

**SWANZEY ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
APRIL 16, 2012**

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.

ATTENDANCE

William Hutwelker, Chair; Keith Thibault, Jerry Walker. Alternate Sarah Tatro. Town Planner Sara Carbonneau also was present.

MINUTES

Motion by Walker to approve the minutes of the March 19, 2012 meeting. Second by Tatro. All in favor.

1. Variance and Special Exception (Site Walk & Public Hearings)

Applicant: Gemica Properties, LLC

Property owner: James Kendall

Property location: off Monadnock Highway Map 2, Lot 1

Zoning District(s): Business District and Wetlands Conservation Overlay Zoning District

Request: A variance from Section VII.D.10 and a special exception pursuant to Section V.B.2.a.

Members seated: Hutwelker, Thibault, Walker. Tatro was seated for Mitchell.

Representing the application: Dave Bergeron, Brickstone Land Use Consultants

Abutters present: Michael McGrath, Robert Jones, Peg Antosiewicz, Joseph Antosiewicz; Conservation Commission members Deb Crowder and Richard Dell'Erba also were present.

Hutwelker re-opened the continued public hearing at 6:53. Members considered the variance from Section VII.D.10 first.

Bergeron presented the site plan, and described alternatives considered for expanding the dealership, which is surrounded by wetlands on three sides. Bergeron said that the selected option has the smaller wetland impact. In response to questions, Bergeron said that the project would have a temporary or permanent impact on a total of 18,000 sf of wetlands. In response to a question about existing trash littering the site, Bergeron said that trash would be cleaned up; the proposed traffic circulation pattern would expose the rear of the building to the public, creating an incentive to keep this area free of trash. In response to a question about wetlands contamination, Bergeron said that imported gravel would build up the site, maintaining the existing water level to prevent frost heaving that might crack the pavement. Bergeron said that the

swale at the rear of the property will help cut off water flowing down the hillside, keeping it from getting into the parking lot.

Speaking on behalf of the Conservation Commission, Crowder said that the Commission's policy is to seek to preserve wetlands as much as possible; mitigation rarely is as functional as a natural wetland. Crowder noted that the more important of the two adjacent wetlands at the rear of the dealership property is not part of the proposal for alteration. In response to Crowder's concern about protecting the McGrath pond, Bergeron said that the proposed retention pond will be about 2.5 feet deep and will have about 8000 cubic feet of storage, and will be at the same elevation as the existing land. Bergeron said that the retention pond probably will hold water for a good portion of the year. Bergeron said that a swale will be located between the McGrath property and the dealership. Bergeron said that the 16.75 cubic feet/second pre-development runoff will be reduced to 16.43 cubic feet/second post-development.

P. Antosiewicz asked about verification of construction. Bergeron said that NH-DES requires the wetlands permit as well as a contribution to the ARM fund, and will verify construction; the Town code enforcement officer reviews site plans.

Those present discussed the silted-in condition of culverts in the vicinity, which overflow during heavy rains. Bergeron said that he can ask the DOT about plans for correcting the situation but, because the culverts are off the property, can't guarantee remediation.

Hearing no further comments or questions, Hutwelker closed the public hearing at 7:16. Hutwelker briefly re-opened the public hearing to advise the applicant that the Board prefers to seat five members, because an application requires three positive votes to prevail. With only four members present, Hutwelker offered the applicant the option of requesting a continuation to the next regular meeting, on May 21. Bergeron chose to have the application heard on April 16. Hutwelker closed the public hearing, and members reviewed the criteria for granting the requested variance.

1. The variance is/is not contrary to the public interest.

Members agreed that the proposed use would not be contrary the public interest.

2. Substantial justice is/is not done by granting the variance.

Members agreed granting the variance would do substantial justice because runoff leaving the property would be reduced slightly, thereby helping abutters.

3. The variance is/is not consistent with the spirit and intent of the Zoning Ordinance.

Members agreed that the variance is consistent with the spirit of the ordinance.

4. Granting the variance will/will not diminish the value of surrounding property values.

Members agreed that the variance would not diminish surrounding property values.

5. Special conditions do/do not exist on the property which distinguish it from other properties in the area, such that the literal enforcement of the ordinance results in unnecessary hardship.

Members agreed that the property is unique because it is surrounded on three sides by wetlands.

A. *Owing to the property's distinguishing special conditions,*

(i) No fair and substantial relationship exists between the general purposes of the Zoning Ordinance provisions and this restriction on the property because:

Members agreed that, with mitigation (contribution to the ARM fund), there is no fair and substantial relationship. Members agreed that the more important wetlands would not be disturbed.

AND

(ii) The proposed use is a reasonable one because:

Members agreed that the proposed use is reasonable for the reasons listed above.

Motion by Thibault to approve the variance from Section VII.D.10. Second by Walker. All in favor.

At 7:27, Hutwelker re-opened the public hearing to consider the request for a special exception. Bergeron presented plans for expansion of the car dealership, showing proposed grading, configuration of parking and revised circulation. Bergeron said that the inner island and potentially a portion of the outer island will be removed, creating wider aisles for navigation and removing impediments to drainage. Bergeron said that the proposed closed car wash system will have a holding tank.

Hutwelker expressed concern regarding the practice of unloading cars from car carriers parked in the breakdown lane, saying that a special exception would be granted only with the expectation that cars would be unloaded within the property. Walker expressed concern about reports of neighbors about car carriers idling on site during the night, asking about the Town's recourse should the situation continue. Thibault said that the Board of Selectmen and town administrator are the recourse for enforcement. Carbonneau said that DOT will review the proposal for a revised curb cut, and typically stipulate that no unloading takes place within the State right of way; the Planning Board will review site plan issues. Hutwelker asked that safety concerns be brought to the attention of Mr Draper.

Bergeron said that the entrance to the dealership would not be blocked with parked cars, so that car carriers would be able to enter the property as well as drive around the building to exit the property. Bergeron said that he could ask the dealership to allow car carriers to park behind the dealership to help screen abutters from noise; there will be no loudspeaker. Bergeron said that the plan calls for "dark sky" lighting fixtures, and said that the discussion of screening abutters could be continued at the Planning Board, and might include a fence or natural screening along the property line.

Abutters expressed concern about car delivery trucks spending the night on site with engines idling, noting that this practice does not occur at a nearby dealership.

Hearing no further comments or questions, Hutwelker closed the public hearing at 7:55. Members reviewed the criteria for granting the requested special exception.

1. Is the exception allowed by the ordinance?

Members agreed in the affirmative.

2. Are specific conditions present under which the exception may be granted?
a. Is the proposed use similar to one or more of the uses already authorized in that District and is it an appropriate location for such use?

Members agreed in the affirmative, noting that the proposal is an expansion of a pre-existing use.

- b. Will such approval reduce the value of any property within the District, or otherwise be injurious, obnoxious or offensive to the neighborhood?

Members agreed that an approval would not create a negative impact so long as the noise of running car carriers can be mitigated or eliminated, and a buffer installed to the south to replace the effect of trees that are to be clear-cut.

- c. Will there be a nuisance or serious hazard to vehicles or pedestrians?

Members agreed that the existing hazardous situation would be improved by the removal of the inner island and reduction of the westerly island, and with redesigned circulation on the site.

- d. Will adequate and appropriate facilities be provided for the operation of the proposed use?

Members agreed in the affirmative, noting that the car wash will recycle water. For these purposes, members felt, the swale is a facility, and according to the applicant will address runoff.

Motion by Thibault to approve the special exception pursuant to Section V.B.2.a. subject to the following conditions:

1. Car carriers are to have idling engines on site only during offloading, and are not to remain on site overnight
2. A buffer, either of fencing or natural material, is to be installed to south between the property and that of Map 2 Lot 6
3. Removal of the easterly island and reduction of the westerly island
4. No display vehicles are to be parked in the entryway or on the grassed area
5. Car carriers are to offload on site only, and not on Monadnock Highway or within the State right of way
6. Improvement of the swale at the property line between Tax Map 2 Lots 1 and 6
7. Cleanup of debris from the existing swale, located at the property line of the southeast corner of Map 2 Lot 6, that could impede flow of drainage

Second by Tatro. All in favor.

2. Other matters as may be required

Carbonneau introduced potential ZBA alternate member Carolyn DeBell of Winch Hill. **Motion** by Walker to nominate DeBell as an alternate. Second by Thibault. All in favor.

ADJOURNMENT

Motion by Thibault to adjourn. Second by Hutwelker. All in favor. The meeting adjourned at 8:09 p.m.

Respectfully submitted,

Victoria Reck Barlow
Recording Secretary