

**SWANZEY PLANNING BOARD MEETING MINUTES
APRIL 28, 2011**

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 regular meeting of the Swanzeay Planning Board was called to order at 7:00 p.m. by chair Glenn Page. Members present: Glenn Page, Scott Self, Joe Smith, Jeff Goller, Selectmen's Representative Nancy Carlson and alternates Bob Audette and Paul Miller. Town Planner Sara Carbonneau was also present. Page seated Audette for Fuerderer and Miller for Thieme. The evening's meeting was read and the following matters were discussed:

Regional Impact: Board members considered whether any items on the agenda could "reasonably be construed as having the potential for regional impact". Motion by Self that no items on the agenda could reasonably be construed as having potential for regional impact. Seconded by Goller. Vote: All in favor.

A. PUBLIC HEARINGS -

1. Site Plan Review Application - David Bergeron, agent on behalf of Valley Tractor, wishes to utilize a portion of the property for a new tractor sales and service company; the proposal includes a 290 s.f. addition to the existing vacant building on site. The property is situated at 439 West Swanzeay Road and shown at Tax Map 55, Lot 6 situated in the Commercial/Industrial District. The property is owned by Thomas Swanzeay Real Estate, LLC. David Bergeron of Brickstone Land Use Consultants, LLC was present on behalf of the Applicant. No abutters were present. Public hearing opened. Bergeron explained to the Board that the existing building, that was originally designed to be a self-service carwash, would be utilized together with a small addition. There would be a 4' overhang at the front of the building with a walkway. The fence will be relocated to separate the building from the self-storage units. The existing septic, well and driveway entrance will be used. They will add wall-pack lighting that will stay on at night, as well as two pole lights that will also stay on all night for security. They plan to take the doors out and put in store front windows and add dormers. The color will remain the existing block color

with white stucco on the dormers and tan roof. They have submitted a driveway application to NH-DOT for the revised use. Expected traffic to be 70 vehicles per week. There is no intention to change the drainage which currently exists of 4 detention basins which were approved in May 2004. Goller asked if there is room for a replacement septic if needed. Bergeron informed the board that there is. Public hearing closed. Motion by Self to approve Site Plan Application contingent upon receipt of NH-DOT approval and review and approval by the Code Enforcement Officer and Fire Chief. Seconded by Smith. Vote: All in favor.

2. Multi-Tenant Application - Paul Niland, on behalf of K&P Properties, LLC, wishes to use the property situated at 362/366 Flat Roof Mill Road for a business consisting of retail sales and service of specialty building products. The property is shown at Tax Map 3, Lot 29 situated in the Business District. Paul Niland was present. Abutter Homer Dansereau was also present. Public hearing opened. Niland explained to the board that the former Keene Motor Sports property has been purchased by K&P Properties, LLC and the business will be operated as Millwork Masters. Building will be utilized as a window and specialty building products showroom. 6-12 customers expected per day. Most of the work is done by phone and sales representatives. Abutter Homer Dansereau was present and asked if there would be any growth relative to lumber on site, any chance of adding a stockade fence and how many people are going to be hired. Niland responded that they may get into framing at some point, but not in the near future. Niland stated that any framing materials would be stored inside. Regarding the stockade fence, Niland commented that there was never one there before when a business was operating there and they expected to have 3 employees plus a truck driver. Niland noted that the activity on the property would be substantially less than what was occurring on site with Keene Motor Sports. Page asked if a sign application had been submitted. Niland replied that it had not been yet but will do so. Public hearing closed. Motion by Self to approve Multi-Tenant Application subject to receipt of a driveway permit from NH-DOT subject to review and approval by the Fire Chief and Code Enforcement Officer. Seconded by Goller. Vote: All in favor.

3. Multi-Tenant Application - Eastwood Property Management wishes to use a portion of the premises situated at 1076 West Swanzey Road for the sale of produce, flowers & specialty items. The property is shown at Tax Map 88, Lot 38-1 situated in the Business District. The property is owned by Eastwood Properties, LLC. Owner David Gale and Sheila _____ from Holton Farms were present. No abutters were present. Public hearing opened. Gale explained to the board that Holton Farms currently rents space from him in Chesterfield for a farm stand. This would be the same concept. An application has been submitted to the NH-DOT requesting modification of the current

driveway. Goller asked what type of sign would be used. Sheila replied that she would be using a 10' x 2' banner that would not be left up year round. Possibly in the future she would apply for a permanent wooden sign. Self asked if the substance abuse clinic that is there had any comments. Gale replied that they were pleased and welcomed it. Public hearing closed. Motion by Self to approve Multi-Tenant Application subject to receipt of a driveway permit from NH-DOT and subject to review and approval by the Fire Chief and Code Enforcement Officer. Seconded by Smith. Vote: All in favor.

B. DISCUSSIONS/OTHER BUSINESS -

1. Request for Modification - Hillside Pizza. Owner Thomas Roth requests approval to add ice cream sales to their location. Roth was not present. Board members reviewed the request and felt that the sale of ice cream from the existing service window and the addition of a service shelf was a minor modification to the existing approval. However, Board members and Town Planner Carbonneau were unsure as to whether or not the location of the window as described was, in fact, the existing service window. (The letter describes it as being on the south side of the building.) In addition, the board stated that the request for an "ice cream cone sign" required a sign permit application. Board members asked that the applicant appear at the next meeting on May 12th to clarify the request for the ice cream service window, as well as to present the sign application.

2. Lane Construction - Attorney Timothy Britain was present on behalf of Lane Construction to inform the board that they intended to file an appeal with the Superior Court based on the decision the board made stating that only Haul Road I could be used. Britain stated that there is no formal way pursuant to State statute to ask for reconsideration. Richard Fraser of One Source Properties & Permitting, LLC was also present as well as Susan Stacy, Manager of Cold River Materials. Attorney Britain continued to state that this condition is problematic relative to hauling and safety and they want to be able to use Haul Road II. Britain continued that Flat Roof Mill Road is a state highway, that Lane Construction has been using it since 1974 and that the Town cannot deny access onto the state highway when it has been previously approved. Page asked why this was not brought up at the last meeting. Audette recalled at the last meeting that Lane Construction stated they wouldn't want to use Haul Road II for a couple of years. Carbonneau informed the Board of the Supreme Court's decision in the matter of 74 Cox Street vs. Nashua stating that the court granted the authority for the board to reconsider its own decision within 30 days of the statutory appeal period and while this case concerned the ZBA, the principle applies to all municipal boards that engage in adjudicative decision making. Carbonneau read from Louglin's *Land Use Planning and Zoning* that "[t]he Court indicated that it took that position based

on the principle that local land use boards should have the first opportunity to correct alleged errors in their decisions so that the courts would have the benefit of the board's judgment in hearing the appeal." Attorney Britain again stated they were there to give the board a "heads up" that they are going to file an appeal. Page and Audette stated that they did not feel that the Board erred in its decision.

3. Board reviewed minutes of April 14, 2011. Motion by Goller to approve minutes of April 14, 2011 as written. Seconded by Carlson. Vote: All in favor with Smith abstaining.

Carbonneau informed the board that Lee Dunham was still reviewing the proposed revisions to the driveway regulations and suggested this be moved to the May 12, 2011 meeting.

Motion by adjourn by Audette. Seconded by Self. Vote: All in favor.

Meeting adjourned at 8:05 p.m.

Submitted by,

Donna Munson
Recording Secretary