

**SWANZEY PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT JOINT MEETING
DECEMBER 10, 2009**

Minutes are not final until reviewed and approved by the Boards. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Boards.

ATTENDANCE

Planning Board members Glenn Page, Scott Self, June Fuerderer, Steve Russell (arrived at 7:13), Jeanne Thieme, Deb Davis (Selectmen's Representative), alternate David Osgood.

Zoning Board members Bill Hutwelker, Keith Thibault, Jerry Walker; alternate Marty Geheran. Town Planner Sara Carbonneau and Code Enforcement Officer Weston also were present.

Planning Board Chairman Page called the meeting to order at 7:00 p.m. and read the agenda for the meeting. The Boards addressed the following items.

1. (PUBLIC HEARING) REQUEST FOR RECONSIDERATION

Applicant: David and Janet Roy

Property owner: David and Janet Roy

Property location: 49 Spring Street Tax Map 57, Lot 72

Zoning District(s): Business District, Residence District

Request: Reconsideration of a condition imposed at the September 18, 2006 meeting of the Zoning Board of Adjustment (specifically, that “. . .a vegetative buffer be planted to screen the business use from the residential uses, specifically with evergreens being planted between the shed to the south side of the gate . . .”) and a condition imposed at the September 12, 2007 meeting of the Planning Board (specifically, that “. . . a vegetative buffer of evergreens shall be planted between the shed to the south side of the gate . . .”).

Page opened the public hearing at 7:09.

Members seated: Planning Board members Page, Fuerderer, Russell, Thieme, Davis; alternate Osgood was seated for Goller. Abutter Self recused himself, and stepped away from the table. ZBA members Hutwelker, Thibault, Walker; Marty Geheran was seated for Beauregard.

Representing the application: David Roy, attorney Jeremy Hockensmith

Abutters/neighbors/interested parties present: Timothy Proulx, Frank Proulx, Jeremy Roy, Jeff Sevene, Gail Davis, Mark Desilets

DISCUSSION

After reviewing the location of the Residential and Business zoning districts on the property, and prior ZBA and Planning Board decisions relative to residential and business uses, Hockensmith stated that his client had been in

support of screening neighborhood residences from the noise and dust of his sawmill. Hockensmith said that Roy delayed planting a vegetative buffer in 2007 due to uncertainty about the future of the sawmill. When Roy dismantled the sawmill in 2008, Hockensmith said that Roy thought his responsibility for screening the sawmill also was eliminated.

Hockensmith presented photographs depicting former and current conditions of the rear portion (Business District) of the property, including existing vegetation that, according to Hockensmith, obscures visibility of the rear of the parcel. Hockensmith stated that current use of this portion of the property is limited to equipment storage, earth materials storage, and (infrequent) parking of a logging truck and skidder. Hockensmith stated that Roy has no plans to re-install the sawmill, and now limits on-site processing of firewood to that needed for his personal use. Hockensmith said that the removal of the sawmill also reduced any public benefit of installing screening, especially relative to Roy's bonded cost of \$2000. Hockensmith asked the Boards to amend the requirement for screening because the sawmill had been discontinued.

To prepare for the possibility that Roy might ever undertake a potentially offensive business use in the rear of the property, Hockensmith said, Roy would entertain a condition of approval that screening would be required at that point. Should the Boards require screening, Hockensmith requested that the request be specific as to type, size, and exact location of plantings.

Davis stated that, from her property, she has a clear view of the box truck parked at the rear of Roy's property. She stated that a logging truck had been parked on the Roy property "virtually every day" until three weeks ago. She stated that third parties had parked commercial vehicles on the property during the summer. Davis stated that appraiser Sean Green had advised her that business uses of the Roy property adversely impact the marketability of her property. Davis said that vehicles that cross the sidewalk to access the rear of the property damage the sidewalk, at taxpayer expense, and create a public safety hazard.

Desilets said that Roy now owns a large truck that jumps the sidewalk every time he pulls in or out of the property.

Hockensmith and Roy stated that the sawmill was removed from the site in January 2008. Members of the Boards and Roy discussed the date of removal of the sawmill. Minutes of the Zoning Board site visit of August 14, 2006 indicate that the sawmill was present on that date. Planning Board minutes of the July 19, 2007 meeting show Roy noting "that the sawmill that was originally shown on the site plan is no longer there;" minutes of August 12, 2007 indicate that the sawmill was absent. Page stated that it was his recollection that the sawmill was not in evidence during the Planning Board's August 17, 2007 site visit. Hutwelker noted that the Boards' conditions of approval called for vegetative screening, regardless of the presence of the sawmill. Hutwelker asked Roy to clarify why, if his discontinued use of the sawmill in 2007 eliminated the need for screening, he had not challenged the Planning Board's requirement for a vegetative buffer at that point.

To address Hockensmith's assertion that the specified location for planting the buffer is nebulous, Hockensmith and members reviewed the location of the

boundary between the Business and Residence districts on the site plan submitted with Roy application to the Planning Board (reviewed at the September 6, 2007 meeting). Hutwelker observed that the Zoning Board was charged with deciding whether the buffer still is required, and the Planning Board is charged with deciding where the buffer will be located.

Roy stated that he no longer owns the sawmill, so it will never be coming back. Roy stated that “all [he is] doing is parking trucks.”

Those present discussed an opinion prepared by attorney Silas Little. Carbonneau advised members that people can petition boards to modify conditions of prior approval, and boards can hear such requests so long as the hearings are duly noticed. She stated that all abutters received notice of the public hearing, which also was posted in the newspaper and three public locations.

Page determined that there were no further comments or questions, and closed the public hearing at 7:36. Page turned over the public meeting to Hutwelker.

ZBA DELIBERATION

Hutwelker moderated discussion among ZBA members, who agreed that the vegetated buffer was required for visual screening between abutting business and residential uses, and not to abate noise. Members agreed that the residence use and business use (the logging business) continue, and referenced Section V.B.4. of the zoning ordinance.

Motion by Thibault to deny the request for modification of the condition of approval calling for a vegetated buffer. Second by Walker. All in favor.

PLANNING BOARD DELIBERATION

Page stated that ZBA denial made Planning Board deliberation a moot issue. In response to Hockensmith’s earlier request for more specificity, Page stated that two alternating rows of 8’ white pine and black hemlock trees create an acceptable buffer. Page noted that the original goal of the buffer was to screen 100 cords of firewood; Roy’s business could easily include storing log lengths on the property. Page advised Roy to locate the plantings along the boundary between the Residence and Business zoning districts.

Roy stated that he wants to plant a hedge of his choice, and will not post a bond. He stated that he will agree to locate the plantings within a defined space. Roy stated that he now is “just parking trucks.”

Roy angrily stated that “it’s my property, and I’m not planting a [expletive] hedge.” Hearing more inappropriate language, Page advised Roy to leave the meeting. D. Roy, J. Roy, T. Proulx, F. Proulx, Sevene and Hockensmith left the meeting at 7:48.

Self returned to the table, and members began consideration of the next agenda item. At 8:03, Self recused himself and left the table.

Motion by Osgood to deny the request for modification of the condition of approval calling for a vegetated buffer. Second by Russell. All in favor.

Self returned to the table.

2. (PUBLIC HEARING) REQUEST FOR RECONSIDERATION

Applicant: John Arnone

Property owner: City of Keene

Property location: 471 Old Homestead Highway Tax Map 34, Lot 32

Zoning District(s): Business District

Request: Reconsideration of a condition imposed at the June 21, 2004 meeting of the Zoning Board of Adjustment (specifically, that “the four parking spaces situated in front of the former Alps Restaurant building as presently shown on the plans will be eliminated,” “curbing or flagging or other signage will be installed in front of the former Alps Restaurant building to prohibit parking in that location” and that “the four parking spaces situated to the north side of the former Alps Restaurant building will be clearly marked for take-out parking only—limit 15 minutes”) and a condition imposed at the July 1, 2004 meeting of the Planning Board (specifically, that “the four parking spaces in front of the former Alps Restaurant, as shown on the plans, will be removed from the plans”).

Page opened the public hearing at 7:49.

Members seated: Planning Board members Page, Fuerderer, Russell, Thieme, Davis; alternate Osgood was seated for Goller. ZBA members Hutwelker, Thibault, Walker; alternate Marty Geheran was seated for Beauregard.

Representing the application: John Arnone

Abutters present: none

DISCUSSION

Arnone presented a drawing of the proposed parking lot layout, indicating space for 15 cars and a handicapped-accessible parking space. Arnone stated that he seeks to re-establish the parking pattern of the former Alps Restaurant.

Members noted that Arnone originally was denied parking in the upper area to prevent an unsafe combination of vehicular traffic and foot traffic related to the take-out ice cream window. In the interim, the site has been redesigned so that access to amusements and take-out food occurs at the lower level of the site; a long ramp for walking to the upper level separates people from vehicles.

Members discussed how to keep vehicles from parking in the grassed State area without obscuring sight distance. Weston stated that he sees no issues with the proposed parking. Members discussed adequacy of size of the spaces (20’ long) and navigation area (18’ wide), and recommended using 2’ of the grassed area to increase the distance between rows of parked cars. Members noted that the lower parking area--maintained for use year-round—provides abundant overflow space.

Page determined that there were no further questions, and closed the public hearing at 7:59.

ZBA DELIBERATION

Hutwelker determined that ZBA members had no further questions or comments.

Motion by Walker to approve the change in parking as submitted. Second by Geheran. All in favor.

PLANNING BOARD DELIBERATION

Self recommended using 2' of the grassed area for parking lot circulation, reducing the grassed area to 8' in width. Page determined that Planning Board members had no further questions or comments.

Motion by Russell to approve the change in parking, and to approve use of 2' of the grassed area to improve parking lot circulation. Second by Fuerderer. All in favor.

3. OTHER BUSINESS: PLANNING BOARD

Jeff Sevene--Update regarding conditions of approval

Carbonneau reported that she has sent letters and left messages requesting submission of the final survey mylar. Members recommended that Carbonneau copy the surveyor on another request to Seve, and send to the Registry of Deeds the decision of notice, without tying it to the plan.

Minutes from November 12, 2009

Motion by Fuerderer to approve the minutes of November 12, 2009 meeting. Second by Thieme. All in favor.

Vote on alternate member vacancies

In the absence of nominees, the Board took no action.

4. OTHER BUSINESS: ZONING BOARD OF ADJUSTMENT

Vote on alternate member vacancies

Motion by Geheran to accept the nomination of John Arnone as an alternate to fill a position that expires in 2012. Second by Walker. all in favor.

Minutes from November 16, 2009

Board members agreed to defer consideration of minutes of November 12, 2009 meeting until the regular January meeting.

ADJOURMENT

Motion by Russell to adjourn. Second by Fuerderer. All in favor. The meeting adjourned at 8:13 p.m.

Respectfully submitted,

Victoria Reck Barlow,
Recording Secretary

