

**Unofficial**  
**As of 12/08/09**

**HOOKSETT PLANNING BOARD**  
**MEETING MINUTES**  
**HOOKSETT MUNICIPAL BUILDING**  
**Monday, December 7, 2009**

**CALLED TO ORDER**

Chair J. Gryval called the meeting to order at 7:00pm

**ATTENDANCE – PLANNING BOARD**

Chair J. Gryval, Vice-Chair D. Marshall, M. Cannata, J. Mudge, F. Kotowski, Town Administrator, C. Granfield, Rob Duhaime, Town Council Rep. N. VanScoy, B. Sullivan, and D. Hemeon (arrived @ 8:00pm).

Absent: Y. Nahikian.

**REPRESENTING TOWN OF HOOKSETT**

Town Planner, Jo Ann Duffy, and Stantec Engineer, Dan Tatem.

**APPROVAL OF MINUTES OF 11/16/09**

*M. Cannata motioned to approve the minutes of 11/16/09 with edits by F. Kotowski. Seconded by C. Granfield.*

*Vote unanimously in favor. B. Sullivan abstains.*

**PLANNING BOARD and ZBA JOINT MEETING - VARIANCE**

**ATTENDANCE – ZONING BOARD OF ADJUSTMENT (ZBA)**

Chair C. Pearson, Vice-Chair Roger Duhaime, G. Hyde, D. Pare, R. Bairam, and J. Levesque.

J. Gryval: I would like to thank the ZBA members for being here tonight. Let the record show that in the audience tonight are Lee Ann Moynihan, ZBA Secretary, and Peter Rowell, Code Enforcement Officer.

- 1. 1373 HOOKSETT ROAD, LLC**  
1373-1375 Hooksett Rd., Map 18, Lots 33, 34, & 35  
ZBA variance request to Zoning Ordinance Article 26, Section A(2) and A(3).

J. Gryval: Staff update?

J. Duffy: The Town Attorney (Bart Mayer) recommended the applicant proceed and apply to the ZBA for a variance to Article 26 Non-Conforming Uses, Lots and Structures. We thought it was advantageous to have a joint meeting with the ZBA for both Boards to

hear the applicant as a whole. Since then we have changed the Town Attorney to Stephen Buckley. We had him review Atty. Mayer's letter to see if he agreed with the process. Atty. Buckley gave us a different opinion as far as what the applicant should be applying for. In the past, we were always told no variances to Article 10-A U.S. Route 3 Corridor Performance Zoning District (PZ), because this district is under the jurisdiction of the Planning Board. The new attorney said that although most of the PZ district falls under the Planning Board for waivers and site plan approvals, there is still an option for someone to apply to the ZBA for a variance to Article 10-A. Tonight rather than hold a public hearing on the variance they applied for, Peter and I discussed this afternoon to have the applicant present tonight. The Planning Board is not voting on the variance, but just providing guidance via comments to the ZBA. Abutters will have to be renotified of the public hearing. I believe the applicant is on the ZBA agenda for tomorrow night. The abutters and the applicant will have to be renotified for the January ZBA meeting. This is Atty. Buckley's opinion to the Town for the applicant to go forward. You need to make the decision on how to proceed. This is the legal advice we received late this afternoon. Again, no voting tonight, this is just a discussion.

Ari B. Pollack, Esq. @ Gallagher, Callahan & Gartell, PC: I am representing the applicant, 1371 Hooksett Road, LLC. Our team here tonight is Jim Tenn, owner of the 1373 Hooksett Road, LLC, and Paul Morin, Tarkka Homes, Inc. Our engineering company is Hayes Engineering, Inc. out of Massachusetts.

A. Pollack: We started this ball rolling by filing for a variance. We had concerns ourselves on how to do a redevelopment of mixed uses at 1373 Hooksett Rd across from the Automania Car Dealership. We proactively asked to speak to the Town Attorney Bart Mayer. We met with him and some Town officials. That meeting steered us to different part of the ordinance – Article 26. We were told to go under Article 26 Non-Conforming Uses and ask for this relief vs. a variance. We asked to table the non-conforming application to the ZBA, and applied for a different application under Article 10-A. We have a ZBA meeting tomorrow night. We then heard about 10 days ago that there would be a joint meeting with the Planning Board and ZBA tonight. Today at 4:00pm, I was told there was another change of plans. We were told that we should be pursuing relief from the Article 10-A PZ section, and to still attend the joint meeting with the two Boards. I am as confused as all of you are. If the Planning Board wishes to weigh in on ZBA questions, we are all here and comments can be collected. If the ZBA wishes to make decisions this evening, that is fine. If the ZBA feels they need to renotify the abutters, that is fine.

J. Gryval: Planning Board questions?

R. Duhaime: I am not confused. The applicant met with the Planning Board before the ZBA. We had discussion with the applicant for eight (8) units and indicated to him what direction he should go. The applicant then went to the ZBA. The applicant didn't like the consensus of the Planning Board and he went to the ZBA.

P. Morin: We were told we needed a variance no matter what. In any case, we had to go to the ZBA. A variance is needed for any proposal on this site.

R. Duhaime: That was up to the CEO's discretion. You had one year or so for a timeline or you lost it.

P. Morin: There is a timeline and we are diligently pursuing it. We have a non-conforming use. We are not abandoning the use. We are taking direction from the Town, attorney(s), and staff.

J. Gryval: The intent of the non-conforming use on this site is to eventually become conforming and not to enlarge the non-conformity.

A. Pollack: There are eight (8) existing residential units. We want to preserve that use and add four (4) additional units to total twelve (12) residential units plus a commercial use.

J. Gryval: The intent is not to enlarge the non-conformity. In the future the site should conform.

A. Pollack: I understand twelve (12) units are more than eight (8) units.

J. Duffy: Currently there are several more units on the site, many of which are condemned. Eight (8) units are grandfathered and were suppose to expire in September. The CEO put a hold on the expiration. We are honoring it to go further. It was explained by Atty. Buckley that it would be cleaner to go for a variance to Article 10-A vs. a variance to Article 26 Non-Conforming Uses. The variance would be to allow the applicant residential and mixed use under Article 10-A. He already has some of that.

J. Gryval: There are so many "what ifs".

D. Marshall: The ZBA and Planning Board both received the legal opinions from Atty. Bart Mayer and Atty. Buckley.

J. Duffy: Atty. Mayer's opinion we received several weeks ago. Atty. Buckley's opinion was not received until this afternoon.

D. Marshall: We can't discuss the attorneys' opinions in an open forum. We (ZBA and Planning Board) need to discuss this with no one else here at some point tonight.

J. Duffy: You have to go into a "non-meeting status".

D. Marshall: I did a comparison on these two (2) attorney opinions. There is not a lot of difference in their opinions.

J. Gryval: Any other comments?

J. Levesque: What is the next date for your Planning Board meeting?

J. Duffy: December 21, 2009 and January 11, 2009.

A. Pollack: Let the record show that we have asked for copies of Atty. Mayer's and Atty. Buckley's opinion letters. At the present time the state of affairs at the site is a mixture of a former motel, office space, and scattered residential. We bordered up and secured the buildings at the request of the Hooksett Police Dept. The septic system is off-line. The property has a State Cease and Desist. The Town Cease and Desist is for the septic and other items. A pure rehab of the existing buildings is cost prohibitive. It would be a band-aid and will not approach the PZ or real commercial corridor needed along Hooksett Road. Our approach to this project is to wipe the slate clean and start again. It would be a complete redevelopment for mixed use. Bump up the ordinance:

1) residential use as part of mixed use in the PZ, and 2) preserve the non-conforming – we want to reconfigure and be more orderly on how the buildings are scattered and enlarge them. In the past there were twenty-two (22) units. As the clock ticked, the number dwindled down to about eight (8) units. We as an applicant could say there are more units. When we say twelve (12) units, this is less than what history had but more than the eight (8) units the Town allows. We would make commercial improvements to the front of the property, and have residential in the back. We presented a conceptual to the ZBA. With a well-designed layout of the buildings, we could take advantage of shared parking and shared utilities and landscaping. We are asking for relief in one of two places, and frankly we have now applied for both: 1) Article 26 Non-Conforming Uses, and 2) Article 10-A mixed use in the PZ with residential. We have had substantial discussions with Atty. Mayer and the Town. We have filed a second ZBA application for a variance to Article 10-A, and would like the first application for Article 26 tabled. Tonight's joint meeting, I would like to go over the variance test for granting relief from the ordinance. In both ZBA applications, the answers were the same for both avenues:

**1) The proposed use would not diminish surrounding property values because:** we have photographs of the existing site and septic failure. The current condition is deplorable. Even if the site was brought to code, the idea is to bring things closer to conformity. For the neighboring property value it is status quo. It is indirectly harming their values. Any reconditioning of the site would better for their values. We vision a 2-story retail building with one floor retail and the other general office. Commercial is productive use in the PZ corridor. They had mixed use with residential and commercial, and they don't have to abandon that use.

**2) Granting the variance would be of benefit to the public interest because:** Nobody's interest is served by letting what exists linger. Redevelopment of the PZ corridor is an example of the kind of flexibility. We are not suggesting bringing in exactly what you thought for the PZ, but this is the next best thing. We are proposing something sensible.

**3) Hardship** – this is a unique setting: a) dilapidating buildings, and b) surrounded by other residential uses. North is the multi-family motel, east is the single family home, and across the street is an auto dealership. We have consulted with multiple realtors. If a purely commercial site, there are no buyers and no interest. The development costs and return just don't line up. There are the Cease and Desist and DES orders. Upgrades to the existing buildings are cost prohibitive and a band-aid approach. We are looking for flexibility to rebuild. The PZ is the central aspiration. Article 10-A C (3) refers to “. . . appropriate flexibility in land use control . . .” I don't know what that means, but it also says in section C (3) “. . . to encourage diversity in the community tax base . . .”. Residential is the piece that makes it have diversity.

B. Sullivan: The PZ was never mixed use. It is the conforming parcels of land that the Town would be flexible upon in our regulations to improve the corridor. The best way to do that is a give and take with the developer to provide them something useful and in return get something from them; example extra land for a throughway. It was never for non-conforming sites. That was never the situation sir.

A. Pollack: We would like flexibility with the site plan and alleviate congestion. We have no intention of circumventing the Planning Board process. We want to see a give and take and what uses can be there vs. what the performance district is aimed at. Will the Town stand firm on the PZ no matter what delay, or will they embrace some incremental approach that we believe is progress out there? Will they allow residential uses and build commercial when we can? I understand the ordinance prefers commercial, however we have a reality-based view on what is realistic.

**4) Rights of others** – our project will enhance the surrounding properties. We could connect our property to the sewer line vs. septic.

**5) Substantial justice not contrary to the spirit of the ordinance** – we want to do something productive. That is exactly what every ordinance should strive to achieve. To our thinking, we have good reason for mixed use and getting relief from the PZ. The PZ district encourages this result, maybe not from uses, but we are ready to get to the Planning Board site plan process. We hope that you will excuse some of these questionable items. We think our intention is reasonable and hope the Board will allow us to go forward.

J. Gryval: Any questions from either Board?

Roger Duhaime: You are asking for relief from the ZBA, however expense is what I hear. If you are looking to save money, that is not what the ZBA is here for. We would like the Planning Board comments and guidance to help us get this application through.

P. Morin: I have been advising the owner what the costs are. I agree with you it is not your job to lower our cost to make it more profitable. I applied for a building permit for the six (6) unit building and also for the duplex property. Mr. Rowell denied it via Fire

Dept. and other comments. Reconditioning the existing site is not economically viable. It is not your job to make sure I make a little bit of money. It is hardship not economics.

Roger Duhaime: Let's move forward with what these two Boards can do.

B. Sullivan: You are phasing the project with residential being the first phase. What timeframe for phase II for the 2-story commercial? What if in 2 yrs you say "my real estate agent says I just can't build commercial due to the economy?" You then would have the residential, what about the commercial?

P. Morin: Frankly when there is a market for some of the vacant properties in that corridor, we are hoping to have a portion of that property ready. Mr. Sullivan, you folks have control over site plan review. These uses are back there now. It will be much more difficult for a future variance. It should give you some level of comfort.

B. Sullivan: Jo Ann, what are your thoughts on this?

J. Duffy: I won't say I agree or disagree. I have heard several arguments in the past that "things have changed and we can't complete how it was approved."

B. Sullivan: You can sell an LLC to another LLC. There are three (3) properties on the by-pass that have changed LLC in the past few years. To my fellow Board members, especially ZBA, phasing the residential first the LLC could then change over to another LLC who will say "I was not the one who did this, and I can't do this now for this reason".

P. Morin: The notes on the plan for property vs. owner at the time.

A. Pollack: If somewhere down the line a new LLC cries "woe" for relief, that is up to the Board at that time to determine relief, and if they are persuaded by the new LLC. If commercial use never gets there, what is the Town left with? Twelve (12) units vs. eight (8) units and you still have the PZ.

B. Sullivan: That is one point of view. The reality is someone could come and say they want to take out that full chunk. The point I am most concerned about is this is not only a tree, but also a forest. Monolithic vs. whatever happens on the road. You are not the only parcel owner with a sign "for sale" in the PZ. You are entertaining residential use in the PZ. Hooksett's future is tied to Rte 3 and Rte 3A growth. This is not a good thing for Hooksett. Short-term it will look prettier, however long-term it won't help Hooksett.

A. Pollack: I recognize what the Town would like there today and every day. Currently it is not possible.

B. Sullivan: The property is not high end. It is more like workforce housing. Ultimately it is not a big thing for Hooksett. If we plan the future for the corridor, this is not a great use for us.

D. Marshall: One of the disadvantages of serving on this Board for thirty some odd years is history. Courts in the past would throw out hardship. Today Courts have interpreted the economy and how it is hurting developers and include this in their decisions. Good planning, whether thirty years ago or thirty years from now, the plan is for commercial. Anyone asking for residential, we don't want it in that corridor. To go with twelve (12) units flies against the ordinance.

A. Pollack: Good planning needs to look at the economic reality. Our position is not argumentative. The reality is without some relief, what you see now is what you will have for some time. Do I understand Mr. Sullivan's concern that maybe commercial doesn't come in the future? Yes, I do.

D. Marshall: We can't use planning as a crap game. Just because the economy changes doesn't mean we do the best thing for the developer. We look for the best deal for the Town long-term, not short-term.

N. VanScoy: I've learned a lot recently. One thing I do is interpret facts presented to me. I guess in some ways I do not hold the same history as some that sit around this table. One thing that stands out is rezoning in the PZ. Just this last year, in order to accommodate existing residential, an area near exit 9 was rezoned from PZ as approved by the voters. With that being said, how are we affecting people living in residential in this area? Whether or not we want residential, there is residential. The way the property sits now brings down the neighborhood. Further down the road there are empty properties and it keeps getting emptier every day. It would uplift the existing commercial property instead of a dieing out the commercial zone. I think it makes sense. There are a lot of empty commercial in the PZ. As much as we want it to be commercial, we are watching the PZ fall apart. This side of Town is falling into disarray as this property shows. I see a commercial property not viable right now. If that property in 2 yrs is not viable, then we have bigger problems than what we have now. I believe economics is making it fall apart, and affects the neighborhood around it. My final statement out of the Council is the fact that we have rezoned residential in the PZ.

B. Sullivan: I don't recall the residential in the PZ ever being rezoned.

J. Duffy: Coaker and Elmer areas near exit 9 were rezoned May 2009.

Roger Duhaime: I wanted to hear the Planning Board discussion. We have had this issue with the cell phone towers. They bring it to zoning, the neighbors fight it, now everything has changed. I would like to work with the Planning Board for the best-case scenario. You have rights to the property, but I want to hear from the Planning Board's best use.

Chris Pearson: What Roger is saying, in this case, we got thrown into this PZ and need to decide whether or not we need to grant relief to this applicant. I would like to see the cart

before the horse. We want very concise guidance from the Planning Board on what exactly we need here. That is what we are looking to get tonight.

J. Gryval: How many variances are you looking to get?

A. Pollack: Variances depends on which way we pursue: 1) PZ – variance to table of uses for residential use, OR 2) non-confirming - variance use to a) reconfigure the location of the building and b) expand the residential units from eight (8) to twelve (12).

J. Gryval: You need a buffer zone of 25 ft between uses.

A. Polack: We have no delusion of the planning process.

B. Sullivan: I know this is not what you like, but are you OK with just eight (8) units? I am concerned of you not making money. Do you really need twelve (12) units to make this project work?

P. Morin: What I advised my client is if he didn't make twelve (12) units, he probably would not get a good investment. This is a temporary carry over and redevelop commercial in the future. For building and safety codes requirement, the reality is the investor won't invest to be upside down. What you have before you is twelve (12) units and commercial in the future.

J. Duffy: This property has been pretty bad for a number of years. It has gone up for sale a few times. Each time a new owner would come into the office and say "this property is unique, because it has something there now that is not allowed in the PZ". Jim Tenn is a well-respected attorney and Paul Morin is a well-respected builder. Would the applicant and Board entertain rezoning not just these three (3) parcels, but the area surrounding the back of this site abutting the Jensen's piece and most of the back residential? It was rezoned a few years ago. I don't know if you will see it built out as commercial. If the Planning Board would go along with it, we are at that point in time for zoning changes.

A. Pollack: Are we interested in alternatives? Yes, we are interested. This circumstance is unique. It is a problem we own with the market conditions that prevail. Are we open to suggestions? Yes but we have ZBA applications in process.

D. Marshall: How will you get around the issue of spot zoning?

J. Duffy: There are parcels in back at Jensen's that are mixed use, and the parcels at Dartmouth, Hunt and Kerry Lane are all small parcels.

D. Marshall: Next to the PZ there is residential behind him. Spot rezoning?

J. Duffy: Behind and next door to the site is residential. This site is not like most parcels along that corridor.



**ENTER NON-PUBLIC SESSION**

*R. Duhaime motioned to go into non-public session at approximately 8:30pm.*

*Seconded by N. VanScoy.*

*Vote unanimously in favor.*

**EXIT NON-PUBLIC SESSION**

*J. Levesque motioned to come out of the non-public session at approximately 9:00pm.*

*Seconded by B. Sullivan.*

*Vote unanimously in favor.*

J. Gryval: Pursue the variance under Article 10-A.

A. Pollack: What is the status of the application for a variance under Article 26?

D. Marshall: Anything on the property that is residential, pursue Article 10-A for a use variance.

A. Pollack: Was the ZBA seeking advice during your deliberation on that matter?

J. Gryval: We discussed the two attorney opinion letters.

A. Pollack: If the ZBA is looking for guidance from the Planning Board, how will they get that?

J. Gryval: You submit the ZBA application for a variance to Article 10-A, and we (Planning Board) will issue a recommendation to the ZBA.

A. Pollack: Again for the record, we request the release of the letters from the two Counsels. Supporting our argument, we were granted to have a meeting with Atty. Mayer and we reimbursed the Town for that meeting. That meeting waived any privileges.

C. Granfield: Yes, they funded that discussion with Atty. Mayer.

A. Pollack: Are we being asked to attend tomorrow night's ZBA meeting or the ZBA meeting in January?

C. Pearson: Attend the ZBA meeting in January. You will be removed from tomorrow's ZBA agenda.

A. Pollack: Does the ZBA need a new old application?

L. Moynihan: As long as your answers to the questions don't change, we can use the same application and renotify the abutters under Article 10-A.

**CIP PRESENTATION**

2. Capital Improvement Program (CIP) Committee 2010-2011 CIP plan presentation.

R. Duhaime: With me tonight are the CIP 2010-2011 Committee members: Vice-Chair Martin Cannata, Marc Miville, Nancy Comai, Marty Lennon, Dana Argo, and Jack Mudge. We are presenting the full 6 yr plan for period 2010-2016. For the record on the CIP Committee vote for Recycling & Transfer automated collection, the vote was 4 in favor, 1 opposed (Marc Miville), and 1 abstention (Martin Cannata).

D. Marshall: You did a great job on this plan. You balanced off the items over the 6 yr period very nicely.

B. Sullivan: For the Fire Station Capital Reserve Fund \$100,000, sooner or later there will be a new Fire Station in the Rte 3A area.

N. Comai: We have funds in there just so we don't get into a bind later.

M. Miville: At the moment there is no land for a Fire Station.

B. Sullivan: The developer for exit 10 was to give the Town a parcel of land to secure.

C. Granfield: We are working on securing the land.

D. Hemeon: As a department head, I didn't get everything I wanted, however it is a good plan.

D. Marshall: Are you as a group appearing before the Budget Committee?

M. Miville: Several members on this CIP Committee are on the Budget Committee.

C. Granfield: After the Planning Board adopts the CIP Plan, the Town Administrator submits it to the Town Council. Each item has been addressed budget wise and addressed in each department.

D. Marshall: So there is not a lot of warrant articles?

C. Granfield: There are a lot of warrant articles, and the Town Council will vote whether to send the warrant articles to the Budget Committee.

M. Miville: The CIP Committee hashed out a 6 yr plan. The Town Council and Budget Committee only look at this year's warrant articles. Our (CIP Committee) charge is to create a solid 6 yr plan.

F. Kotowski: It is good to see a 6 yr plan.

B. Sullivan: Recycling & Transfer for the two (2) automated trucks, why weren't these spread over 5 yrs.? The capital fund jumps to \$1.4 million.

M. Miville: We discussed how to fund items in the CIP Plan. Christine Soucie's advice was to have \$175,000 in the CIP plan, even though Diane Boyce has \$500,000 in her capital reserve. For the warrant article, the voters are only voting the total amount of \$460,000. This year the warrant article is for \$175,000, and in future years the warrant article(s) will be for the remainder of the \$460,000. We had some discussion whether or not to follow the Town Administrators recommendation for a non-funded referendum or to put money in it. We went back-and-forth on how much to fund that. My concern and opposition to the CIP Plan vote on this item, was that if we funded the referendum, the funds may influence the vote one way or the other. The rest of the committee ultimately voted to put money in the referendum.

M. Lennon: The offsetting revenues of \$500,000 are in 2011.

***D. Hemeon motioned to adopt the CIP Plan 2010-2016 as presented by the CIP Committee with no amendments. Seconded by D. Marshall. Vote unanimously in favor.***

### **DISCUSSION**

#### **3. GRIMARD'S AUTO SALES & SERVICE, INC.**

Denis Grimard, President

4 Londonderry Tpke., Map 49, Lot 43

Conceptual to construct a 30' x 40' wooden storage structure to replace the existing three (3) storage trailers.

Alden Beauchemin, Keyland Enterprises: I am representing the owner, Denis Grimard. With me here tonight is Ron Pellerin, Builder. Mr. Grimard wants to build 30'x 40' garage on his existing site. His original site plan was approved by the Town in 1987. He currently has three (3) tractor-trailers on the side of his building for storage. The total size of the trailers is equivalent to the size of what he is proposing. He would like to be able to do this proposal with a waiver of site plan. Tonight I am just looking for your guidance.

R. Pellerin: He wants to get rid of the three (3) trailers. He wants to build a storage structure in the back. It will have vinyl siding with one or two overhead doors, basic electricity, and no heat.

D. Marshall: In a case like this, wouldn't it have been easier for the Building Inspector to take care of this?

J. Duffy: The Building Inspector denied the building permit request. Since the site plan is so old, we thought we would ask for a waiver of site plan and have Mr. Grimard indicate

where the structure will be and what it will be used for. I thought the Board may ask for a drainage study for the increase of impervious surface.

D. Marshall: Would the three (3) storage trailers fit inside the new building? Or is the storage building bigger than the trailers? How is this more impervious surface?

R. Pellerin: Yes the trailers would fit inside the building. He wants to put the building in the back.

D. Marshall: Dan, your comments?

D. Tatem: My only question, is it the existing gravel parking with no additional paving, and no site work required with just a 4 ft frost wall and the building?

R. Pellerin: That's it, just a slab and building.

D. Tatem: I have seen site plans this simple with a waiver presented to the Planning Board.

***D. Marshall motioned for the Building Inspector to issue the building permit for Grimard's Auto Sales & Service, Inc. located at 4 Londonderry Tpke., Map 49, Lot 43, with the condition Mr. Grimard will abide by the contents of his letter dated 10/19/09 and abide by the sketch attached to that letter for the storage structure location and 30' x 40' size. Seconded by F. Kotowski.  
Vote unanimously in favor.***

#### **COMPLETENESS**

- 4. PAUL A. MAURAS (#09-22)**  
Maurais St. off Mammoth Rd, Map 45, Lot 33  
Subdivision plan for 3 lots.

J. Gryval: Complete?

J. Duffy: Yes.

***D. Marshall motioned to find the application complete. Seconded by N. VanScoy.  
Vote unanimously in favor.***

Matt Peterson, Woodland Design: Mr. Frasier, abutter, would like to thank Dale for installing a flag at Frasier Park.

**CONTINUED PUBLIC HEARING**

5. **CONTINUED TO DECEMBER 21, 2009**  
**SUPERMARKET (#09-15)**  
Interstate 93 & Rte 3A, Map 37, Lots 2-3, 3, 4, 5  
Non-residential site plan to construct a 76,325 sq ft supermarket

*Continued to December 21, 2009.*

**OTHER BUSINESS**

6. **HEAD'S POND – extension to 65-day deadline (exp. 12/15/09)**

David Campbell, Attorney representing MS&G: For the Head's Pond project, we have two (2) outstanding issues beyond engineering to resolve:

- 1) **Development Agreement** – we will finish with Bart Mayer. We owe him numbers, and he owes us a second draft.
- 2) **DES Easements** - for the school site behind 3A Development, you will be asked tonight to send a letter of support for the school site.

All approvals on Head's Pond have been segmented and layered. We have a meeting next Monday with our engineers and Stantec. We are here tonight to request a 120-day extension. We want to push this project along aggressively.

*B. Sullivan motioned to extend the 65-deadline from 12/15/09 to 04/15/2010. Seconded by D. Marshall.*

*Vote unanimously in favor.*

7. **SCHOOL SITE ACQUISITION – letter of support**

J. Gryval: The Hooksett School District has asked the Planning Board for a letter of support for the Manchester Sand and Gravel school site donation.

B. Sullivan: How do we get access to this land?

D. Campbell: College Park Drive straight up the hill. The alternative access if an emergency access "fire road". The school site is at the north part of Town at a signalized road. It's the best road for a side road.

R. Duhaime: Previously the Planning Board was invited to walk the site with the School Board sometime last year. There are uplands. There is a roadway Conservation Easement with University Heights. No one else could access this land except for the roadway. There are more wetland issues for Conservation than to build the road.

N. VanScoy: The letter of support is for the property for the intended future school site.

D. Campbell: We are going to the DES. They want to know the Planning Board supports the Conservation Commission easement swap, and that there will be a Town easement.

***F. Kotowski motioned to send a letter to the Hooksett School District that the Planning Board is in support of the Manchester Sand and Gravel school site donation to the Hooksett School District. The Board is also in support of the Conservation Commission easement swap proposed by Manchester Sand and Gravel. Seconded by C. Granfield.***

***Vote unanimously in favor.***

## **8. MTS – amended site plan to include Mowtown**

J. Gryval: Mowtown is the transmission place that burnt down his business recently. He is now in the MTS building.

Matt Peterson, Woodland Design Group: The last three (3) weeks, I have been working with the Town staff for Mowtown to conduct business at the MTS building. The existing MTS site was approved for 17,000 sq ft of service and storage, and 7,700 sq ft of retail. Back in 2007, he (Dave McCurdy) thought his business would grow. It hasn't. Going through the notes I gave you, note #3 golf cart showroom, storage, and service for one use. Now Mowtown is very similar to his use for service and retail. At the time you approved the golf cart plan, you wanted an evaporation system. Mowtown would use that same system vs. flow drains that he had in his Mowtown old "burnt down" building. The area identified in red on the MTS plan is what he would like to use for Mowtown's business. The showroom is the whole front part of the building. Going through what you approved for this site, it does not constitute an amended site plan. I believe the decision can be administratively decided.

J. Gryval: Staff?

J. Duffy: I met with Dave McCurdy last week. I suggested he obtain something from the Building Dept. that he was all set with everything and also get something from the Fire Dept. If you feel that needs to be done, I suggest you include that in whatever motion you are making. Will Mowtown's business increase any additional traffic? Cross Road was discussed for the Riverside Public Storage application. Mowtown will have more retail business. If there is an increase in traffic, you can require him to go before the Board. For the easement for signage at the corner of Cross Rd and Rte 3A, there is a Warranty Deed recorded. The title transfer mentions easements to include signage, but did not give any explanation on the signage dimensions. However there are signage details on the plan. I don't know if we need a separate easement for this sign. I asked Matt to go to McCurdy's attorney to provide a recorded sign easement. There is currently a portable sign for Mowtown as of December 1<sup>st</sup> stating to turn right on Cross Rd.

M. Peterson: He filed for a temporary portable sign permit per zoning regulations.

J. Gryval: Is this a temporary situation?

M. Peterson: Yes.

D. Marshall: Mowtown is operational in this building right now?

M. Peterson: I got involved in this on Thursday last week. I haven't been up to the site, however I believe they are operational.

D. Marshall: The owner of Mowtown was outspoken with staff. He needs to abide by the rules and regulations of the Town. His sign may be temporary, but this guy could stay in this building forever.

M. Peterson: Mowtown was looking at a couple of different locations. Right now they have a couple months agreement with MTS. Your right, he could come back.

J. Mudge: The Mowtown building is being repaired.

D. Hemeon: He doesn't own the building. The transmission guy owns the building.

D. Marshall: He is running a small engine repair business. He isn't building anything more. The only thing he is doing is a volume of business that may cause a traffic increase problem.

B. Sullivan: Mowtown used to put product on display at his old site. Is he going to do the same thing at the MTS site?

M. Peterson: Inside the retail section, he has a small space. There is no display area along roadways. The original MTS approved site plan has a sidewalk. There are 3-4 golf carts displayed outside in front of retail section.

D. Tatem: On the westerly side?

M. Peterson: Yes.

J. Gryval: I would like to know how long Mowtown will conduct business at MTS, temporary or not.

R. Duhaime: If I didn't find a part sometimes at Mowtown, I would go to MTS. I saw so many similarities between businesses. The golf cart is down in business, and Mowtown would be losing all his snowblower business before winter. This is a short-term solution for his business.

J. Gryval: The MTS building was built for one business, one purpose. We don't know temporary. Where will the signs be displayed? I would like to get more information. I

would like to see an amended site plan. If we knew 90 days or so is the timeline, but we don't know.

R. Duhaime: If he is going over 90 days, then an amended site plan?

M. Peterson: What if it is a 6 month timeframe, and if there is any outdoor display area then something needs to be submitted to staff?

J. Gryval: 6 months but not longer.

D. Tatem: There are two (2) sign easements needed from Dave for recording.

***R. Duhaime motioned to allow Mowtown to conduct business out of the MTS site no longer than 6 months from today's date conditional:***

- two (2) recorded MTS sign easements are submitted to the Town of Hooksett
- if the Mowtown traffic becomes a nuisance as defined by the Planning Board, the applicant will be called back to appear before the Board
- if Mowtown wants an outdoor display area, they will submit a request in writing to staff for approval

***Seconded by M. Cannata.  
Vote unanimously in favor.***

### **Market Basket**

J. Duffy: After the 12/10/09 TRC meeting, we are meeting with Market Basket at 11:30am. They are pushing for final approval at the Dec 21<sup>st</sup> Planning Board meeting. They only applied for State permits. I told them normally the Board doesn't approve without permits. Easements are needed for Town Attorney review before final approval. Dale, John and Dick – we need to meet either December 14<sup>th</sup> Monday or December 17<sup>th</sup> Thursday for roadway impact fees.

### **Conditional Approvals**

J. Gryval: There are a lot of conditional approvals sitting in the Community Development Department. We should require the applicant meet their conditions within 90 days and a one-time extension of 30 days or start over. Get conditions in a timely manner or start over.

B. Sullivan: That would allow us to have a little more control.

D. Tatem: The State, in the last 6 months to a year, for Wetland Permits and Alteration of Terrain permits says more than 120 days with conditions outstanding, the application goes out the window. We recommend staff comments, engineering (Stantec) comments or Planning Board comments be addressed within 120 days (4 months), and Planning Board conditional approvals be addressed within 6 months.



B. Sullivan: I recommend 3 months with a 90-day extension.

D. Tatem: Why approve with a deadline and then allow an extension? It should be 6 months with no extension.

D. Marshall: For the Development Regulation updates, we should have conditional approvals to be met within 120 days from the Planning Board approval date with the possibility of a one-time 30 day extension.

**Webster Woods Letter – Valerie Fradette**

J. Gryval: We received a letter from Valerie Fradette to be made part of the record for Webster Woods.

D. Tatem: Dale and I personally left messages twice for 22 Bert Street. I don't know if it was Ms. Fradette or a tenant, but she took off. A year ago, we tried to look at her problem. If it is a tenant, this woman who wrote the e-mail may not think we tried to speak with her.

**Bielizna – 1266 Smyth Rd/Prescott Heights Rd, Map 48, Lot 19**

J. Gryval: This was originally on our agenda for tonight for a special exception request for Article 18 Section G:2.a to the ZBA for a driveway to be constructed within the wetland buffer.

J. Duffy: After I talked to Peter, it was a variance. We took it off tonight's agenda.

**Conservation Updates**

R. Duhaime: I will share the Conservation Commission updates with you at the next Planning Board meeting.

***D. Marshall motioned to adjourn at 10:00pm. Seconded by D. Hemeon.  
Vote unanimously in favor.***

**ADJOURNMENT**

Chair J. Gryval declared the meeting adjourned at 10:00pm. The next Planning Board Meetings in December is at the Hooksett Town Hall Chambers, room 105 @ 7:00pm on December 21, 2009.

Respectfully submitted,

Donna J. Fitzpatrick  
Planning Coordinator