

Town of Swanzey, New Hampshire
Swanzey Planning Board
Meeting Minutes – February 20, 2014

Note: Draft Minutes are subject to review, correction and approval 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 Swanzey Planning Board was called to order at 6:00 p.m. by Chair Glenn Page. Members present: Scott Self, June Fuerderer, Jeff Goller, Alternate Jane Johnson, Alternate Don Skiba, and representative from the Board of Selectmen, Kenneth Colby. The roll call and agenda for the meeting was read by Chair Page. Skiba was seated for Smith and Johnson was seated for Lerandeau.

Absent: Joe Smith and Gus Lerandeau.

Others Present: Director of Planning and Community Development Sara Carbonneau

Minutes: Minutes from January 23, 2014 were reviewed. **Motion** was made by Goller to accept the minutes. The motion was seconded by Fuerderer. All were in favor except Colby who abstained. ***Motion passed.***

Regional Impact: Board members considered whether any items on the agenda could be construed as having the potential for regional impact. **Motion** made by Fuerderer that no items on the agenda could be reasonably construed as having the potential for regional impact. Second by Self, no further discussion, and all were in favor of the motion. ***Motion passed.***

A. PUBLIC HEARINGS -

1. Multi-Tenant Application

Don Carlisle wishes to use a portion of the premises situated at 217K Old Homestead Highway for a sales office. The property is shown at Tax Map 36, Lot 8 situated in the Business District. The property is owned by Adrian Pinney.

Public hearing opened at 6:06 p.m.

Don Carlisle joined the meeting at 6:07 p.m. Page asked for abutters. Page pointed out the business will be in an existing office building. Goller asked about any modifications; Carlisle said only painting will be done. Page determined that building inspections were up to date.

Public hearing closed at 6:08 p.m.

Motion to approve use by Don Carlisle of a portion of the premises situated at 217K Old Homestead Highway for a sales office was made by Self, second by Skiba, and all were in favor. **Motion passed.**

Carlisle left at 6:08 p.m.

2. **Boundary Line Adjustment Application between Tax Map 72, Lots 98 & 98-1.**

Tax Map 72, Lot 98 is owned by J. Michael Gomarlo; Tax Map 72, Lot 98-1 is owned by Gomarlo's, Inc. The boundary line adjustment seeks to add 0.30 acres to Map 72, Lot 98 (from Map 72, Lot 98-1) and add 0.24 acres (per revised plan submitted on 2/11/14) to Map 72, Lot 98-1 (from Map 72, Lot 98). The properties are situated off West Swanzey Road and located in the Business District.

Public hearing opened at 6:09 p.m.

Mike Gomarlo joined the meeting at 6:09 p.m. and said the purpose of the boundary adjustment request is to correct past mistakes. The issue is gas pumps straddle the existing property line.

In addition, Gomarlo stated that he had received approval for a flea market on his property (Map 72, Lot 98) from the Board in the past. He no longer wishes to have a flea market and wants to remove any restrictions on his property associated with a flea market. He said one restriction provided at the time the permission for a flea market was granted was that Perry Lane was not to be used as an entrance for the flea market. Gomarlo said he wants to remove the restriction for use of Perry Lane.

Self pointed out that any restriction associated with the flea market no longer applies once the flea market ceases to exist. Carbonneau also agreed. However, it was noted that should a new proposal come before the Planning Board for Map 72, Lot 98, new conditions may be placed on the property. Page asked for abutters to be heard and there were none.

Public hearing closed at 6:12 p.m.

Motion by Goller to approve the boundary line adjustment to add 0.30 acres to Map 72, Lot 98 (from Map 72, Lot 98-1) and add 0.24 acres (per revised plan submitted on 2/11/14) to Map 72, Lot 98-1 (from Map 72, Lot 98) on properties situated off West Swanzey Road and located in the Business District. There was a second by Colby, and all were in favor. **Motion passed.**

3. **Multi-Tenant Application**

Jamie Hilow wishes to use a portion of the premises situated at 704 West Swanzey Road for an auto detailing business. The property is shown at Tax Map 72, Lot 85 situated in the Business District. The property is owned by RDH Property Management, LLC.

Public Hearing opened at 6:13 p.m.

Hilow joined the meeting at 6:13 p.m. A comment was made about parking and Page said that there is plenty of parking on the site. Fire Chief needs to do inspection. No abutters were present. Hilow noted he has submitted a list of products he will be using in the detailing business. Johnson asked about the information provided, where it says “no information available”, and therefore she noted that the Board can’t really know what level of toxicity is provided by the products to be used. HMIS ratings – no one seemed to know what that means. Concern is run-off in sewer drains. Hilow said that everything that he will be using can be bought over the counter. Johnson asked about the number of vehicles, and Hilow said about two and three per day. Page noted it is a one man operation. Page asked if Self saw any red flags regarding the sewer system. Self noted the documentation said that the products don’t have to be classified and therefore he felt that nothing in the products will hurt the sewer plant. No further questions.

Public hearing closed at 6:18 p.m.

Skiba made a **motion** to approve use a portion of the premises situated at 704 West Swanzey Road for an auto detailing business on property shown at Tax Map 72, Lot 85 situated in the Business District. There was a second by Colby, and all were in favor.
Motion passed.

Hilow left the meeting at 6:19 p.m.

B. OTHER APPLICATIONS -

1. Request for Modification to a Previously Approved Site Plan

Demoulas Supermarkets, Inc. (DSM, Inc.) requests modification to its previously approved site plan (approved 10/27/11) to delete the proposed 5,781 s.f. addition. In addition, DSM, Inc. wishes to make minor grading and drainage changes to the pavement area to accommodate a 4-foot loading dock.

James Lamp, PE, joined the meeting at 6:41 p.m. representing Demoulas Supermarkets, Inc. He noted retailer “Home Goods” was supposed to occupy the vacant space, but they have backed out. Instead, retailer “Sears Hometown”, a lawn equipment and appliance retail outlet, is now considering the space. While it was originally thought that minor grading and drainage changes to the pavement area were required in order to accommodate a 4-foot loading dock, Lamp stated that they have determined that a concrete area with hydraulic lift will be acceptable (scissors Lift).

Page asked for concerns. Goller asked to make sure the landscaping would be as per plan. Lamp assured him that it would be. A discussion was held regarding the dates for approval of the plan. Extension can run from either the October date or a year beyond the current February date. An extension plus the modification is being asked for. It was agreed that the extension would be approved tonight and be for a year. Lamp also noted that the lease has been signed by DSM, Inc. for the Sears retail outlet.

Public Hearing closed at 6:50 p.m.

Motion was made by Goller to extend the approved site plan originally approved on October 27, 2011 and as modified on February 20, 2014 from February 20, 2014 to February 20, 2015. There was a second by Fuerderer and all were in favor. **Motion passed.**

Motion was made by Self to approve the request for modification to a previously approved site plan which was originally approved on October 27, 2011 to delete the proposed 5,781 square foot addition. The motion was second by Skiba, and all were in favor. **Motion passed.**

Lamp left the meeting at 6:51 p.m.

C. DISCUSSIONS/OTHER BUSINESS -

1. Consideration of alternate member position. Term expires at Town Meeting 2017. Page said the committee has an application from James W. McConnell to serve as an Alternate. He is qualified and willing to serve. Colby mentioned that he has shown interest in the Town by attending the Board of Selectmen's meetings.

Motion was made by Johnson to appoint James W. McConnell to serve as an Alternate to the Planning Board with term expiring at Town Meeting 2017. There was a second by Colby, and all were in favor. **Motion passed.**

2. Discussion re Nissan of Keene – Mr. & Mrs. Michael McGrath joined the meeting at 6:21 p.m. Page said he drove by the Nissan property recently and the lights which are supposedly on a timer so that they turn off after business hours were on at 9:30 p.m. Either the timer is non-existent or not working properly. Page also noted that the direction of the lights has been modified but now they shine onto State Route 12.

A discussion was held regarding the fact that nothing has been done about the agreed upon temporary curbing and the removal of a snow pile adjacent to the boundary with the McGrath property. It was noted that with a recent rise in temperature much of the snow melt will end up in McGrath's back yard. Page suggested that either the Board gets Code Enforcement involved, or revoke approval for the site plan.

When asked why Nissan of Keene had no representatives this evening, Carbonneau said that they could not attend last week, and that they were aware that the meeting had been rescheduled for this evening. Self asked Carbonneau to what level Code Enforcement has been involved in this issue thus far. Carbonneau said Code Enforcement Officer Chet Greenwood has requested Nissan of Keene, Inc. to come into compliance and that they have been advised that inaction by Nissan of Keene could result in either court action or revocation of the site plan. She noted that only the Planning Board has the authority to revoke a site plan. She also said that should the Planning Board decide to use that authority a public hearing should be held. Costs

associated with that were estimated at \$75.00. Revocation would also entail recording fees at the Cheshire County Registry of Deeds.

Page noted that Nissan of Keene, Inc. has pretty much ignored the directives of the Planning Board in regard to the temporary fixes that were agreed upon. Carbonneau said that there is a cloud on the title if a site plan has been revoked and the revocation is recorded at the registry of deeds, so it does draw attention. Page said his immediate concern is the possibility of the McGrath property getting flooded. Self noted that the McGraths could initiate a civil suit against Nissan of Keene.

Page suggested that the Planning Board agree to go through with revoking the site plan, and in parallel, ask Code Enforcement advise them to move the snow pile immediately, informing them that if not in compliance, the site plan will be revoked. If the site plan is revoked, it was noted that Nissan of Keene will have to go through the whole process again asking for approval for their plans with the Planning Board; a new site plan would have to be approved. Self said that Code Enforcement should write a letter so that Nissan of Keene will be well informed as to why the site plan would be revoked. Carbonneau noted that they have the right to appeal the revocation in Superior Court, but once the plan is revoked, they would have to re-apply (unless otherwise ordered by a court). March 13, 2014 would be public hearing for a public hearing on the revocation.

A revocation of the site plan will list the conditions of the revocation as follows: At the January 23, 2014 meeting, Jim Phippard of Brickstone Land Use Consultants, LLC representing Nissan of Keene, Inc. agreed to either attend the next Planning Board meeting on February 13, 2014 or provide a written report ahead of time (with photographs) reporting on the temporary fixes and adjustment of the lights. No written report was received and no representative of Nissan of Keene, Inc. was present at the February 13, 2014 meeting.

The conditions previously agreed upon:

- a. Moving of snow pile to north end of the lot – immediate fix for water drainage issues as applicable to the neighboring McGrath property to the south
- b. Temporary curbing of hay bales and/or concrete blocks or curb stops to prevent water run-off onto the McGrath property – immediate fix
- c. Lighting on timers to darken them in the evening after business hours except for security lights – immediate fix
- d. Fixing drainage problems on the property – dredging the drainage ditch in the Spring
- e. Fencing on the property boundary – to be done in the Spring

Motion by Skiba to begin the procedure for revocation of the Nissan of Keene, Inc. site plan and for Swanzey Code Enforcement Office to produce a letter encouraging Nissan of Keene, Inc. to comply with the directions of the Swanzey Planning Board for immediate fixes to water drainage issues affecting a neighboring property with the understanding that with the temporary fixes in place, Nissan of Keene, Inc. could wait until Spring of 2014 to install fencing and finish fixing paving and drainage issues. The motion was seconded by Goller. Discussion: Colby suggested that copies of the Town's

actions/letter be sent to Nissan corporate. He suggested the copies go to Nissan Dealer Development, and perhaps their Public Relations Department. All were in favor. **Motion passed.**

3. Other business as may be required.
Carbonneau informed the Board that March 6, 2014 is next meeting for the Master Plan Committee. Minutes will be posted.

Carbonneau informed the board that there are no agenda items for next Thursday's regularly-scheduled meeting on February 27, 2014.

Motion was made by Self to cancel the regularly-scheduled meeting of February 27, 2014, second by Fuerderer. All were in favor. **Motion passed.**

Next meeting will be March 13, 2014.

Motion to adjourn was made by Fuerderer, seconded by Goller, with all in favor. **Motion passed.** Adjournment occurred at 6:54 p.m.

Respectfully Submitted,



Beverly Bernard, Recording Secretary