which could be requested should enforcement action be required.

Ms. Mulkern questioned enforcement of deed restriction and enforcement of such restrictions; Mr. Fluet explained that deed restrictions are a civil matter which does not involve action by the Planning Board whereas, conditions of approval are enforceable by the code enforcement office.

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

Mr. Blackwood moved to adjourn the meeting, Ms. Faucette seconds the motion as stated; the motion passed unanimously.

Respectfully submitted,

Desiree Tumas, Secretary