

TOWN OF JAFFREY
Jaffrey, New Hampshire
PLANNING BOARD
Meeting Minutes
October 13, 2009

Present: Chairman Merrell, Members Deschenes, Doane, Kresge, McCarthy, Moore and Selectmen's Representative MacIsaac

Absent: Members Grodin and Foley

Staff: Recording Secretary Lemire, Building Inspector Baron

MEETING MINUTES APPROVAL

On a motion by MacIsaac, seconded by Deschenes, the September 8, 2009 minutes were approved as amended. (6-0)

Amendment as follows:

Page 5, ¶ 2, line 1

Member Grodin asked where the parking would be for the batting cages and how the cars will get

PRELIMINARY HEARING

Mr. Frank Bateman – Quaker Meeting House

At the request of the Selectmen Mr. Bateman and Mr. Sandy Isaacs, members of the Quaker Meeting House, are before the board seeking advice. They would like to construct a green burial ground on their property located at 3 Davidson Rd. The property is on the Peterborough town line with 6.9 acres in Jaffrey.

The proposed site would be approximately 60 feet by 90 feet and would be used for green burials and the burying of ashes. It would be located approximately 120 feet from Route 202, 125 feet from their well, at least 500 feet from all wells in the area and 50 feet from the Peterborough town line. The nearest building is 600 feet away as is the river located below the site. The site would be marked with four granite posts. Mr. Isaacs explained that a green burial is one without any embalming fluids or a vault.

When asked about the longevity of the burial area Mr. Bateman estimated 75 to 100 years or more. He explained that there are approximately 55 adult members and the burial ground will be used by members of the Meeting House or their family. The area allotted for each burial may be 4 feet by 6 feet or smaller. A small plaque may or may not be placed in the ground. They have studied other Quaker burial sites and three have been visited. A layout has not been decided on and soil studies have yet to be done.

Chairman Merrell stated that the board would require a site plan. They would like detailed information relating to what can be done with the 60 x 90 site, drainage in the area and soil types. Mr. Bateman was informed that maps with some of this information were available here at the town office. Because the project is on the Peterborough town line the board suspects the project would be one of regional impact requiring notice to the Town of Peterborough.

Building Inspector Baron and Mr. Bateman will arrange a meeting to discuss what is required and how to proceed.

CALL TO ORDER

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Chairman Merrell called the public hearing to order at 7:30 p.m. The rules of procedure were read aloud. Notice of hearing PB 09-09 and PB 09-11 was posted in the Town Office building, the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen.

Member Grodin was absent Member Moore would vote.

PUBLIC HEARING – NEW

1. PB 09-11 Jaffrey Auto, 26 Fitzgerald Dr., Map 244 / Lot 32, Zone: Industrial

The Planning Board will reconsider their September 8, 2009 decision for case number PB 09-10 – Jaffrey Auto.

Presentation: Attorney David Tower

Appearance: Michael Guitard, Ralph Cody

Member Deschenes recused himself. Member McCarthy stated that although he was not present at the last meeting he did read the minutes and listened to the audio.

Because there was not a full board Chairman Merrell asked the applicant if they wanted to continue with the public hearing or wait for a full board. The applicant indicated that he would proceed.

Chairman Merrell stated that the Planning Board can rehear a previous decision and an applicant can request a rehearing on a previous decision when an error has been made in reaching that decision. In this case there were two facts that were not supplied during the public hearing last month. The first item is the parking of school buses on the property without a site plan. It was not discussed and it was not a known fact to the Planning Board. The second item is that the minutes of the 1992 meeting regarding the construction of the Jaffrey Auto structure indicated that parking of vehicles on impervious surfaces were not discussed. The board was given a letter from DPW Director, Randy Heglin that included the minutes from the public hearing in which discussion of impervious surfaces were discussed however the decision was not included. Upon reviewing the decision it was found that the decision to build the structure was conditional upon installing an impervious surface for parking vehicles. These two issues are why the board has scheduled the rehearing.

Attorney Tower asked Chairman Merrell if the board was operating under the revocation acceptance statute for the Planning Board approval. Chairman Merrell stated that the board is not revoking anything they are rehearing it. Attorney Tower asked under what statutory authority is the Planning Board acting. Chairman Merrell stated that there is no statutory authority; Planning Boards are allowed to rehear when there are errors involved in making decisions. Attorney Tower questioned the validity of the hearing because the board's authority in these matters comes exclusively from the statute.

Chairman Merrell stated that there are a couple of opinions regarding rehearings by the Planning Board and the one the board is operating under is that the local board should have the first opportunity to pass upon any alleged errors and decisions so that the court may have the benefit of the board's judgment. Attorney Tower responded that that applies to the Zoning Board of Adjustment decisions; which allows a motion for rehearing after 30 days of the board's action. Referring to Chairman Merrell's letter to the contractor dated September 23, 2009, which stated that the 1992 conditions had been violated, Attorney Tower stated that he reviewed the minutes and decision of that

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meeting and he did not see where the approval was violated. He did acknowledge that the parking of buses was mentioned in the minutes however no action was taken. Chairman Merrell commented that it was unfortunate that the wording of the decision was isolated to all “cars” waiting repair. Vehicles are potential contaminant sources and certainly parking of buses on a sand and gravel surface would fall under the same category as parking vehicles waiting repair.

Member Kresge commented that he feels that the issues raised are reasonable however he questions if they are being raised to the right board. If there is a violation of site plan then the request for relief should be brought to the Selectmen who in turn will go the Building Inspector for a cease and desist order.

Building Inspector Baron stated that the board is acting on a request from the Town Manager and referenced a letter from Town Manager Hartman to Chairman Merrell dated September 30, 2009. The letter requested that the Planning Board rehear this matter stating that under the provisions of RSA 37:6 the Town Manager has the responsibility for management of the municipal water works and in that capacity he has standing to request that the board reconsider their decision. A copy of the letter was given to Attorney Tower.

Chairman Merrell called for a vote on whether or not to proceed with the rehearing. Members in favor were Merrell, Moore, McCarthy and McCarthy. Members opposed were Doane and Kresge. The vote was 4-2 in favor of rehearing.

Chairman Merrell stated that the issue of concern is that the buses are operating under a non-conforming use because a site plan was never submitted and approved.

DPW Engineer Doug Starr reviewed the concerns which were stated in a September 3 letter to the board from DPW Director Randy Heglin. It was also mentioned that last Spring approval had been given to allow the buses to be parked in the industrial park on Maria Drive.

Member Doane questioned why this is an issue all of a sudden when the well has existed since the mid sixties and the buses have been parked at the site since 1987/88. Mr. Starr replied that he and Randy had never had the opportunity to comment until now and that opportunity came about because of the planning board application.

Selectmen’s Representative MacIsaac commented that the Town Manager is asking the board to re-open the hearing and ask if all of the evidence was looked at and was a fair assessment given. The board was reminded of a letter in the file that asked if they were aware of the potential penalty or harm that can be done by polluting the well. Selectmen’s Representative MacIsaac did not recall the board having that discussion. The length of time that the buses have been at the site has no bearing at all on what the board is doing now. What does have a bearing is the threat to the town water supply. Selectmen’s Representative MacIsaac drew the board’s attention to a letter from one of the Town’s consultants. The danger is polluting one of the two wells in town and that would be a massive cost to clean up the well. Member McCarthy confirmed and agreed with Selectmen’s Representative MacIsaac and estimated the cost to replace the well at a minimum of \$10 million dollars.

Chairman Merrell stated that he feels it is an enforcement issue and the Planning Board has no power to do any enforcing. If the Town Manager and the DPW feel there is a serious potential for contaminating this well then there should be action taken by the town to prevent the parking of buses

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in that area particularly since a proper site plan application was never submitted. Chairman Merrell suggested that he as the Chair write a letter to the Town Manager stating the above.

Mr. Ralph Cody stated that when he purchased the property in 1998 the bank required that he have an environmental company do a site review. A Level II study was done and found they didn't have to go any further.

Member Kresge commented that the proposed building would be a plus by allowing oil changes to be done in doors with a proper grease trap. What will the rehearing accomplish?

Member Moore replied that they are hoping for willingness to provide an impervious surface for the buses if they remain there. He does feel that the board wasn't made aware, in their lay status, from the Town Highway agent how important an impervious surface seems to be now.

Mr. Starr stated that the intent is not to go the enforcement route but rather to work together and find a resolution.

Member McCarthy commented that he does have a familiarity with DES and how they operate and their authority to dictate over well head protection issues is very strong. Member McCarthy agrees that it is better to find a solution that allows the applicant to stay in business.

Building Inspector Baron reminded the board that when 52 Fitzgerald came before them they required all trucks to be parked on pavement.

Attorney Tower suggested continuing the meeting allowing his applicant time to prepare and hopefully propose something that might satisfy the board.

The meeting was continued to Tuesday, October 27, 2009 at 7:30 p.m.

Following the public hearing Member Moore addressed the issue of cost for paving. He mentioned that paving could be done at \$1.00 per square foot at one and a half inches thick. The cost to pave was estimated at \$7,500.

There being no further questions Chairman Merrell continued the public hearing.

PUBLIC HEARING – CONTINUED

2. PB 09-09; Poly-Ject, Inc. (property of Thibeault), 39 Webster St., Map 245 / Lot 7.2, Zone: General Business

Site Plan – The applicant proposes to amend a previously approved site plan.

Presentation: Larry Thibeault

Appearance:

Mr. Thibeault was before the board in September but during the deliberation process an issue with parking developed and the application was continued to the October meeting.

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The issue raised was the parking in front of the gym, the martial arts studio, the snow storage area across from the gym entrance and the lack of room for two way traffic to the back of the building once the batting cages were created. At the close of the September meeting Building Inspector Baron and Mr. Thibeault had agreed to meet at the site with the Fire Chief and any other interested party and try to resolve the problem. Mr. Thibeault was not in favor of removing parking spaces.

A meeting at the site did take place and it was agreed by the Building Inspector and the Fire Chief that parking at the points of interest should be removed. Mr. Thibeault submitted new plans with these parking spaces removed and a designated handicap space was added.

Chairman Merrell mentioned that the Fire Chief has asked that the ramp at the back of the building be no greater than 8% in grade. The reason is to accommodate the overhang of his trucks. Mr. Thibeault stated that he did not have a problem with the request. There was some discussion as to how the ramp would be kept under an 8% grade. Building Inspector Baron offered to meet Mr. Thibeault at the site to discuss the options.

Inspector Baron asked if the parking lot used by the gym and the martial arts studio was going to be lined now and when is the removal of parking spaces to be effective. It was decided by the board that it was not necessary that it be done at this time but it must be done before the CO would be issued for the batting cages. Building Inspector Baron asked when the cages would be done. Mr. Thibeault estimated a year.

There being no further questions Chairman Merrell closed the public hearing.

DECISIONS

1. PB 09-09; Poly-Ject, Inc. (property of Thibeault), 39 Webster St., Map 245 / Lot 7.2, Zone: General Business

Site Plan – The applicant proposes to amend a previously approved site plan.

On a motion by Moore seconded by Deschenes the application proposing to amend a previously approved site plan was approved as presented and per testimony given with the following condition:

Condition:

1. The concrete ramp shall not be greater than an 8 percent incline to the rear parking area and must be inspected by the Jaffrey Building Inspector.
2. Striping of the parking lot and removal of the parking spaces presently along the building in front of the martial arts studio and the gym and the adjacent area designated for snow storage must be done prior to the issuance of the occupancy for the batting cages.

OTHER BUSINESS

Open Space Committee –

Selectmen's Representative MacIsaac distributed to the board a copy of the proposal to establish an Open Space Committee which was presented to the Board of Selectmen on October 13, 2009. The Selectmen

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are requesting that the Planning Board offer comments prior to an in-depth discussion at the next BOS meeting on October 26th.

CIP –

Member Deschenes distributed a draft copy of the CIP for the board’s review and gave a brief explanation of what the packet contained. A formal presentation will be made at the November 10 meeting.

Downtown Master Plan –

Chairman Merrell asked the board to review the document and be prepared to discuss it at the November 10 meeting.

Wind Ordinance –

Chairman Merrell stated that several drafts have been reviewed and he feels it is ready for public hearing. Selectmen’s Representative MacIsaac addressed a couple of changes. The changes were reviewed and discussed and it was decided that Chairman Merrell would contact Town Counsel Kelly Dowd for advice

ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Submitted:

Attest:

Erlene Lemire
Recording Secretary

Edward Merrell
Chairman, Jaffrey Planning Board