

PLANNING BOARD

OCTOBER 15, 2009

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: Chairman Kevin Lee, Ken Jacques, Darrin Patten, Michael Howard, Peter Keene and Selectman's Representative Donald Hill.

Also in attendance: John Chiarella, John Trachy and Cynthia Hayes.

Minutes of September 17, 2009. Based on Pierre Bedard's comments regarding the August Minutes, Ken Jacques commented that the Board needs to be sure the minutes accurately reflect and clarify what the Planning Board is requesting in respect to Star Lake Road and access to the lots that are being proposed. Ken then moved to approve the September 17, 2009 minutes as written, seconded by Peter and unanimously approved.

Literature and Correspondence: Kevin shared literature that had been received. "Planning for a Successful Town Meeting" and Lake Sunapee Protective Association Watershed Infrastructure Project meeting to be held on October 28, 2009 in Newbury.

Cynthia Hayes presented the Board with information from Paul Sanderson, an attorney at the Local Government Center regarding compliance recommendations for Planning and Zoning based on a conversation she had with him regarding recent applications. (See attached). The Board spent a great deal of time discussing existing Special Exceptions and Site Plans, and how best to proceed with future applications in light of the information presented by Cynthia.

G.H. Evarts – Continued Public Hearing regarding the request by G.H. Evarts for Site Plan Review. The Zoning Board has continued the Special Exception Hearing to Tuesday, October 20 for deliberations and decision. Ken moved to continue the G.H. Evarts Site Plan Review Hearing to November 19, 2009 at 7:15 p.m.

RSM @ Camp Sunapee – Continued Public Hearing regarding the request for Site Plan Approval. Kevin opened the hearing at 7:30 p.m. Mr. & Mrs. Rifkin were present. Also present were John Chiarella, Cynthia Bruss, Cynthia Hayes, John Trachy and Brandt & Donna Denniston. Mrs. Rifkin, as requested by the Planning Board, presented a color-coded plan that shows what exists and what they are proposing to add. The Board discussed, in light of Cynthia's letter, if the use is expanding or by the addition of the buildings are the Rifkin's simply making it easier to use the property based on the use that was in existence prior to zoning. Kevin questioned if there would be any staff added. Mrs. Rifkin stated they are still serving the same number of people; they are not adding campers or staff. She stated that they have complied with what has been asked of them. She questioned the basis of new requests. Kevin reported that the Planning Board has received a letter from the Zoning Board Chair regarding a legal opinion from an attorney that provides legal opinions to municipalities indicating certain instances that may require amending or obtaining Special Exception approval.

The Planning Board is trying to determine whether the Rifkin's request requires them to apply for a Special Exception. Kevin read the legal opinion (see attached). A copy was given to the Rifkin's. Kevin explained the Planning Board needs to review the definition of expansion in light of the Rifkin's application. The Board spent a great deal of time discussing their understanding of the regulations and the attorney's opinion. The Board felt that expansion or addition of buildings is not necessarily changing the use. The Rifkin's are making improvements to existing facilities. They are upgrading accommodations for staff and campers and questioned if adding a building to a non-conforming pre-existing business automatically triggered a trip to the ZBA. Kevin stated perhaps since the whole town is within the residential zone, that an expansion of a commercial use within a residential zone would be considered an expansion of use. Mike stated perhaps a pre-existing use should be required to go before the ZBA when an expansion is proposed, to establish a baseline of what exists and what is being proposed. Kevin reviewed statutory provisions for Site Plan Review. Darrin felt a Special Exception deals with the use of the property. The Planning Board would deal with details of how the land gets used during the Site Plan Review process. Cynthia stated she disagreed. Special Exception decisions are based on things that are going to be there, such as buildings, traffic etc. The fine details are then passed on to the Planning Board through Site Plan Review.

Victor stated they have presented the information requested by the Planning Board. The plan indicates the number and location of buildings, cabins, the number of campers and staff. Previous to their purchase of the property, the camp was allowed to run down and buildings and septic were shut down by the State as they were unsafe. The Rifkin's have been working toward meeting State requirements through upgrades and renovations to the existing camp. They have not increased or changed the use of the property. The existing buildings do not meet their needs. The old farmhouse has been converted into space for camper activities due structural problems with the existing barn. A year-round maintenance person is needed to maintain the property. In order to attract an individual for that type of position, they have found they will need to provide year-round housing. Currently, the Rifkin's use the chalet for an office and for their own personal dwelling. Their proposal includes building a new 3-bedroom residential structure for their own residence which will also serve as the camp office. The chalet would become the residence for the maintenance person. They want to continue to run the camp as is, they are not expanding the camp. They are making necessary improvements so they can continue the camp, and satisfy State requirements.

Kevin reviewed the terms of Article III, Section 3.12 of the zoning ordinance for uses permitted by special exception. In light of that, he feels the Planning Board deals with the issues of where the building goes on the site, not the ZBA. Kevin also reviewed Article VII and Article XI and explained general conditions of findings required to grant Special Exceptions. Kevin explained to the Rifkin's that the Zoning Board's responsibility is to review the requirements for a special exception. The things that the Planning Board has asked for and which the Rifkin's have provided, would be required by the Zoning Board for a Special Exception as well. Kevin asked Board members to review the requirements and determine if this needs to be forwarded to Zoning

Darrin says this is an area that is easily arguable. The LGC attorney says they are expanding the use and expanding the scope of what they are doing. The Rifkin's say they are not expanding the business and they are not expanding the scope of it.

Mrs. Rifkin stated she feels the use of the camp as a business has decreased, and their personal use has increased. She reviewed with the board the schedule for camping. She voiced her concern regarding a conflict of interest, as the camp's neighbor is the head of Zoning and is opposed to their camp. Kevin explained to the Rifkin's that if an application were to be made to Zoning, Cynthia would have to recuse herself from ruling on any decision regarding this issue.

Cynthia asked to make it clear that she has warm feelings for having a camp there; it has been there all her life. She has nothing against the camp or the Rifkin's. This is not a personal thing. Her vision of what the expansion is that all the years before the Rifkin's owned the property, it was a camp that held 60-65 campers, now there are 135, which she feels is an expansion requiring more buildings. In the past, 60 would come for 4 weeks and leave, and then 60 more come for 4 weeks. Currently, more campers are there at once, but stay for a shorter period of time. Over time, the facilities have been improved and added to, so the camp has expanded and doubled in size.

Darrin explained to the Rifkin's that Zoning cannot tell them they cannot continue what they are currently doing. If it went to Zoning it would be because of the expansion, determined by the addition of the proposed buildings.

Don explained the Planning Board has been going through this process with the Rifkin's to try to establish a baseline for future reference. The baseline is the number of campers and staff, the number of buildings, and existing conditions. In the past, the Board has not had the benefit of a plan with information as in-depth as presented this evening.

Cynthia felt Zoning would ask for a baseline. They would ask for what the property is going to be used for. From then on, any changes, unless noted in the conditions of decision, would have to go back to zoning for amendment. Once there is a baseline, the process would get turned over to Planning for them to fine tune the details. The Special Exception would determine the existing size of the camp and any proposed plans further expansion. Cynthia stated she felt that based on what the Planning Board says they have in front of them tonight, the Zoning Board probably would not need anything further for their review process.

Mrs. Rifkin questioned what would happen if she didn't add anything and simply just walked away from the process. The Board stated she would have to remove the three new cabins, the driveway issue would have to be resolved and they would have to stop going forward with planned expansion. Ken stated he felt the Rifkin's are in view of the finish line and are really close to completing this process. The Board agreed that no one wants to stop their progress. The Board stressed that the letter from the LGC attorney did not come up just because of this situation; there were other situations that were addressed in the letter as well. Kevin stated the

Board needs to make sure they protect future interests and be fair throughout the Town. The letter was to help determine jurisdictional boundaries between Planning and Zoning.

Kevin questioned how the Board felt with expediting a joint meeting with ZBA to expedite the process for the Rifkin's. Darrin stated he felt the Rifkin's have been working many months toward satisfying the requirements the Planning Board has set. Now they are being caught up in this process that has just come to the Board's attention. He felt they should be allowed to finish this process, without being held up with Zoning. He felt the Planning Board should deal with without involving this applicant since he felt it is not fair for the Board to involve the Rifkin's in this process. Kevin stated he was concerned with future legal problems. Mike stated this process came about because the Rifkin's had started adding buildings without coming to the Town. To some extent they have put themselves in this position. Based on the legal opinion, he feels they should have to proceed with Zoning. He stated that their existing business cannot be shut down, they do not have to walk away from their proposed plans, but they should go through the process. Kevin asked for the Board's feelings. Peter agreed that they should go to the ZBA. Don agreed it would be in the Rifkin's best interest. Darrin and Ken felt they did not need to go before the ZBA since they have done what has been asked of them.

Kevin explained to the Rifkin's the Planning Board had thought because the use was not changing that they were in the right place. Now the Board, based on new information they received this evening, has determined the Rifkin's need to go before zoning. Kevin explained the zoning application process and the Planning Board's desire to expedite the process by holding a joint meeting between Planning and Zoning.

Don moved to schedule a joint session between Zoning and Planning, to address issue and expedite the Special Exception and Site Plan. The motion was seconded by Mike. Three members voted in favor of the motion. Darrin and Ken were opposed. The Board voted to continue the Site Plan Review Hearing and to hold a joint meeting with the Zoning Board on Tuesday, November 3, at 7:15 p.m.

Star Lake Farms: At 8:40 p.m. Kevin opened the continued public hearing for the Star Lake Farm West Pastures Subdivision. Present: Todd Richardson and Pierre Bedard. Pierre presented road plans. Kevin asked Pierre whether the road plans were showing the travelled way or ditch to ditch. Pierre stated they showed the travelled way. Todd questioned how the Board considered travelled way. Todd stated he could travel the full length of the road without being in the ditch, is that what the Board considered the travelled way. Darrin stated the travelled way should be available 365 days of the year. The concern would be in the spring when frost is coming out of the ground. Pierre reviewed sight distance and the proposal of an additional turn out on the hill. Ken suggested selective cutting between the stone wall and the road would improve the line of sight coming down the hill as you approach the curve. Todd questioned if this is a line of sight issue or a road issue. Todd opined that Star Lake has been clear from the beginning regarding the limitations of the road. The reasons for the pull outs were to accommodate the limitations on the width of the road. He would like an answer on where the

Board is going with this requirement. Darrin stated the line of site issue and the road are not two separate issues as the line of site is needed to know whether to use the pull out or to keep going. The reason for doing pull outs and to increase the line of site is to keep the road requirements to a minimum so construction costs do not become unreasonable. The two issues go hand and hand.

Pierre reported for the line of site issues on the steep part of the hill, they are proposing a pull out just above it. Removing some trees would improve the line of sight and the pullout would resolve a lot of the issue there. Todd questioned if they increased the line of sight and had adequate number of pullout areas, where would that leave Star Lake with road width requirements. His understanding was the requirement was 16 feet where possible. Todd questioned what the criteria was and who would determine where they can do 16 feet. Star Lake is at a balance where they are trying not to affect the aesthetics and trying not to run the cost of the road project to an unreasonable amount. The Board agreed to review the road again. Ken, Mike and Darrin agreed to make a site visit to walk the roads with Pierre and Todd, and will define what they advise be done. The information would then be transferred to the subdivision plan. The site walk will take place Sunday, October 18, at 9:00 a.m.

The other item in question is the easements. Don reported at the presentation last night, the Selectmen agreed to minimize the expense to the Town, concerns should be forwarded to Star Lake for their legal counsel to address, and meet with the Selectmen prior to involving town counsel.

John questioned if there were any isolated properties within the area of abandoned roads that would burden a landowner by creating a land-locked parcel. Todd stated his attorney would like to create a homeowner's association for the road, granting each owner access rights. Pierre stated other abutters within the area of the discontinued roads have signed off since their road frontage and access is provided off other roads (Class V). Star Lake is the only other property owner in the area where roads that provide frontage and access are being discontinued.

John Chiarella stated he had a list prepared of what he saw were Town concerns in discontinuing the roads. He will provide a list for Todd to review with their attorney. He also discussed other items he feel needs to be addressed before he, as a Selectman, would feel comfortable signing off on this proposal. He felt the draft easement needed to be amended to be sure the documentation is such that it can carry on in perpetuity with these easements. Including the easement created with Ausbon Sargent into the agreement with the Town and knowing how they are going to act together is important. He questioned if the agreement with the town should be written to incorporate things that are referenced in the conservation easement.

In reviewing the wording of the proposed easement:

Kevin feels # 2. A. needs to provide for emergency vehicle access.

#2. B. "*access to any residences now existing or hereafter built*" needs to be tightened up to say existing residences or the 4 future residences that may be built. Todd suggested that the easement could reference the plan being proposed.

Mike questioned # 5. *“This Easement and its terms and conditions may not be terminated, modified, or amended without a writing signed by all parties.”* He questioned if this meant this would need to go to Town meeting. John stated he felt this or any changes to this or the Conservation Easement would have to go before the voters, since it is possible for easements to be amended. # 6. *“The Grantor shall be permitted to bar those residents and their guests and invitees from the Easement Premises in the event of a violation of these terms”* He questioned how should this be construed, he wants to be sure it is not construed as a blanket removal of all parties and be sure that it means that only violators or offending parties be removed. This will be an issue for legal counsel to review.

The Planning Board and Selectmen will need to address these concerns with legal counsel. John will e-mail a copy of his list to Todd.

Pierre stated if the Planning Board felt all the conditions of Planning were met and the Board addressed the road issues, then the last remaining step appears to be the vote at Town Meeting to discontinue the roads. He questioned if the Board would be in a position to give a conditional approval pending the town meeting vote to discontinue the roads. Todd indicated Star Lake needs to have some commitment from the Planning Board since there is a lot that the Selectmen need to deal with to move this process forward in a timely manner. The Board agreed they could grant conditional approval contingent on Town meeting vote to discontinue the roads, making these private roads. Darrin stated the layout of the road would need to be delineated. Ken stated he not feel there was a lot of work left to be done, other than the layout of the road. Once the road issue is resolved, conditions could be placed pending the town vote, and the work being completed. The Board will review the updated road plans at their next meeting.

Darrin moved to continue the hearing to November 3, 2009 at 7:45 p.m., seconded by Ken and unanimously approved.

Piper Pond Camp – Lot Line Adjustment. Present: Doug Sweet, from Bristol, Sweet & Associates. Kevin opened the public hearing at 9:05 p.m. Doug reported this is a reconfiguration of 5 deeded tracts of land in Wilmot. One tract, 89 acres runs along the Springfield/Wilmot Town Line with 16 acres in Springfield. The acres in Springfield are entirely surrounded by the Gile Forest. The Wilmot Planning Board has approved the subdivision and signed the mylar. The Board reviewed the checklist. A motion was made by Darrin to accept the application and approve the subdivision, seconded by Peter and unanimously approved. The mylar and paper copies were signed.

Exit 12A Self-Storage – Amended Site Plan Review: Present: Pierre Bedard, Surveyor and Property Owner, Neil Cobb. The public hearing was opened. The Board reviewed the letter from Cynthia Hayes and discussed whether this application required an amended Special Exception. Darrin stated the businesses in that area were given a blanket zoning approval for commercial/light industrial use at the time the lots were subdivided to allow for these types of businesses. Ken reported that none of the businesses have had to come back for amended Special

Exception for building or expansion of these businesses.

Pierre reviewed the proposal. Exit 12A Self Storage is looking to add a boat service and repair building on the site. The location of the proposed building is behind the existing approved boat and trailer storage area. The road has been increased to 16' wide going to the proposed building site. The Board discussed their concern that a previously approved site plan showed proposed future storage buildings. This new plan did not show them. Kevin stated that this amended plan should show what was approved previously since this new plan would supersede any previous approval. If those previously approved buildings are not shown on this plan, Neil would have to come back to the Board if he wanted to build more storage buildings unless they were shown on the new plan being presented. Pierre explained the proposed building is to be 22' high with a pitched roof. Exterior lighting will be downward facing. Interior floor drains will drain to a 1,000 gallon holding tank. The parking area will be gravel. There is a proposed leachfield for the building. The well is shown on the plan. There are two proposed parking spaces.

Neil stated they plan to add a 4 x 4 sign to the existing post of Exit 12A Self-Storage. Hours of operation were discussed. Neil indicated business traffic would be similar to that of Auto Advisors, with the exception of some weekend traffic based on the recreational use of the boats on the weekends during the summer. Kevin questioned whether there needed to be a STOP sign where the access road meets the entrance for Auto Advisors. Neil reported the existing electronic gate provides for natural slowing of the traffic in that area before the gate opens. Wetland areas were discussed and are not an issue. Pierre indicated the drainage areas shown are adequate to handle drainage issues.

Kevin reviewed the Site Plan Checklist.

1. Neil stated they would have the capacity to service two boats at a time.
2. Existing buffers and screening will remain.
3. Two exterior lights will be added and will be downward facing.
4. The sign will be attached to the same post as the existing 12A Self Storage sign.
5. Snow removal areas are shown on the plan.
6. Culverts are of adequate size. The only addition of impervious nature will be the new building.
7. Additional average vehicle traffic per day should be calculate and included on the plan.
8. Hours of operation were discussed and should be noted on the Site Plan. Neil proposes hours of operation to be 8-5 Monday, through Sunday He would like to have the option of servicing boats on Sundays.
9. Neil hasn't decided what type of building he will be constructing. The Board stated they would need to see what the building will look like.
10. Neil anticipates having 2 employees. The Board stated this should be included on the plan as well as showing area for employee parking.
11. The Board noted that all the conditions and notations included on the previously approved Site Plan should be carried forward and included as part of this new plan.

John Trachy asked if the Board had seen a copy of the existing Special Exception for this property, and questioned if the Special Exception should be looked at for this case. Kevin stated the Special Exception has been looked at in the past and it was created with the intent for commercial/light industrial use in that area. It was granted when the lots were subdivided. This has been reviewed in the past and has carried forward when other proposals for this area have come before the Planning Board.

Ken moved to continue the Site Plan Review Hearing, to November 19, 2009 @ 7:45 p.m., seconded by Don and unanimously approved by the Board. Don since the proposed plan will supersede any previous one, everything from before needs to be transferred to this proposal. He suggested Neill bring the previous site plan for the Board to use for comparison.

Nemcovich/Costello Lot Line Adjustment for property located on Meadowbrook Road. The hearing was opened at 9:40 p.m. Present: Ken Nemcovich and his attorney Tim Britain, and Robert Costello and his attorney Jason Crance. Tim Britain explained there is a long history involving Meadowbrook Road and he provided a lot of information with the application to give the Board background to support this proposal. The annexation is being done to resolve a boundary line dispute, with litigation pending in Sullivan County Superior Court, in which the Town of Springfield has been named as a party to the lawsuit. To resolve the case they are proposing clarifying the boundary line between Mr. Costello and the Nemcovich's and annexing a small piece of property on the north side of Meadowbrook Road to property now owned by Mr. & Mrs. Nemcovich. The triangle area of property in question appears to be a remnant of a piece of property that was approved by the Planning Board for subdivision in the late 1980's. A five lot subdivision was created by Barry Dashner, and Meadowbrook Road was created and ended with a turn around that butted up against land formerly owned by Reney's, now owned by the Nemcovich's. The triangular remnant appears to be undesignated. The proposal is to annex that area to the Nemcovich property and to clarify the boundary line between the two properties, as well as to provide some definition to the turn-around area at the end of the Meadowbrook Road, making sure that all meets and bounds are there, and making it clear that the line of the turn-around runs up to the Nemcovich property and coincides with the creation of Lot 6 which was the subject of a later subdivision back in 1987 done by a Mr. Erickson.

The existing woods road showing access at the end of the turn-around would be discontinued. Mr. Nemcovich has filed an application to relocate the driveway access to come in through the triangular parcel and would be opposite the gravel drive that provides access to Lot 5. The driveway permit will be reviewed by the Road Agent once the frontage issues are clarified. Tom Dombroski will be adding the driveway location to the Mylar. Kevin questioned if there would be frontage for Mr. Costello's property. Bob reported his understanding based on the recent court hearing is because his property is located on the town turn-around; he didn't need to have to start with 200 feet of frontage if he wants to do something to his later on. He is giving up the 200 feet of frontage to settle the dispute.

The Board did not feel they had issues with the property line adjustment as proposed as long as the property owners were in agreement. Mr. Britain reviewed a sketch of where the driveway would be located. Brad has not given an approval on the driveway location, pending the

Planning Board's findings. Mr. Britain reported, Tom Dombroski, Surveyor chose the driveway location in an area that is very flat and with good site distance. Darrin stated Brad was not able to attend this meeting, but has spoken to him about concerns he has with the angle of the entrance coming onto Meadowbrook Road. He would like to keep the angle of the entrance as close to 90 degrees as possible so traffic will have to stop and look before entering the road.

The Board discussed two areas where the Town road has been built outside the road layout and easement area. The Planning Board agreed they would like to have an easement given to clarify the existing encroachment of Meadowbrook Road so there wouldn't be issues in the future.

The Board was in agreement conditional approval could be granted pending the following conditions.

1. Driveway permit needs to be obtained, as per the recommendation and approval of the Road Agent.
2. The driveway location needs to be shown on the Plat.
3. An easement be obtained for the encroachment of Meadowbrook Road onto the triangular property being annexed to Nemcovich.

Ken moved to approve the property line adjustment, pending completion of the above conditions. The motion was seconded by Peter and unanimously approved.

Kendall: Kevin read Pierre Bedard's findings regarding adding a second residence to the property owned by Ted Kendall on Shad Hill Road. The Board expressed their sorrow in the recent accidental death of Mr. Kendall.

The Board voted to adjourn at 10:05 p.m.

Respectfully Submitted,

Janet Roberts,
Recording Secretary