

DRAFT ONLY
TOWN OF WOODSTOCK
TOWN DEVELOPMENT REVIEW BOARD
Wednesday, February 23, 2021
ZOOM MEETING/CONFERENCE CALL
MEETING MINUTES

MEMBERS PRESENT: Don Bourdon, Kimberly French, Wade Treadway, Brad Prescott

MEMBERS ABSENT:

OTHERS PRESENT: Neal Leitner, Brad Ruderman, John Holland, Matt Lombard, Al Alessi, Larry Niles, David Grayck, Gina Beinecke, Walter Beinecke

I. CALL TO ORDER 7:30 P.M.

II. PUBLIC HEARINGS

New Business

A. T-5112-21 Cooneymus Darling, LLC-Conditional Use Approval for grading

Brad Ruderman presented the application for his client to the board. The applicants are requesting construction of a new single-family dwelling, a pool with pool house, a maintenance recreation barn, a tennis court, plus two separate accessory structures at 99 Darling Road in South Woodstock. The site currently has two detached dwellings, a garage, and a horse shed, all of which are to be demolished with the project. The existing driveway will remain as is, and a new driveway will be added further up on Darling Road to loop to the existing driveway, with a spur added to the existing driveway to give access to the pool and tennis court. The applicants have gotten verbal approval for the new curb cut for the driveway. The area proposed for development is an open meadow with some scattered hardwood and spruce trees, as well as some intermittent stone walls, some of which will need to be removed, but a majority will remain as is. A small portion of woods will need to be cleared for the proposed spur driveway. A new mound system and drill well will be constructed as part of the project. The state engineer was present for the soil testing for the new mound, and has agreed with the findings, the applicant needs to apply for a permit for this project. The property has wetlands, and a stream all boundaries have been delineated and the required 100' wetland buffer and 50' stream buffers will be maintained for the life of the project. The project will impact greater than one acre of land so a state stormwater construction permit is required and will be applied for shortly. An erosion protection and sediment control plan has been developed which includes marking the construction site boundaries, installing silt fence downslope of disturbed soils, and stabilizing disturbed areas in 7 days. The site has been graded out to have three on one maximum or flatter slopes with most of the fill materials needed coming directly from on-site excavations.

Wade Treadway noted the applicant is a client and asked if he should recuse himself.

Kimberly French questioned water runoff and drainage, for the project as it is a significant surface area that is being covered. Brad Ruderman noted that they are not anticipating any runoff off site into the buffers or boundaries as there is significant green space provided for sheet flow to go into existing vegetation. The way the site has been graded is mostly a convex type of slope so all the runoffs should drain off as sheet flow, and there are proposed swales along the driveway to catch up slope runoff and runoff from the driveway itself which will be directed towards vegetative areas. The project is not channelizing flow, so it is not set up for a tension pond. Ruderman stated it is hydrologic B soil, so they expect most of the runoff to be infiltrated into the existing ground. Ruderman said the tennis court will not be impervious, and they are looking into different types of materials, one they are looking at is a grass surface, but with the slopes and the drainage plan they do not expect any runoff to the buffer zones.

Don Bourdon opened the meeting to members of the public to ask about the current proposal.

There were no public members with questions or concerns currently.

B. Peacefield application which is reconvening after an earlier hearing from October 2020.

Following the hearing there were questions and answers provided and the board followed up with a recess memorandum directed to the applicant with inquiries regarding the project and the board now has a response from John Holland regarding the inquiries, as well as additional information.

The notice of this hearing went not only to the applicant but also all prior parties involved, so that all parties would be able to review the information.

John Holland suggested that the board go directly to questions, as the last meeting he attended he spent a lengthy amount of time on presentation of the site plan, which was not touched upon. Don Bourbon opened the meeting to members of the board to ask questions regarding the project.

Brad Prescott asked about panels that are mentioned in the letter, as he was not able to find them in the paperwork. John noted that the panels were discussed in the last meeting, there were 9 slides regarding the panels and in the letter, he was referencing the slides from the previous presentation. Brad Prescott said specifically the panels mentioned on page 3 item 7 panels 5 and 6 and item 10 on page 3 panels 7 & 8. John Holland stated panel 3 is the general site plan, showing all parking spaces, panel 4 shows this as well, he noted that panels 3,4, and 5 are very similar and Neil Leitner shared them over the meeting screen. Neil Leitner then showed panels 7 and 8 as well, 7 looks like another site map, and 8 looks like a materials list.

Brad Prescott asked about item 1, regarding the seating, stating added up it shows 88 potential seating spots for inside the bar and restaurant, while the indoor occupancy is 72, with 16 outdoor spots which is stated in the letter from January, however the plan from August the figures are 89 for indoor instead of 72 and 99 total because of 10 outdoor, so he was asking for clarification, if the board is going by the plan from last August or the current letter from January. John Holland asked for clarification if he is asking for the number of chairs purchased or how many can be used in the potential site. Brad Prescott then asked how many patrons the application for the occupancy

is, starting with the inside specifically, John Holland responded with 72 patrons. Brad Prescott then clarified that the outdoor dining occupancy would remain at 16 as stated in the letter, John Holland confirmed that it would be 16 patrons for outdoor dining.

Brad Prescott asked about hours of operation, and John Holland stated the hours of operation would be changing seasonally, and depending on the season, for example summer hours will be longer than winter hours. The projection is longer days would be 6 days a week 11 am to 11 pm which would be summer hours, and shorter days would be 5 days a week from 5 pm to 11 pm which would be winter hours. John Holland noted that would be service hours, however actual operations could start at 8 am for production etc.

Brad Prescott asked if the bar service is supportive of the restaurant service, and John clarified everything in this operation is centered around food, with 10-12 bar seats, 2 being specific dining seats with view of the chef, and the intention is for drinks before or after eating. Matt Lombard noted that there are 9 seats at the bar, 7 for walk in and 2 for reservation.

Kimberly French stated her questions are regarding ACT 143 in terms of it being an accessory on farm business or is it an on farm business. John Holland stated that regarding Woodstock's town regulations regarding accessory on farm business, that Peacefield Farm currently qualifies as a farm under regulations per Woodstock and Vermont's minimum threshold standard definition of a farm, and within that the accessory on farm business is allowed. The section 3.1 minimum activity is met, and under the jurisdiction of the agency of agricultural foods and markets, and if both of those are met, you are under the eligibility requirement to be eligible for the benefits of the subdivision, and the applicant complies with both, and has acknowledgement from the Agricultural Department that they are under their jurisdiction.

Kimberly French also asked about other things being sold from the farm, will it be selling produce and pre-made foods to be sold in markets as well as the restaurant. John Holland stated that the food being processed will be sold at both the space, as well as in markets. Kimberly French then asked if there was a sense for revenue from market sales, and John replied there was not at this time.

Kimberly French then asked about Act 250 approval. Neal Leitner clarified the Act 250 approval is separate from the town approval, and to his knowledge an Act 250 permit is required but he does not know if it has been received or processed at this point. Kimberly French then asked if the board could approve anything without Act 250 approval and Neal Leitner said that yes, the town can approve a project without Act 250, as one is town level and one is state level.

Wade Treadway stated he still wanted more clarification and solid numbers for patrons, and John Holland reiterated that the goal would be 45-55 dinners per night, but the times of dinners vary so the space occupancy will fluctuate. Brad Prescott asked about the number of meals per night, with the amount of days planning to be open, seems to be high with the number of animals being provided by the farm. Brad Prescott then said, if on an average of 50 meals per night during both peak and non-peak given the provided hours, during the year is about 10,000 meals, how does the farm demonstrate that number of meals as an accessory to the number of animals that the farm is providing for the restaurant. Matt Lombard explained it is a long process to prepare the meals and

to only include the protein is not the best way to approach it, and that the hope for the farm is to gradually increase when there is more demand as needed. Lombard stated that to assume the scale of 10,000 meals is essentially out of reach at this time but would be amazing, but with year-round production of vegetables, storage, and preparation and processing the volume of the restaurant is driven by the farms ability to service it. Lombard then stated the restaurant came after the farm, and the ability to have both under one roof would be beneficial to both businesses, but the farm is always the primary business.

Wade Treadway noted that it is becoming clearer through documentation and conversations that this is more a farming business than he had thought however the concern is that as the farm gets successful what does it mean for the future. John Holland said that there are natural limitations that cannot be exceeded for the land such as limitations for septic and drinking water, and the current limitations could not be exceeded without going through Act 250 approval.

Don Bourdon asked about notes for adding a high tunnel for vegetables and an additional barn, and what is for. John Holland said the additional barn would be for animals and equipment, and the high tunnel is for the vegetable growth, and it is in front of the parking area. Matt Lombard stated that it is also not to expand animals currently but help maintain what they already have.

Kimberly French asked if the restaurant is on site at the farm will the restaurant in town still be open, to which Matt replied he was undecided on what the plan will be, but he does plan to maintain his lease. Kimberly French then asked about selling from the farm to the restaurant may help meet the requirements. John Holland stated the processing is what has a limitation of sales under Act 143.

Don Bourbon opened the discussion up to the public.

Al Alessi, a neighbor who lives diagonally from the animal barn stated he is opposed to the project, and that the concept of being open 5-6 days a week, he also stated the bar, if popular could become busy, and if it is successful it could impact the occupancy. Alessi also questioned the food processing aspect and pulling in food from other farms is then manufactured, however he does believe John Holland addressed this. Alessi asked is the success of the restaurant pulling the farm or is it the other way around? Alessi also asked about the percentage of processing for Act 143. Alessi then said that Cloudland Farm is more of an accessory in his opinion, and the success of the bar will ultimately lead to noise and higher occupancy. Alessi asked John if it is a bar, or a service bar. John stated again, it is for people coming in and leaving. Matt Lombard said that is not the style of the bar, and that this bar will only seat 9 people. John Holland stated the intent is to be there by invitation or reservation only, and it will not be intended to be a busy bar, it is set up in the back to be uninviting.

Larry stated he is very familiar with Matt and understands Act 143 helps with farms. Larry stated Act 143 is two parts. One being to determine if the activity is accessory and then you must ensure the activities are significantly agricultural in nature, and he said that accessory is not very defined in the legislature. Larry stated the restaurant is already a successful commercial business, and it is important to look for scalability. Larry then stated his biggest concern is outside activities and noise levels. Larry would urge the board to be very careful and very specific to what is being

permitted in terms of capacity, noise level, numbers of people who can be there at one time, and weddings and how they can have any significant agricultural purpose. Larry said weddings and events will add too much traffic to an already busy road, he also stated 45-50 people a night on a regular dinner service is fine, but large groups all at once there is a much different situation. Larry also noted it is a rural area so having events is not in the zoning for the area as well, and he is not opposed to having a restaurant there, but he wants to keep scale in mind.

David Grayck on behalf of Walter and Gina Beinecke, said that they have a concern regarding another matter, however how this matter is discussed will impact their matter later. Grayck first asked if they plan to close this issue tonight or will there be an adjournment with another hearing. Don Bourbon said they may recess and adjourn or reconvene. Grayck said he is going to make some statements that are intended to ensure certain technical compliance with statutory provisions so that his clients rights are preserved, he said he is speaking to ensure their participation qualifies under 24 VSA section 4471. The clients would like to be considered as a party in this proceeding with a particularized interest in relative to this boards consideration of what is an accessory on farm business, what qualifies under that category of land use, and once that determination has been made how does the board manage and evaluate the intensity of the use. Grayck brought up wastewater, and to what extent do items served originate from the farm. Grayck believes he can provide information to the board, which will also be important moving forward for his clients as well. Grayck asked for two weeks to provide information on Act 143 and how it pertains to both his clients as well as the Peacefield LLC.

John Holland noted he was not seeking a variance in the Woodstock bylaws, and asked if site plan review is a relevant matter. John stated in section 809 regarding permitting and site plan approval, and there is a zoning bylaw restriction. He said to board there are two questions, is Peacefield a farm and if Peacefield is a farm, is it eligible for the benefits of subdivision 11 which is the accessory on farm business. John Holland stated they meet the minimum threshold rules, and the business operation is being dealt with by someone that as a lessee of the farm with day-to-day operational control. Grayck then brought up that he agrees with most of what was just said, in that there is a definition of farm, but it also in that sentence it talks about devoted primarily to farming, and its definition of farming, which is found in Act 250 which includes the on-site storage, preparation, and sale of agricultural products principally produced on the farm. Grayck states it's that definition in particular which his clients have a grave concern over, because conceptually the intent of the statute is to facilitate farms and the sale of their products in acknowledgement that they might not necessarily be able to produce everything that they serve as a meal, and while there is some flexibility for items served to be obtained off-site the intent of the legislation and he believes the incorporation of the word farming necessitates that the board make a factual analysis of whether the operations proposed under these provisions are engaged in on site storage, preparation and sale of agricultural products principally produced on the farm, and his goal is to offer this as an example of the analysis without advocating for a result specific to this application, but rather to ensure that the legal analysis which is being done incorporates the definition of farming that was just read.

John Holland replied that the defect in that analysis is that he is permitting this under 4412 subdivision 11 and under that farm is defined, and it is subject to RAP rules, so to be eligible to the benefits of the subdivision they are seeking are met under the RAP rules, and they meet the

minimum threshold of Vermont's agricultural practices 3.1 Grayck said he will provide the board with a written analysis and he appreciates the opportunity to give information.

John Holland asked if this matter is closing, Don Bourdon said he is suggesting a recess, and John asked if this would be within the 45 days period he is in or if he could get a timeline for a decision. John stated he needs clarification, as to when he can begin the storage and preparation of proteins, as this was not discussed, as there was more discussion on the bar.

Don Bourbon noted that this is a precedent setting decision for the town and the state, and the board wants to give it full and balanced review before making a definitive decision.

III. DELIBERATIONS

IV. Adjournment: Meeting adjourned at 10:45 PM