

**MINUTES
NEW DURHAM ZONING BOARD OF ADJUSTMENT
8 JULY 2014**

Chairperson Larry Prelli called the meeting to order at 7:02 pm.

Roll Call: Larry Prelli (Chair), Mike Hoffman, Joan Swenson, Cecil Williams, Dave Shagoury (Alternate), Stephanie Kearns (Alternate), Recording Secretary Amy Smith.

Others Present: Videographer Jim Ladd, Atty. Arthur Hoover, Tom Varney, PE, Chris Maynard, Paul Garland.

Public Hearing - CASE: 2014-01 - Application submitted by Thomas Varney, PE on behalf of Christopher Maynard. The applicant is seeking a Special Exception as specified in Article X Section C of the New Durham Zoning Ordinance in order to permit a commercial use in the Aquifer Protection Zone. The intent of the project is an automobile sales and inspection facility. A single 40' x 60' building is to be used for a sales office and shop area. Automobiles for sale are to be along the Route 11 frontage. The property in question is located on the corner of Depot Road and Rte. 11 (Tax Map 251 Lot 1).

Chair Prelli introduced Board members and designated Mr. Shagoury to sit in as a voting member. Chair Prelli asked Mr. Maynard and Atty. Hoover if they felt there were any Board members who should not sit in on the case due to a conflict of interest. Atty. Hoover and Mr. Maynard stated there is no issue with a conflict of interest.

Atty. Hoover stepped forward and stated he would be giving the Board an overview of the application and Mr. Varney would explain the more technical aspects of the Environmental Impact Study he prepared. Atty. Hoover reminded Board members their task is strictly to see whether Mr. Maynard's business should be allowed in the Aquifer Protection Zone. Atty. Hoover noted hours of operation, lighting, signage, and other aspects of the operation of the business are the realm of the Planning Board. Atty. Hoover noted Mr. Maynard currently has an application for a Site Plan Review before the Planning Board.

Atty. Hoover read Article X Section C-2 of the Zoning Ordinance which states "Commercial and municipal uses shall be permitted by Special Exception after an environmental impact study has been completed and the study concludes that the commercial use has an impact equal to or less than that of a single family dwelling." Atty. Hoover stated Mr. Varney's Impact Study does conclude that. Atty. Hoover also noted the New Hampshire Automobile Dealers Association does quarterly inspections of facilities and the State Department of Environmental Services (DES) has the right to inspect anytime to ensure Best Management Practices are being followed. Atty. Hoover referred to DES 'Fact Sheets' for Groundwater Protection and Management of Vehicle Wash Water that are contained in the Impact Study submitted by Mr. Varney.

Mr. Varney reviewed a soil type report and his engineering report as well as explaining technical aspects of the porous pavement which will be used for the project. Chair Prelli stated Mr. Varney's report explains how most contaminants are mitigated with the exception of salt. Chair Prelli stated given the number of vehicles on the property, there is the potential to be a lot of salt

getting into the aquifer during the winter months. Mr. Varney stated salt is seasonal and not unique to this project. Mr. Maynard stated during the winter months he brings his cars to a car wash and does not wash them on site. Mr. Maynard also pointed out Johnson's Restaurant, which is also on an aquifer, may have 100 salty cars on their lot in any given day. Mr. Varney stated he does not see salt as an issue.

Mr. Hoffman asked about the storage of fluids on the property. Mr. Maynard stated his business is auto sales and he is not advertising his business as a repair facility and there will be no storage of oil on the property except for heating. Mr. Maynard noted the inspection station and shop are for his convenience and the convenience of his customers. Mr. Maynard stated currently he sub-contracts out inspections and repairs, which is inconvenient and costs him money. Mr. Maynard stated he would like to be able to do minor repairs to his vehicles and have them inspected for his customers. Mr. Maynard stated major repairs like engine overhauls and transmission repairs would not be done at his facility. Mr. Maynard did note that in order to be a State Inspection facility he is required to have a sign and be open to the public. Mr. Shagoury asked if Mr. Maynard would perform repairs for people who come in and get a failed inspection. Mr. Varney stated per a requirement of the Planning Board repairs will be limited to State Inspection requirements only.

Ms. Swenson stated for her to get a better grasp on the application and if it would adversely affect the aquifer she would like to separate the inside of the building and then discuss the specifics of the outside of the building. Ms. Swenson stated it is her understanding from the materials provided and the information presented at the hearing the foundation of the building will be impervious and there will be no drains in the floor. Mr. Maynard stated that is correct. Ms. Swenson stated it is her understanding from the materials provided and the information presented at the hearing there will be no more chemicals stored at the facility than one would find in a normal household. Mr. Maynard stated that is also correct and noted supplies needed for the vehicles are ordered as needed.

Mr. Shagoury asked about the detailing of the vehicles. Mr. Maynard stated the vehicles will be washed using a biodegradable wash over the porous asphalt. Mr. Maynard stated the vehicles are also hand waxed and none of the material used is of a toxic nature. Mr. Maynard noted he does not clean engines.

Mr. Shagoury asked what Mr. Maynard plans to do for winter maintenance if he is not using salt or sand on the parking area. Mr. Maynard stated he will plow. Mr. Varney explained aspects of the porous pavement and why sanding/salting is not necessary. Mr. Maynard noted from research he has done, as long as proper maintenance of the porous surface is routinely done the little holes in the porous pavement won't get plugged up. Water will be able to flow through the holes so ice would not form therefore there will be no need for salt and sand. Mr. Maynard explained routine maintenance consists of sweeping or vacuuming the porous pavement.

At 8 pm Chair Prelli closed the public input portion of the meeting.

Chair Prelli stated he is still concerned with salt from Mr. Maynard's vehicles getting into the aquifer and noted most single family residences don't have 25 vehicles parked on their property on a regular basis. Mr. Williams stated Johnson's Restaurant has many more vehicles than Mr. Maynard would have on the property and in winter months those cars would all have sand and

salt and other road gunk on them and they sit on a lesser quality parking area than Mr. Maynard is proposing. Mr. Williams noted he has not been made aware of any issues with salt affecting the aquifer. Mr. Maynard noted that entire area is in an aquifer and he would have liked to go with regular asphalt as it is substantially cheaper but because of the aquifer he is using the porous pavement. Mr. Varney stated salt is a part of everyday life and he does not see it as an issue. Mr. Varney noted when he was first contacted by Mr. Maynard about the project he went looking for issues and he could not find any. Mr. Shagoury noted both the State and Town have stored winter salt on the aquifer in the past. Mr. Hoffman stated he contacted a friend who works for DES and asked him his opinion about the fragility of the aquifer and if he thought this proposal would adversely impact it. Mr. Hoffman noted his friend is a very environmentally conscious person and he felt due to the sheer size of the aquifer Mr. Maynard's proposal would not adversely impact the aquifer. Ms. Swenson asked Mr. Varney, as a licensed engineer, if he felt Mr. Maynard's proposal would adversely impact the aquifer. Mr. Varney stated it would not. Ms. Swenson questioned how the Town could ensure the high standard of maintenance Mr. Maynard is proposing should he sell the property. Atty. Hoover noted an Operation and Maintenance Log is required by the Planning Board and would be monitored by the Code Enforcement Officer. Atty. Hoover also noted the State DES and New Hampshire Automobile Dealers Association will also perform inspections.

Chair Prelli made a motion to approve the application submitted by Thomas Varney, PE on behalf of Christopher Maynard for a Special Exception as specified in Article X Section C of the New Durham Zoning Ordinance in order to permit a commercial use in the Aquifer Protection Zone. The intent of the project is an automobile sales and inspection facility. A single 40' x 60' building is to be used for a sales office and shop area. Automobiles for sale are to be along the Route 11 frontage. The property in question is located on the corner of Depot Road and Rte. 11 (Tax Map 251 Lot 1). Ms. Swenson seconded the motion. The motion was unanimously approved.

Mr. Maynard thanked the Board.

Review of Minutes

Board members reviewed the minutes of 13 May 2014. **Chair Prelli made a motion to approve the minutes of 13 May 2014 as printed. Mr. Hoffman seconded the motion. The motion was approved with three affirmative votes (Shagoury, Prelli, Hoffman) and two abstentions (Swenson, Williams).**

Board members reviewed the minutes of 10 June 2014. **Chair Prelli made a motion to approve the minutes of 10 June 2014 as printed. Mr. Hoffman seconded the motion. The motion was approved with four affirmative votes (Shagoury, Prelli, Hoffman, Swenson) and one abstention (Williams).**

Board members reviewed the minutes of 13 August 2013. **Ms. Swenson made a motion to approve the minutes of 13 August 2013 as printed. Mr. Shagoury seconded the motion. The motion was approved with four affirmative votes (Shagoury, Prelli, Swenson, Williams) and one abstention (Hoffman).**

Election of Officers

Mr. Williams made a motion to elect Larry Prelli Chair. Ms. Swenson seconded the motion. The motion was unanimously approved.

Ms. Swenson made a motion to elect Wendy Anderson as Vice-Chair. Mr. Hoffman seconded the motion. The motion was unanimously approved.

At 8:32 pm Ms. Swenson made a motion to adjourn. Mr. Hoffman seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Amy Smith
Recording Secretary