

MEMORIAL BUILDING

7:00 P.M.

1. Roll Call
2. Minutes of August 2, 2006
3. Literature and Correspondence
4. 7:00 P.M. This is a joint meeting with the ZBA and Planning Board
concerning a request by Allan and Marie MacDonald d.b.a. Highland
Timberframe, LLC for a Special Exception to the terms of Article III Section B 2 of the Springfield Zoning Ordinance. Applicant requesting a change of commercial use from automotive repair, "Metric Motors" to a carpentry business, "Highland Timberframe, LLC" and the addition of a home to the property.
5. Miscellaneous Business.

ALL MEETINGS ARE OPEN TO THE PUBLIC

BOARD OF ADJUSTMENT

September 6, 2006

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Present: ZBA Members: Bernard Manning, Chairman Cynthia Hayes, Mark O'Halloran, Andy D'Amico, and John Graham.

Absent: .Alternate Gene Hayes

Planning Board Members: Kevin Lee, Chairman, Linda Welch, Darrin Patten, and Ken Jacques, Andy D'Amico, and Alternate

Ken Rodgers

Selectmen Representative: Neal Huntoon.

The meeting was called to order at 7:10 P.M.

Minutes: Cynthia Hayes voted to accept the minutes as corrected for the May 3rd meeting and unanimously approved. The minutes for the August 2nd meeting were corrected noting that Alternate, Gene Hayes was absent, eliminate the "on" in sentence "themselves on the issues involved", inserting "they" in the sentence " then could be discussed", and on page 3 inserting "there would be" in the sentence of "that a 1 year lease for Steve Touchette". Cynthia requested that the minutes be accepted as changed and was unanimously approved.

MacDonald Special Exception: B. Manning explained that the purpose of this joint meeting was because of the request to grant a Special Exception to someone that does not yet own the property. B asked if Mr. MacDonald had power of authority from Mr. Touchette to request this Special Exception. B. Manning said that this application was not yet complete. B also told Mr. MacDonald that he needed notarized authority to continue. Mr. MacDonald said that Karen Hoglund would be arriving shortly with the documents needed.

B. explained that at the last ZBA meeting it was understood that the Planning Board was waiting for Special Exception to be accepted and then the

Planning Board would do a Site Plan Review.

B. then directed the meeting to Kevin Lee, the Chairman for the Planning Board, after explaining that the meeting will go back and forth between the two Boards depending on the various regulations involved in discussion.

Kevin Lee opened the meeting at 7:15 and turned the meeting back over to the ZBA and B. Manning to share the Zoning aspects of this Special Exception request and then B can turn it back over to Kevin Lee and the Planning Board for the Site Plan Review.

B. said that there were several issues that he needed to address prior to this joint meeting. At the last meeting the Board had discussed getting legal guidance. As Janet Roberts was not available, B. received permission and contacted the Town Counsel on staff at the Local Government Center addressing the future building of a house on this particular lot. B said that there were a couple of issues that need to be addressed. B. said that there were two schools of thought. One issue is the definition of "lot". The Town Ordinance states that it is "a parcel or tract of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum Zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required." Our Ordinance also allows an accessory use. The Town Council said that this could be an issue. Should Metric Motors build a house then there would be two primary uses on one lot. Town Council said that this could be a defensible position. The LGC said that by having a Special Exception in the Ordinance the Special Exception generally has greater impact than a Home Business or Home Occupation. This means that you may have a house and a Special Exception on that lot. One of the first issues to be brought to the

attention of the Planning Board is should the Special Exception come before the house. The Attorney at the LGC said that this was not an issue. The Town Council said that someone may argue the question of is there an issue on the building of a house. This is an issue that needs to be addressed with the Planning Board. Should a Special

Exception be issued before the building of the house? According to the LGC, this is not an issue. Dan Smith, Town Attorney, thinks that this is something to be considered. B. asked for comments from the Planning Board for their opinion. Cynthia asked if the Planning Board is aware that Mr. MacDonald does not want a Special Exception if he is not permitted to build a house.

Darrin said that in his opinion, that the primary use in zoning is that this lot is residential. This would mean that if a Special Exception should be granted that a house would be okay since the primary use of this property is for a house and not a business. Our Zoning has deemed this property as residential and a Special Exception is for the business. B. said that in the course of a day he spoke with two different Attorneys' at LGC and they expressed the same thought as Darrin had expressed.

Kevin Lee said that should the property owned by Steve Touchette have a house on the lot at this time, then applying for a Special Exception to later develop a business would not have been a problem.

The Zoning Board moved on to address the second issue. B. Said that a SE already exists. Does the new proposal have to be a stand alone SE that meets a new criteria or an existing SC with the ability to reduce impact. B said that both the Town Council and the LGC found this to be a defensible position and sound planning viewing the ZBA's attempt to address it as a reduction in impact rather than create a new SE.

Cynthia said that she also spoke with the LGC and they said this should be a new SE and not a reduced or lessening of the old SE. Cynthia believes that an assumption is being made that this SE will lessen the impact. B. said that when talking to the Attorneys they will not say yes or no, just that this is a defensible position to change the existing SE. The neighborhood has grown up with an existing Special Exception for a business. B. felt that answers may change with each different Attorney spoken to about these issues.

Ken Jacques asked how to look at this if there were increased impact and would they still consider altering the old or would create a totally new SE.

B. explained that at the previous meeting the Board thought the cleanest process would be to create a new Special Exception. The question posed to the board was a time frame for the existing Special Exception. B said that according to the RSA's that if substantial construction costs have been accrued and if no change within the Ordinances there is a four year time frame. Generally the Boards frame their wording to potential new construction not be started until the old or original has been terminated before a new SE can take its place. There can not be two Special Exceptions taking place. There is not to be concurrent use. All business at Metric Motor's will cease and all vehicles removed from the property before any other SE will be put in place.

Cynthia asked how new conditions can be created without the old SE discontinued. Kevin said that this would not be amending the old SE, but taking on a new use with lesser or greater impact than old use. Cynthia agreed, but she does not think it is clear as to it being a new SE replacing the standing SE. Andy said that this would be a new stand alone Special Exception.

Ken Jacques asked if this new Special Exception were a greater impact and not better how would this information affect the decision. Cynthia recommended that the MacDonald's convince the Board.

Karen Hoglund arrived with the documentation of authority for the MacDonalds.

B. turned the floor over to Allan MacDonald and asked if everyone had a copy of the proposal.

Proposal for 383 Hogg Hill Road

In our Purchase and Sales Agreement with Steve Touchette for the property that includes Metric Motors (parcel 039,171); we stipulated that we must be able to: 1. Build a home. And 2. Conduct a business in the present barn for the sale to go forward. We have approached the zoning and planning boards to assure that both will be possible.

The house we propose is a 1.5 story Cape with three doghouse dormers facing north and will be on a 40' X 40' foundation. The house will be connected to a 24' X 24' garage by a 10' X 15' mud room area. These new structures will be set at an angle from the barn, with a 4' gap between the garage and the barn. The house will be 26' high and the garage will be 24' high. The present bluestone driveway will be extended to accommodate backing out of the garage. The present electrical line to Metric Motors will be split into a separate meter next to the existing one on the southwest corner of the barn and then connected to the house at the electric company's discretion. The state approved septic system for a 4 bedroom house is drawn on the map. The proposed business is the making of

timber frames for structures such as garages, barns, sheds, small cabins, and additions. A timber frame is the most common alternative to constructing a structure's frame with 2X4's and nails. The basic building component is the timber. Timbers will be delivered (most often by Cote and Reney) already cut into rectangular solids and planed. The most common timbers will be 8' or 10' long and 6"X6" or 8"X8". On larger structures, there may be a few longer timbers, up to 24' in length (e.g. for a ridge line).

On site, we shall be designing and cutting the timbers so that they can be joined (joinery). This usually entails cutting a female end (mortise) on one timber and a male end (tenon) on another so that when they are joined and pegged; a very secure joint is formed that requires no nails. The tool we shall be using most of the time is a chisel. Occasionally, to speed up work, we'll be using electric tools. A chain mortise may be used to rough

out a mortise to speed up the chisel work. A timber saw (a large, sophisticated skill saw) may be used to make cuts in the timber ends to speed up the chiseling of tenons, and a band saw, may be used to make curved cuts (e.g. braces). The doors to the barn will be down when such power tools are used. We don't expect that the noise produced will be a problem for our neighbors. The close proximity of our home underscores our confidence. We estimate that somewhere between every 2 weeks to a month, Cote and Reney will either be dropping off a load of timbers or picking up finished timbers (and carrying further building materials) to take to a site. When timbers are dropped off, some will be put immediately into the barn while the rest will be piled behind the barn and tarped (where they will not be seen from the road) or on the second floor of the barn. To accommodate the former, we shall ask to have the existing propane tank moved to the northeast corner of the barn. We anticipate that there may be up to thirty or forty 8' and 10' timbers stored outside at a time. At a later time, we may build a 25' X 10' shed off the back side of the barn (see Map) again not visible from the road. To move timbers about the

property, we shall use either a timber cart or a hand (or electric) pallet truck. Steve Touchette has noted that trucks similar to Cote and Reney's delivery trucks have had no trouble negotiating the entrance and maneuvering in the driveway.

The residents of Hogg Hill will see a significant drop in traffic from the present Metric Motors. Client visits will not be frequent-meetings with them are as likely to be in their homes or at the site of assembly. The timber frame business will, in fact, generate less traffic than home businesses which already exist on Hogg Hill Road. It should be noted, however, that during the period of the construction of our home, there will be more traffic coming and going. It should also be noted that on the average of one out of every three weeks, there will be no business activity at the barn because we shall be at another site, assembling a frame and perhaps doing some finish work. The only chemicals used on site will be penofin, a semitransparent stain for timbers that is made from rosewood oil, and perhaps commercial stain for finish materials. These will be used only indoors. All appropriate precautions will be taken in their use and storage. If we put a sign on the road, it will certainly be no larger than the present Metric Motors sign, and will be similar in style. It's anticipated that we shall probably buy an 18' trailer-to be attached to a Tundra truck-so that we can move smaller loads to sites. It will be stored either on the road side of the barn or in the turnaround by the driveway entrance.

It is possible that we may offer a lease to Steve Touchette until April 1, 2007 so that he may have time to wind down his business and move out.

We understand that our request to put a business in a residential neighborhood has raised concerns among the neighbors and presented the Zoning and Planning Boards with some difficult decisions. We also understand what it means to be a good neighbor. We shall remain sensitive to the issues of appearance, noise, and traffic. After all, this will be our neighborhood as well

Allan stated that before his purchase of this property all requirements must be met, both the house and the business Special Exception. This will also include the rental agreement with Metric Motors to stay on site and operate until March 1, 2007.

B. asked if there were abutters that would speak in favor. Cynthia read letters from Mr. Trowbridge and Mr. and Mrs. White in favor. Abutters and neighbors, Jesse Levine and Jack McCarthy were in favor for same reasons as read in the letters. Cheryl Scherer will support this if there is less traffic on the road. Lisa Lamson supports the change. Ron Denman is in favor if the traffic is actually lessened, but is concerned about trucks. At this time, Ron Denman prefers

that this be returned to a residential only property with no business which would only allow a home business. Cody Scherer said that kids play on this road and can be seen walking. He said that if traffic is lessened then this may not be an issue. Cody asked if this property was originally purchased to build a home or create a business with hopes of getting a Special Exception. The Touchette's explained that they purchased this property as a lot next to their existing home and then applied for a SE for the business.

Pam Laurie asked for clarification, that if a SE was needed for a business, then does he need a SE to build a house with limited road frontage. B. explained that a variance to relax rules for use is based of relaxation of rules. The issue is that the lot was created and taxed with the accepted frontage and the lot is build able. Linda Welch said that this is a non-conforming lot of record and would not need a variance or a SE. Pam Laurie wanted to know what the criteria if any was needed to build a house. B. Said that it would need to meet the setback criteria. Jeff Haley reminded the Board that the 113 feet of road frontage was still in question. Jeff had hired a surveyor and this report should be available the first week in October and this may affect the proceedings on the property. B agreed

and that if a SE is granted that it may include language that reflects the 113 foot road frontage. B. said that further concerns may be a Civil issue. Cynthia asked B. should the ZBA grant this SE how road frontage issue could affect their decision and would there be 30 days to appeal.

Cody Scherer asked if there had been a house on this lot first, would a SE be required of a barn. B. said that would not be necessary as this was an accessory use building with three uses: as a barn, home business, or home occupation. B. said that a SE was needed for a business to address all concerns as noise, traffic, and dust or air quality.

Jesse Levine asked if the neighborhood would be better with this business as opposed to some other business that would create a greater impact. She also mentioned other businesses in the area ,a kennel, Casey Interiors, Denman plant business, LeVassor's painting, and NE Towing and Trucking, including the noisy Schwan's truck that was not a business within the neighborhood.

Jeff Haley is concerned about the industrial use of the property with potential for expansion. He expressed that he did not like the idea of piles of lumber. He purchased his house next to what he felt was a no impact area and that a timber frame business may grow and increase the impact of the neighborhood. Cynthia stated that a SE is given conditions that must be kept and any change would require a new SE. Allan MacDonald said that should his business increase in volume, he would sell and find more a more appropriate site.

Kevin Lee in looking over the proposal, and felt it met all of the conditions for a home business other than the floor area. The existing barn meets criteria without SE if it were a smaller building. B. said that he agreed that the area affected was the only problem. B. also indicated the growth of the business to include more employees or other changes would require a new application for a Special Exception.

Jeff Haley, as a direct abutter expressed continued concern about the traffic and future growth that may require extra storage. Allan said that there were two reasons why they chose this site. He wanted to assist his son in starting a business and he and his wife had health concerns that require first floor living quarters. Should the business grow, Allan does not want to see a lumber yard on his property nor does he see that this property could maintain the size equipment needed for expansion. This being, a new and different site would be needed.

Sue Ann Connary was concerned about her view assessment. When she purchased she was told that no buildings can be put up in certain areas. B. asked the PBA about the view easement. Linda Welch said that the line is maintained every 3 years. This view assessment is specific to lot # 3. B. explained to Mr. Touchette that a view easement stays with the property. Mark expressed that this area is currently thick with growth.

Kevin Lee asked if there were a storage shed built, as proposed by Allan MacDonald, where would it be placed. Allan said that it would be built towards the road.

Bill Castiglione was concerned about the types of vehicles that would be used on Hogg Hill for this business. He said that this road is currently a mess and what problems would these trucks have with questionable road conditions. Bill also wanted to know the route that would be taken by the Cote and Reney delivery trucks and would they be going up and down the steep hill. Allan said that it would be difficult to foresee what routes would be taken by another business and he would have no means to regulate their path.

It was asked what the Town of Springfield was going to pave Hogg Hill due to

its growth over the years and its present poor condition and Sunapee had paved their portion of the road. Janet said that the Town of Springfield had been working on it.

B. mentioned that the combined Boards had met on the site. B said that the delivery trucks may continue to Prospect Hill or return back to StoneyBrook Road. B said that the Town understands all of the concerns towards the size of the trucks and backing into the site could be an alternate process. Ron Denman said that there are new lots created and more houses under construction with new driveways being added increasing the traffic on that road.

Linda Welch asked about the size of the building currently on this property. Steve said it was 40 feet by 48 feet. B. said that for the size of this business and building a tractor trailer truck would be too big for the site. Cody Scherer said he felt with winter deliveries two times a month it might be very difficult for trucks to get up and down the steep hill. Steve Touchette said that he already receives deliveries from flat bed trucks. Steve also feels that the truck traffic will be much less with the Timberframe business. During the winter months, Steve receives large truck deliveries from Snap On Tools, battery deliveries and truck loads of tires. Steve said that a school bus is the same size of many delivery trucks.

B. asked the abutters and interested neighbors if they had any other questions. A concern was expressed about the hours of operations as they are currently 8AM. Cody Scherer said that the bus arrives between 6:55 AM and 7:15 AM and returns approximately 3 PM in the afternoon. Alan said that he could change the time to address traffic concerns for deliveries.

B. Manning explained to the room that the public hearing would be closing and discussion would be amongst the Board members. He asked for other

additional comments from the public. Jeff Haley said that he is not against the building of a home, but at this time it may not be an appropriate site for a business. Ron Denman agreed that a home only would be the preferred use and the business to be located elsewhere.

Allison Touchette said that they had purchased the property on Hogg Hill in 1997 or 1998 and were allowed a Special Exception at that time. Allison said that anyone that purchased homes or property and built homes after that date purchased with full knowledge of an existing business.

Allan asked if the Boards had any ideas as to where they stand in this process? B. said that if a Special Exception were granted, the ZBA would attach conditions, the PB would do a site plan review, then they could attach their own conditions as their board designates the details. B. explained that the ZBA deals with the general condition or the big picture and the Planning Board gets down to details. Allan asked if he was granted the Special Exception tonight and the PB continues the process, when would he learn of the conditions.

Jeff Haley asked if the decision would be made this evening. B. said that the public hearing will be closed in an attempt to clarify appropriate wording and the next step would be to review this with Town Counsel prior to the next PB. meeting.

Andy D'Amico said that it would be difficult to give an exact time frame. B said that forming and creating proper language was very important to take into consideration what was in the best interest for the all involved (Town, abutters, neighbors, Touchette's and MacDonald's).

Discussion then moved to the PB. Cynthia Hayes agreed with Kevin Lee. This

proposal was so close to a Home Business if only the garage were smaller. Since their son lived there, the size of the barn for the business would still be the only issue. Discussion followed as to the granting of a Special Exception that was so close to a Home Occupation or a Home Business, but size is not the only extenuating issue.

Mark believes that there would be a reduction in traffic and the site visit allowed the Board to visualize trucks smaller than a FedEx truck may easily enter the property once again assisting with the concept that this was so close to a Home Occupation or a Home Business and could quite possibly fall into the 35% criteria. B said that it seems that as presented this is an improvement to a scale down of a business that grew up in the neighborhood. John Graham said that

at the time the ZBA granted a SE for Metric Motors it was geared to address the needs of that particular business. He was not sure if a new business would go along with those specific lines. Once those guidelines are set forth, it is an item of trust that they be followed.

The joint Boards began to discuss the Zoning regulations for a Home Business. Kevin Lee noted that the 1000 square footage barn if 50% smaller would put this application in to the Home Business category. In reading the Home Business description, Kevin said that a Home Business or Home Occupation allows

more traffic than the amount the MacDonald's anticipate. Andy referred to a Special Exception applied for years ago that would be using logging trucks on 4A. This application and its impact is gentle by comparison, but there are still stipulations. This is a growing town with new regulations in place and enforceable. The courts want well written and defined foundations for these decisions.

B. said that if the ZBA were inclined to grant this SE, what conditions would be imposed. Andy and Cynthia said that the school bus hours should be considered providing hours of operation from 8-5PM. Allan said this was within reason. It was also discussed that the hours could begin a 7AM, but there would be no

deliveries before 8AM and this stipulation would be very explicit. Discussion followed about the various sizes of delivery trucks and how larger loads of timber could possibly be broken down using smaller trucks.

Allan was willing to accept stipulations regulating the size of delivery trucks. Cynthia expressed concern as

to intensity of restrictions to control a business the ZBA can put in place.

B said that the Board can limit delivery time and then there won't be such a concern over the size of the trucks. Andy said that the hours of operation could be stipulated and should there be a need to change these hours there would need to be a new application.

B asked if anyone has questions of the issue of noise or other concerns from the Board. Darrin suggested that they look at the flip side of this issue.

If Allan were to have a residential home, he could run equipment as any other homeowner. B brought up a forklift and Darrin asked what concern that had because he won't

have any employees so a backup beeper was not necessary.

The next issue was the number of employees and Allan said at this point there won't be, but understands that a change would need to be put in a new

SE. A list was created of concerns to be worked on: movement, noise, hours of operation, outside movement as opposed to the indoor work process, and equipment used outdoors.

Cynthia read from Allan's description of his business intent and operation information. B and Mark discussed the process of delivery and backing up

into the driveway and not in the street.

Cynthia asked if they should make a motion to grant this Special Exception.

Andy suggested that they make a list of concerns and proposals and present

to Town Counsel and wording is paramount to granting this Special Exception.

The Town Counsel may require a more legal document to cover the stipulations.

The Board made a motion to grant the SE with certain conditions to be listed

and given to Town Counsel to assist in verbiage and make this SE perfectly

clear. The ZBA decided on a meeting prior to the PB meeting and then the

PBA could complete the process. The Board discussed whether they should

define the stipulations first and then grant the SE or not grant the SE and

define. They discussed whether they should vote up or down.

The Board discussed the issues needed to grant the SE; the MacDonald's would

run and operate a timber frame business, the hours would be limited to the

hours of 7AM to 6 PM, there would be no outside lighting, and the tools will

be stored inside the barn with the doors closed during operation.

Cynthia

read the size description for the timbers from Allan's written proposal and

suggested that it be changed to state the size, but not limited to.

Andy

stated that if the MacDonald's intended to expand the site in any way they

would be required to submit application for a site plan review, but if done

inside the building they could be following the regulations for a Home Business. Andy referred to the Home Business description that if the size of

the barn were smaller it could be considered a Home Business or a Home Occupation. Cynthia read the description of both HB and HO line by line and

the MacDonalds proposal met all conditions except for the traffic restriction which the MacDonald's proposal reflects less traffic.

Darrin

questioned this Special Exception if this business equals that of the HB and

HO criteria except for area usage and this is a residential area and it also reduces the traffic concerns. Kevin said that it would be possible for one of the neighbors to have an existing HB with lesser conditions imposed on the MacDonalds. Cynthia said that the Board should not restrict the traffic as it would be less than the limit for a HB. B brought up the concern for the size of delivery trucks which seemed to leave an open door for tractor trailer trucks. Darrin said that there are tractor trailer trucks going through that road daily to accommodate the new construction in the area.

The Board said they should create the SE to a business. Cynthia suggested that the tractor trailer trucks should be limited to two deliveries a week.

B brought up the issue of outdoor storage and what kinds of limitations should be imposed. Darrin questioned the limitation of two deliveries and if there was a way to off load timbers at another location if volume of storage was an issue. B said that this could quite possibly mean that the business was larger than the original conceived notion and that was not the impression made for this small scale operation. B said that the MacDonalds would have an obligation to their neighbors to keep this a small business.

B said that he was in favor of granting a Special Exceptions, but if this was not agreeable at this time the only thing that could be done would be to consider it as a Home Business taking into consideration that it does not meet with conditions g. and h. (g. The area within the structure(s) used by a home business shall not exceed 35% of the total finished floor area of the dwelling unit or a maximum of 1,000 square feet, which ever is less. h. a home business shall not be permitted out-of-doors on property. There shall be no outside operations, storage or display materials or products.) B referred to the MacDonald's proposal and based on the description of HB this

SE should be granted and changes should go to the PBA and should this business become larger than anticipated the MacDonald's will have to apply for an amended SE.

Cynthia made a motion to grant the Special Exception to the MacDonald's to operate a timber frame business as posed with the given criteria to a HB with exceptions of "g" and "h". to be determined by the Planning Board. The Board discussed that the Town Counsel will be contacted to make the language clear as to when one SE ends and a new one starts. The Board also stated that if the restrictions are more restrictive than those for a HB then the HB restrictions will apply. The Board voted with four in favor and one opposing.

B offered to speak to the Town Counsel. Janet Roberts suggested that they follow the guidelines based of the letter of proposal from the MacDonald's. Janet Roberts and B will meet and prepare information for the attorney. The Board discussed a continuance to review after speaking with Town Counsel. The Boards made a motion to continue the hearing to September 21, 2006 at 6:30 PM.

The meeting was turned over to the Planning Board.

B thanked the members of both Boards for attending this meeting.

With no further business, the Board voted to adjourn at 9:30 P.M.

Respectfully Submitted,

Randie Lee Peterson

Assisting Recording Secretary.