

**SWANZEY PLANNING BOARD MINUTES  
MAY 7, 2009**

[Note: Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.]

The regularly scheduled meeting of the Swanzey Planning Board was called to order at 7:00 p.m. by Chair Glenn Page. Members present: Glenn Page, Scott Self, June Fuerderer, Steve Russell, Jeff Goller, Victoria Barlow, Selectmen's Representative Nancy Carlson and alternates Jeanne Thieme and Jerry Mazza. Town Planner Sara Carbonneau was also present. The agenda for the evening's meeting was read and the following matters were addressed:

**Regional Impact:** Board members considered whether any new items on the agenda could "reasonably be construed as having the potential for regional impact." Motion by Fuerderer that no new items on the agenda could reasonably be construed as having the potential for regional impact. Seconded by Self. Carlson raised the question as to whether or not the Koch subdivision application could be considered to have a regional impact, as it is part of the watershed that the Monadnock Conservancy has sought to protect. Board members discussed, but came to the conclusion that it does not have regional impact. Vote: All in favor.

**Site Plan Review Application** – Jeffrey Sevene wishes to utilize a portion of the premises and an existing garage for an excavation and construction service business. The property is situated at 140 Pine Street and shown at Tax Map 57, Lot 118 situated in the Business Zoning District. The property is owned by Jeffrey Cournoyer. Tabled from April 16, 2009.

Board members acknowledged receipt of an e-mail from the applicant's Attorney, Michael Bentley, requesting that this matter be continued to May 21, 2009. Attorney Thomas Hanna concurred with this request via e-mail. Bentley sought to continue this matter, as the opinion from Town Counsel had not yet been received as of late afternoon. Motion by Fuerderer to table this matter until May 21, 2009 at 7:00 p.m., without further notice. Seconded by Russell. Vote: All in favor.

## **A. PUBLIC HEARINGS –**

**1. Request to Modify a Previously Approved Subdivision –** Hal Curtis seeks to modify a previously approved subdivision by removing a condition placed on Tax Map 81, Lot 7-1 stating that “there is to be no building on this lot (no residential building).” The subject premises are located on West Street and situated in the Business Zoning District. The property is currently owned by Leonard and Wandis Wesley. Greg Curry, agent on behalf of the owner and Hal Curtis appeared before the Board. Abutting property owners Martha Joyal and Brian Pickering were present. Public hearing opened.

Curry reviewed the condition placed on the property in 1976. Curry noted that the restriction is only noted on the plan and not in the deed. Copies of the 1976 Planning Board minutes and related correspondence at that time were provided. Curry stated that he had spoken with Michael Gomarlo, who was the Chair of the Planning Board at that time. Gomarlo indicated to Curry that the only reason that particular condition was noted on the plan was that Mr. Wesley (who has since deceased) wished it to be included. However, Curry acknowledged that it was impossible to determine from the record why the Planning Board had imposed that particular restriction.

Board members noted that the property is situated in the Business District and meets all lot size and frontage requirements. Abutting property owner Martha Joyal was present and asked what the proposed use was for the property. Curry stated that a final determination had not been made, but noted that any residential use on the property would require a public hearing before the zoning board and that abutting property owners would be notified. Public hearing closed.

Motion by Self to grant the requested modification to the 1976 subdivision application, specifically removing the condition that “there is to be no building on this lot (no residential building).” Seconded by Goller. Vote: All in favor.

**2. Home Occupation Application –** Linda & Jon Ostriker wish to utilize the property for an “internet-only antique clothing business.” The property is situated at 37 Centerview Drive situated in the Residence District and shown at Tax Map 35, Lot 33. The property is owned by John & Susan Sullivan. Linda & Jon Ostriker appeared before the Board. No abutters were present. Public hearing opened.

Page reviewed the application before the Board. L. Ostriker stated that her business primarily involves antique clothing and that many of her clients are museums. L. Ostriker stated that there will be occasional UPS deliveries. However, she noted that many of these items are hand-delivered due to their value and quality. Board members noted that no parking was required, as no customers would come to the site. J.

Ostriker confirmed that less than 300 s.f. of space would be utilized for the business. Public hearing closed.

Motion by Barlow to approve the home occupation, noting that the proposed use would have no impact on the neighborhood. Seconded by Fuerderer. Vote: All in favor.

## **B. OTHER APPLICATIONS –**

The following application is being reviewed for completeness only. Comments will be limited to the completeness of the application only.

**1. Subdivision Application –** SVE Associates, agent on behalf of Larry Koch, wishes to subdivide Tax Map 76, Lot 6-3 into 2 lots. The subject premises are located off California Brook Road and Owens Drive and situated in the Rural/Agricultural District. Tax Map 79, Lot 6-3 currently consists of approximately 18.89 acres and 41 +/- acres. Robin Freiman from SVE Associates appeared before the Board on behalf of the applicant. No abutters were present.

Freiman reviewed the plans, noting that the requisite Class V (or better) road frontage was on Owen's Drive. Freiman noted that the road frontage on California Brook Road was Class VI. Sheet 2 provided information regarding the wetlands, topography and flood zone. Freiman stated that the 18.89 acre lot has the required 3 "dry and flat" acres and that was attested to by Russell Huntley who is a certified wetlands scientist.

Motion by Self to accept the application as complete. Seconded by Goller. Vote: All in favor.

## **C. DISCUSSIONS/OTHER BUSINESS –**

**1. Request for Modification to Previously Approved Site Plan –** Carlisle Wide Plank Floors seeks to extend its work hours. Current hours are Monday thru Friday 6 a.m. to midnight. Proposed hours will be 6 a.m. to 2 a.m. The only hours worked on Saturday will be continued from the Friday shift (6 a.m. on Friday to 2 a.m. on Saturday).

Board members considered the request. It was noted that there have been no noise complaints received by the Town regarding their current operations.

Motion by Fuerderer to approve the modification to the previously approved site plan to extend hours of operation to 2:00 a.m. Seconded by Self. Vote: All in favor.

**2. Request for Modification to Previously Approved Site Plan –** Powers Generator Service seeks to modify the site plan approved on September 21, 2006 in order to convert approximately 140 s.f. of existing

warehouse space into office space. Mark from Powers Generator Service appeared before the Board.

Carbonneau stated that this request was brought before the Board as it changes the parking requirements for the project. Carbonneau noted that the project, when originally approved, had two extra spaces. The proposed conversion would need one of the two extra spaces (in order to meet zoning requirements), but still leaves an extra space. Motion by Self to approve the modification to the previously approved site plan to convert 140 s.f. of existing warehouse space to office space. Seconded by Carlson. Vote: All in favor.

#### **D. PUBLIC HEARINGS –**

**1. Site Plan Review Application & Waiver Request –** DSM Realty wishes to construct 109,039 square feet of retail space on property situated off West Swanzey Road. The property is shown at Tax Map 38, Lots 1 and 1-2 situated in the Commercial/Industrial District. A portion of the property is also situated in Keene, shown at Tax Map 85, Lot 1-20. The property is owned by Demoulas Super Markets, Inc. DSM Realty also seeks a waiver from Section VIII(e)3(iii)1. Public hearing continued from April 16, 2009. Jim Lamp from J&Co. and Kevin Dandrade from TEC appeared before the Board on behalf of the applicant. Numerous abutters and interested citizens were present. Public hearing re-opened.

Lamp updated the Board on developments that have occurred since the April 16<sup>th</sup> meeting. Lamp provided the Board with a signed agreement between DSM, Inc. and the property owners on the corner of Lucinda Terrace and Route 10 that details screening to be installed on their property.

Lamp stated that he had also walked the site with the former property owner, Walter Bardwell. Bardwell indicated that he did not know of any “real” septic systems on the property. Bardwell stated that septage for the house was basically accomplished by cinder blocks placed on their sides and then filled with gravel. However, Lamp stated that they could not locate any evidence of a septic disposal system. Lamp noted that if any evidence of a septic system is revealed while conducting excavation work in the vicinity of the former barn and house, the system will be removed in accordance with State regulations.

Lamp stated that he had also examined the parcel situated in Keene to see if any evidence of a septic system, dry well, etc. could be found on this parcel, in response to concerns raised at the April 16<sup>th</sup> meeting by Margaret Locher. Lamp stated that he did not find any such evidence. Lamp noted that there is no planned excavation on the Keene parcel.

Lamp stated that a berm would be added to the front of the property. This berm will be approximately 2 feet above the road grade. Lamp noted that that berm and its associated landscaping will help

shield/screen the project, the vehicles in the parking lot and headlamp glare onto Route 10. A catch basin was also added on the north side of the property.

Dandrade reviewed his response to concerns raised by JB Mack and Rhett Lamb at the April 14<sup>th</sup> meeting. (Dandrade had provided the Board with a written response dated May 6, 2009.) Upon review, Dandrade revised his estimates to reflect the conclusion that 47% of the traffic would approach from the north. However, Dandrade noted that this increase would not change any of the recommendations contained in the initial traffic study. The written response also addresses previously raised concerns about the project's potential impact on Lucinda Terrace, Bradco Road, and Buffum Road. Jane Johnson questioned whether Winchester Woods would be negatively impacted. Dandrade stated that there is a relatively low volume of cars utilizing both the Winchester Woods and Guyette's Sales and Service curb cuts.

Dandrade stated that a draft Memorandum of Agreement was forwarded to the City of Keene, reflecting DSM's offer of \$50,000.00 to be put towards improvements to Route 10 and Matthews Road.

Lamp noted that the Board had been provided a phasing plan, noting that the detached building and its associated parking would not be constructed until a tenant has been confirmed. Lamp stated that the area where the detached building is to be located will be graded (brought to subgrade level) and seeded.

Lamp stated that he had received some suggestions from Town Planner Carbonneau regarding architectural changes to the building. He stated that he was "not happy" with what the architects came back with and suggested that the architects and the Planning Board meet together to discuss changes. Lamp noted that vertical granite curbing would be utilized on the project.

Bruce Bohannon questioned whether the property would be accessible for snowmobiles. Lamp stated that provisions would be made to allow for snowmobile access. Parking for snowmobiles would occur on undeveloped areas on the site. Russell stated that he would like to see bicycle storage racks installed.

Board members discussed the proposed curb cuts and questioned whether the southbound exits should be at more of a right angle to the roadway. Dandrade stated that the southbound exit would be controlled by a stop sign (versus a yield sign). Dandrade also noted that the exit, as currently designed, "leads" people out of the project, whereas a right angle intersection may lead to left-turns. Dandrade stated that the final design of the curb cuts would be determined by NH-DOT.

Keene Planner Rhett Lamb stated that the City had only recently received the proposed MOA and that, on its face, the proposed MOA did not appear to be adequate. Lamb further stated that, notwithstanding Dandrade's May 6, 2009 written comments, Lamb stands by his letter to the Board dated April 16, 2009. Lamb provided the Board with 2

proposed motions – one being a motion to continue and the other being a motion to deny. Assistant City Attorney Leon Goodwin stated that the City would like additional time to review the proposed MOA. In addition, he felt that the Town should require an independent traffic engineer to review and comment on the traffic study.

Lamp stated that he was hopeful that the applicant could come to an agreement with the City of Keene regarding the extension of water to the property through the N. Swanzey Water & Fire Precinct. However, he stated that the applicant was ready to install wells and cistern(s) in the event that an agreement could not be reached with the City regarding the water supply.

Numerous town residents spoke in support of the project and expressed the opinion that the City of Keene has acted in a manner to obstruct and delay the proposed project. Carol Amer, Director of the Monadnock Humane Society, expressed her pleasure with the developer's agents, as well as with the proposed project. Amer felt that the proposed store would make a "good neighbor" to the Humane Society.

Economic Development Advisory Committee member Bill Hutwelker stated that EDAC supported the proposed project and that the Town had "fought hard" to retain this parcel for commercial development. Hutwelker noted that the City of Keene had not expressed concerns about the site and its potential impact on City streets when the jail project was proposed.

Lamp reviewed his conversation with DPW Director Lee Dunham and noted that the applicant was willing to contribute up to \$14,000.00 (to be held in escrow) for improvements to Ash Hill Road, said improvements to include tree cutting, blasting and removal of ledge and rock. Lamp stated that three bids would be obtained for the work and that the lowest bid (under \$14,000.00) would be the amount of the payment made to the Town.

Page noted that the applicant provided draft conditional approval language. Public hearing closed.

Page stated that he would like to see a traffic light at the main intersection. However, he noted that the decision regarding signalization would be made by the State.

Russell stated that he felt that Swanzey and Keene should "join forces" and lobby NH-DOT to make the improvements to Route 10 in Keene that was part of the original Route 10 bypass project.

Board members discussed the proposed work on Ash Hill Road and asked DPW Director Dunham the scope of work needed. Dunham stated that approximately 50 trees would need to be removed in an area being a little over ½ mile, in addition to blasting and removal of ledge and rock. Jane Johnson expressed frustration that the scope of this work was never brought before the Conservation Commission. Page reminded her that the public hearing was closed and that all of the work would take place within the limits of the right of way. Page also stated that both the

DPW Director and the Police Chief had expressed the need for improvements to Ash Hill Road due to the proposed increase in traffic.

Board members discussed building elevations and felt that the decision about the architectural design should be made by the entire Board and not by a sub-committee of the Board. Lamp stated that the architects could be available to meet with the Board at its next meeting on May 21, 2009.

Water supply was discussed. Board members felt that the approval should be tied to the provision of water from the North Swanzey Water & Fire Precinct. In the event that wells and cistern(s) will be needed (in the event that an agreement cannot be reached with the City of Keene), the applicant will need to seek a modification of site plan approval.

Motion by Self to grant the site plan review application subject to the following conditions:

1. Filing and recording of the Notice of Voluntary Merger for Tax Map 38, Lot 1 and Tax Map 38 Lot 1-2.
2. Subject to receiving State permits (Wetlands Bureau, Alteration of Terrain, Sewer and NH-DOT). Improvements as set forth in the applications and permits will be constructed prior to the development receiving a certificate of occupancy. A driveway permit is required from the Town of Swanzey.
3. Water supply will be provided via the North Swanzey Water & Fire Precinct. In the event that water supply is not able to be provided via the Precinct, the applicant must seek a modification to its site plan approval through the Board.
4. Architectural elevations shall be submitted to the Board for review and approval. A materials mock-up will be presented to the Board prior to the start of construction of the building shell.
5. The project will be phased such that the entire site will be rough graded, drainage and utilities will be installed and that supermarket and the attached retail space will be built with the required parking. The detached building and its parking will not be constructed until the owner has signed an agreement with a tenant and the Planning Board has reviewed and approved the architectural design. The area where the detached building and its parking will be stabilized, graded and seeded and left for future construction.
6. The applicant will contribute up to \$14,000.00 for the Town or its agent to perform work on Ash Hill Road for the removal of trees, rock and ledge within the limits of the right of way.
7. The conditional approval incorporates the agreement between Michael Morris, Nancy Morris, Joanne Nadeau and DSM, Inc. dated May 7, 2009 to provide for screening.
8. The applicant will obtain sign permits for the project.
9. The applicant will provide bonds for all off-site improvements including: roadway, sewer and water.

10. The applicant will provide a bond for landscaping.
  11. The applicant will provide a bike storage rack on the premises.
- Seconded by Goller. Vote: All in favor.

Motion by Self to grant the requested waiver from Section VIII(e)3(iii)1. Seconded by Fuerderer. Vote: All in favor.

Motion by Russell that the Swanzey Planning Board send a letter to NH-DOT requesting that the State actively seek funding to make the improvements to Route 10 in Keene that were part of the original by-pass project. Seconded by Self. Vote: All in favor. Carbonneau stated that she would prepare a draft for review and approval at the May 21, 2009 meeting.

**Minutes from April 16, 2009** – Carlson noted that the minutes regarding DSM's site plan review application should reflect that Stacey Cole had contacted Town Planner Carbonneau and expressed his support for the project, noting that the project was good for Swanzey's economic health. Motion by Goller to approve the minutes as amended. Seconded by Barlow. Vote: All in favor.

Motion by Carlson to adjourn. Seconded by Russell. Vote: All in favor. Meeting adjourned at 8:55 p.m.

Submitted by,

Sara H. Carbonneau  
Town Planner