

**SWANZEY ZONING BOARD OF ADJUSTMENT MEETING  
MAY 21, 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; Bob Mitchell, Jerry Walker; alternates Sarah Tatro, Jim Vitous and Bryan Rudgers (arrived at 7:15 p.m.). Town Planner Sara Carbonneau also was present.

Chairman Hutwelker called the meeting to order at 7:05 p.m.

Hutwelker noted that Carolyn DeBell decided that she did not have the necessary time to devote to the Board and submitted her "resignation" - Hutwelker noted that she was not an official member of the Board yet, as she had not been sworn in.

**MINUTES Motion** by Tatro to approve the minutes of the April 16, 2012 meeting. Second by Walker. Hutwelker, Tatro, and Walker in favor; remaining members abstained (as they were not present at the 4/16/12 meeting). Motion passes.

**1. Special Exceptions (Public Hearings) -**

Applicant: Patrick Putnam Realty Group, LLC

Property owner: Patrick Putnam Realty Group, LLC

Property location: Tax Map 71, Lot 13-2

Zoning District(s): Business and Rural/Agricultural

Request: Special exception pursuant to Sections V.B.2.d. and IV.A.2.d. to permit the removal of commercial-quality sand and gravel pursuant to RSA 155-E.

Members seated: Hutwelker, Mitchell, Walker, Tatro (for Charles Beauregard, Sr.), Vitous (for Keith Thibault).

Representing the application: Dick Fraser of One Source Properties and Permitting; Patrick Putnam, property owner.

Abutters present: Robert Secord. Interested citizen Robert Audette was also present.

Hutwelker called the public hearing to order at 7:10 p.m.

Carbonneau reviewed the ZBA Application Summary contained in Board members packets.

Fraser reviewed the plan sets and the special exception applications. Fraser noted that the Ashuelot River Local Advisory Committee and the Swanze Conservation Commission participated in a site visit on the premises scheduled in conjunction with the Alteration of Terrain Permit Application - no additional concerns were expressed by either group to NH Department of Environmental Services. Fraser noted that the Natural Heritage Inventory came back "clear." Also, Jonathan Sisson (certified wetlands scientist) examined the premises and determined that there were no jurisdictional wetlands on the property.

[Rudgers arrived at 7:15 p.m.]

Fraser stated that the intent of the excavation is for "topographic adjustment," noting that this is an interim use only and the intent is to match the topography of the remainder of the site for eventual use for business/commercial development. Putnam stated that while he has developed areas for residential use, he does not plan to do so in the case. Fraser noted that the final elevation of the excavated area will be 393 feet and that the current elevation at the south end of the property is 395 feet.

Fraser described the excavation site, noting that the majority of the excavation will take place in a "bowl," essentially surrounded by a berm until the very end. Fraser stated that the berm will reduce noise and block the excavation area from sight. Fraser stated that the internal circulation pattern will be circular, reducing the need to back up and the associated alarms. There will be no blasting, drilling or crushing of materials on the site, per Fraser - also confirmed by Putnam.

Swanzy resident Bob Audette was present and stated that he had concerns about the potential impact on the birthing center located adjacent to the excavation site. Fraser stated that he understood Audette's concerns and committed to working with the birthing center to minimize potential negatives (noise, dust, etc.). Fraser stated that the hours of operation would be 6 a.m. to 6 p.m. Monday through Friday and 8 a.m. to noon on Saturday. Public hearing closed.

The Board reviewed the criteria for granting the special exceptions from Section V.B.2.d. and IV.A.2.d.

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?

Based on the testimony presented, members agreed in the affirmative.

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

Based on information as presented, members agreed that approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious or offensive.

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

Members agreed that there would be no nuisance or hazard to vehicles or pedestrians.

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

Members agreed that adequate and appropriate facilities would be provided.

**Motion** by Mitchell to approve as presented the special exceptions to Sections V.B.2.d. and IV.A.2.d. to conduct sand and gravel operations pursuant to RSA 155-E, noting that the proposed hours would be 6 a.m. to 6 p.m. Monday through

Friday and 8 a.m. to noon on Saturday, said approval also subject to the condition that there will be no crushing, blasting or drilling on site. Second by Walker. All in favor.

Walker left the meeting due to illness at the conclusion of the public hearing.

**2. Variance (Public Hearing) -**

Applicant: Timothy Joyal

Property owner: Timothy Joyal

Property location: Tax Map 24, Lot 40-27; 130 Bellview Drive

Zoning District(s): Residence

Request: Variance from Section IV.B.3. to construct a shed that does not meet required setbacks.

Members seated: Hutwelker, Mitchell, Tatro (for Keith Thibault), Vitous (for Charles Beaugard, Sr.) & Rudgers (for Jerry Walker).

Representing the application: Timothy Joyal

Abutters present: None. Interested citizen Jack Woonton was present on behalf of the Eastfield Crossing Association.

Hutwelker called the public hearing to order.

Carbonneau reviewed the ZBA Application Summary contained in Board members packets.

Joyal reviewed his plans for the shed, noting that it would be a prebuilt shed from Cheshire Shed and would be set on a gravel foundation, atop of 4 x 4 pressure treated wood. Board members felt that the site plan provided did not provide enough information and was not to scale, making it extremely difficult to determine the potential impact of the variance. Board members determined that a site visit would be appropriate and that the applicant needs to provide a site plan that is to scale and adequately depicts the site; Board members requested that the revised site plan be provided prior to the site visit.

Motion by Mitchell that the Board conduct a site visit on Monday, June 18, 2012 at 6:00 p.m.; assuming that an adequate site plan is available at that time, the Board noted that it would try to make a decision on the site but reserved the right to re-convene at Town Hall if needed. Second by Vitous. Vote: All in favor.

**3. Variance (Public Hearing) -**

Applicant: Steve & Kerry Boscarino

Property owner: Steve & Kerry Boscarino

Property location: Tax Map 33, Lot 53; 9 Davis Avenue

Zoning District(s): Residence

Request: Variance from Section IV.B.3. to construct a deck that does not meet required setbacks.

Members seated: Hutwelker, Mitchell, Tatro (for Charles Beaugard, Sr.), Vitous (for Jerry Walker) & Rudgers (for Keith Thibault).

Representing the application: Steve Boscarino

Abutters present: None.

Hutwelker called the public hearing to order.

Carbonneau reviewed the ZBA Application Summary contained in Board members packets, noting that she had received feedback from abutting property owner Susan Kellogg who expressed support for the request.

Boscarino noted that the deck would replace the poured concrete steps that were in front of the house; due to poor construction of the steps, water was hitting the house causing water damage. Boscarino stated that the steps extended 6 feet from the front of the house and were 26 feet from the boundary line. The proposed deck would be 24 feet from the property line. Boscarino stated that the deck will be professionally built and will increase the curb appeal and provide adequate access to the house. Boscarino noted that the neighbors deck is 16 feet from the boundary line. Boscarino stated that he proposed that the stairs would come off of the side of the deck, so as to no further encroach on the setback. Board members advised that the steps to the deck were not considered to be part of the "structure" for setback purposes and could go either on the side or on the front of the deck or both.

Board members thanked Boscarino for the level of detail provided in the site plan; Board members noted that this is an unusual lot (corner lot) situated on a dead-end street. It was also noted that the variance request was "minimal." Public hearing closed.

Members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?:

Members agreed in the affirmative.

A. Owing to the property's distinguishing special conditions,  
(i) Is there a fair and substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

AND

(ii) Is the proposed use a reasonable one?

Members agreed in the affirmative.

**Motion** by Tatro to approve the variance from Section IV.B.3. to permit the construction of a deck. Second by Mitchell. Vote: All in favor.

#### **4. Special Exception (Public Hearing) -**

Applicant: L & G Berube, Inc.

Property owner: L & G Realty Trust

Property location: Tax Map 3, Lot 3; off Forbush Lane

Zoning District(s): Business

Request: Section Exception pursuant to Section V.B.2.a. to construct two 30,000 gallon above-ground propane storage tanks and associated filling station.

Members seated: Hutwelker, Mitchell, Tatro (for Jerry Walker), Vitous (for Keith Thibault.) & Rudgers (for Charles Beauregard, Sr.).

Representing the application: Timothy Joyal & Jody Ameden from Jody Pratt Ameden Energy Consulting, LLC.

Abutters present: None.

Hutwelker called the public hearing to order.

Carbonneau reviewed the ZBA Application Summary contained in Board members packets.

Berube reviewed the proposal for the Board, noting that the site currently houses an above-ground 20,000 gallon tank for home heating oil. Berube stated that the project has been thoroughly reviewed by the Fire Chief and was being designed in accordance with NFPA 58 standards. In addition, Berube stated that 5 times the required amount of water would be provided on site, in accordance with the Fire Chief's wishes. It was noted that the closest hydrant was over 2 miles away. Ameden stated that she had met with the Fire Chief for over 1 hour on May 9th, in order to prepare the Fire Safety Analysis (Board members did not have a copy of this report - a copy was provided to Town Planner Carbonneau at the conclusion of the public hearing.) Berube stated that the conclusion of the Fire Safety Analysis was that the proposed plan was compliant with State Fire Codes and with NFPA 58 (2011 version).

Board members reviewed correspondence from DPW Director Lee Dunham who expressed concerns about the Class VI portion of Forbush Lane, noting that the current road conditions are less than ideal for such use. In addition, Dunham noted that the property owner does not currently have permission from the Town to maintain and repair the Class VI portion of the road. Berube stated that the road is in satisfactory condition and that his company has maintained it for many years, as it is in their best interest to keep it in a passable condition so as to not cause damage to their trucks. Board members discussed whether the Applicant should be required to have permission from the Board of Selectmen to maintain/repair a Class VI road, as that has not been a prior requirement. Carbonneau stressed to the Board that permission is required by NH state statute. Public hearing closed.

The Board reviewed the criteria for granting the special exception from Section V.B.2.a.

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?

Based on the testimony presented, members agreed in the affirmative.

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

Based on information as presented, members agreed that approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious or offensive.

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

Members agreed that there would be no nuisance or hazard to vehicles or pedestrians.

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

Members agreed that adequate and appropriate facilities would be provided.

**Motion** by Mitchell to approve as presented the special exception to Section V.B.2.a. subject to the Applicant receiving permission from the Board of Selectmen to maintain the Class VI portion of Forbush Lane as has been maintained by the Applicant for the past 20 + years. Second by Vitous. Vote: All in favor.

**ADJOURNMENT**

**Motion** by Mitchell to adjourn. Second by Tatro. All in favor. The meeting adjourned at 10:05 p.m.

Respectfully submitted,

Sara H. Carbonneau  
Town Planner and  
Recording Secretary