

Planning Board
Minutes of September 16, 2008
Approved October 21, 2008

Members Present: Tom Vannatta, Chair; Barbara Freeman, Vice-Chair; Deane Geddes; Jim Powell, Ex-Officio; Bill Weiler; Ron Williams; Ken McWilliams, Advisor

Mr. Vannatta called the meeting to order at 7:05 p.m. He informed the Board that there was a proposed conceptual site plan review that had come in this evening. In lieu of the simplicity of the proposal, he asked if the Board had any objections to hearing the proposal prior to review of the agenda items.

No objections were made.

Mr. Weiler made a motion to hear the conceptual site plan review prior to the first item on the agenda, reviewing the meeting minutes of August 19, 2008. Mr. Powell seconded the motion. All in favor.

George and Ann Dunnett were present to discuss their proposal to operate a ski and snowboard shop out of the building owned by Herb Smith at 1485 Route 103, aka Bob's Country Store, formerly the Mount Sunapee General Store. Mr. Dunnett informed the Board that he and his wife own and operate a ski shop in Ludlow, VT at Okemo Mountain and would like to do the same in Newbury. He explained that he has leased the building from Herb Smith on a 6-month trial basis.

Mr. Vannatta explained to the Board that he suggested that Mr. Dunnett should discuss this proposal with the Board as a whole to determine if this change constitutes a change in use from what was previously approved, therefore needing a site plan review hearing.

Mr. McWilliams advised that the use is permitted in the business district. Article 3.1.3 states that site plan review is necessary for *'a change in use or layout of multi-family or non-residential property or building(s) which involves changes in traffic flow, parking, drainage, water, sewer, or other utilities, fuel storage or toxic material storage'* He stated that he does not see where site plan review is necessary for this use.

Mrs. Freeman asked the Board members if they thought it would be necessary to hold a site plan review hearing since there has been a change since the last site plan was presented with gas pumps. The gas pumps are now gone, which will affect the traffic flow and parking layout. Even though the effect may be positive, it is still a change.

The sense of the Board was that a site plan review hearing would not be necessary to update the site plan layout to reflect the removal of the gas pumps.

Mr. Williams asked Mr. Dunnett if he is planning a change in signage.

Mr. Dunnett stated that he would be erecting a sign to advertise his business to be approved by the Board of Selectmen, but it will be in accordance with the sign regulations.

The sense of the Board was that this proposal is not a change in use that requires a site plan review hearing. Site Plan Review is not necessary.

CASE: Angel Hawk – Letter of Credit – Subdivision Revocation

Mr. Vannatta read the public notice for the revocation of the Angel Hawk Subdivision as follows:

You are hereby given notice that the Newbury Planning Board will conduct a public hearing on September 16, 2008 at 7:15 pm to consider revoking a part of the Angel Hawk subdivision as provided by RS 676:4-a Revocation of Recorded Approval. Specifically, the part of the Angel Hawk Subdivision the Planning Board will consider revoking includes lot 1 (Tax Map #048-599-101), Lot 4 (Tax Map #048-599-104), lot 6 (Tax Map #048-599-106), lot 7 (Tax Map #048-599-107), lot 8 (Tax Map #048-599-108), lot 10 (Tax Map 3048-599-110), lot 11 (Tax Map #048-59-111), and lot 12 (Tax Map #048-599-112). The reason the Planning Board is considering revoking that part of the Angel Hawk Subdivision specified above is that the owner of the Angel Hawk Subdivision has failed to provide for the continuation of adequate security as provided by RSA 674 :3 6, III(b) until such time as the work secured thereby has been completed.

This public hearing will take place at the Newbury Town Office, 937 Route 103, Newbury, NH.

Mr. Vannatta reminded the Board members that Lou Caron, Engineer representing the Town of Newbury, recommended that \$409,700 should be posted for the Letter of Credit in order to cover the on-site and off-site improvements.

There was no representation of the Angel Hawk Subdivision's principals to speak to the revocation.

Mr. Vannatta opened the hearing up to the public.

Jaimie Gould informed the Board that he has an interest in the Angel Hawk subdivision. He explained that at one time he was a contractor that worked on some of the individual lots and is owed money from the LLC. In an effort to collect on the compensation owed to him, he is trying to purchase the Angel Hawk subdivision from the LLC inclusive of Lot 1. Immediately upon the purchase of the subdivision, he will be selling Lot 1 to a third party and use the proceeds from the sale of Lot 1 to move forward with satisfying the Town's requirements to satisfy the remaining on-site and off-site improvements. He stated that there is a purchase and sales agreement already drawn up between Angel Hawk, LLC and himself for the transfer of the subdivision, and there is a purchase and sales agreement already drawn up between himself and the third party buyer for Lot 1. He stated that his objective is to continue the project to completion and get the road and off-site improvements done and up to Town standards. He presented a letter from his lawyer that explains his intent and read it to the Board as follows:

"1. Introduction

- A. Have agreement signed to purchase subdivision and agreement for sale of Lot 1, the one Lot with a structure on it.*
- B. Goal is to finish home on Lot 1, obtain certificate of occupancy, and then begin the process of developing the remaining parcels over time.*
- C. As for the road, plan to complete it to Town specifications as required and to involve the town's road agent with the upgrade process. Not certain of timeline, but hope to have it completed by the end of next summer.*

2. No need to revoke the subdivision approval.

- A. *The Town's interests can be served without the revocation. Specifically, the Town's Selectmen can prevent any more homes from being built by withholding any new building permits until the road work is completed.*
 - B. *The very purpose of requiring the road upgrade was to handle the increased traffic for the multi-lot subdivision. As it now stands, only two homes have been built, one which is complete, and the other that will be complete in the next couple of months. No additional homes can be built without going through the Board of Selectmen and their building permit approval process, so the traffic will be minimal.*
 - C. *I ask that the Planning Board simply give me some time. The Board can always choose to consider revocation again next year, if the road is not completed.*
3. *Any revocation should automatically terminate when roadwork completed.*
- A. *Should the Planning Board consider it necessary to revoke the subdivision approval, such revocation should clearly and expressly state that it is automatically vacated/stricken – and the subdivision approval reinstated – at the time the road work has been completed to the Town's specification.*
 - B. *If the Planning Board is to file the revocation with the Merrimack County Registry of Deeds, the Planning Board should clearly indicate how the Town will inform the registry when the revocation is vacated. Perhaps the process should be that the Town's road agent notifies the Selectmen and the Planning Board of the road completion, and then the Planning Board will file a notice reinstating the subdivision approval. The bottom line: there should be a clear understanding of what process is to be followed.*
4. *Any revocation should exempt the lots on which homes have been built, Lots 1 and 2 (and probably all Lots which have already been purchased, Lot 3?)*
- A. *To avoid possible legal issues, the revocation should exempt Lots 1, 2, and 3 and any other Lots that have already been purchased.*
 - B. *An issue for Town counsel, but is a concern for everyone."*

Mr. Gould stated that if the subdivision is revoked, he cannot continue with his plans. He commented that right now there is no bond in place, and he would like to work with the Town to either put the bond in place over time or just complete the upgrades to the road so that the bond will no longer be required. He reiterated that the Board of Selectmen can prevent more buildings from being built by not approving the building permit applications until the road is finished as a way of ensuring the off-site improvements are completed.

Mr. Weiler asked Mr. Gould if there is a potential closing date scheduled for his purchase of Angel Hawk, and will he be prepared at that time to implement the letter of credit.

Mr. Gould stated that September 29, 2008 is the scheduled closing date according to the purchase and sales agreements, but he will not have the funds necessary at that time to implement the letter of credit. He stated that he will need some time to accomplish that.

Mr. Weiler informed Mr. Gould that he needs to have the letter of credit in place as soon as he acquires the property.

Mr. Gould asked if the letter of credit could be put into place prior to the construction of the road instead of at the time of purchase.

Mr. McWilliams commented that the Town would be exposed to liability during that interim period. He commented that he does not know that the Board of Selectmen can legally withhold the building permits. That is why this situation has developed.

Mr. McWilliams advised Mr. Gould that Article 6.4.3 Covenant restricting lot sales and Signing of the subdivision Plan, Exhibit D may be another approach. This covenant to restrict lot sales until specific conditions are satisfied would be signed by the developer and the Chair of the Planning Board and recorded at the registry of deeds. As soon as the conditions are satisfied, another document would be signed and recorded to void the restriction of the lot sales.

Mr. Vannatta asked if a timeline for completion would be imposed for the improvements.

Mrs. Freeman commented that there is already a timeline in place that began when the subdivision was approved. There is a 3-year requirement to complete the subdivision. This particular subdivision is already two years old.

Mr. Geddes asked if there were any lots in the subdivision that are not serviced by Chapin Way.

Mr. Gould stated that Lot 11 is off Sutton Road, but all of the other lots in question are on Chapin Way.

Mr. Geddes asked Mr. Gould if he has the equipment necessary to complete the road improvements.

Mr. Gould stated that he and his father own the equipment necessary and are capable of completing the road improvements.

Mr. Weiler informed Mr. Gould that there would be some additional costs incurred as time goes on when Lou Caron, Engineer representing the Town of Newbury, inspects the work and reports back to the Planning Board. The Board estimated that that there could possibly be five or more inspection visits and informed Mr. Gould that Mr. Caron is paid on an hourly basis.

The Board took a short recess at 7:45 p.m. The Board reconvened at 7:50 p.m.

Robert Wright, Ex-Officio to the Sutton Planning Board read the following message on behalf of the Sutton Planning Board:

"To the Newbury Planning Board: Thank you for taking our testimony. We would request that Newbury require the developer, Angel Hawk, to do the following: 1. No additional construction until the access road (the only access road) from Sutton, be upgraded in accordance to the condition of approval required by the Newbury Planning Board. 2. That a bond be required, that inadvertently been lapsed, for the duration of the development. Thank you for your consideration of this request. Signed, by the member of the Board of Selectmen and Sutton Planning Board..."

Ted Jones, resident at Angel Hawk, stated that he is concerned for three reasons. 1. That when the development closes there will be nothing gained for anyone; 2. He understands that things sometimes go wrong and the bond went away through an error, but that leaves them holding the ball; and 3. When the subdivision started, there were supposed to be three phases, so maybe if the subdivision was downscaled, the funds could be allocated for the road.

Deb Sias, Ledyard Bank Official informed the Board that Ledyard Bank holds the mortgage for the subdivision. She stated that they are aware of the purchase and sales agreement between Mr. Gould and Angel Hawk, LLC, and their feeling is the same as Mr. Jones'. Delaying the revocation of the subdivision would be in everyone's best interest since there is a reasonable solution on the horizon. If the lot sales are limited, Lot one would need to be exempt from that restriction because the proceeds from that lot sale are necessary to make this plan work.

Diane Jones, resident at Angel Hawk, asked what happened to the original bond.

Mrs. Freeman explained that the letter of credit should have been renewed each year by the developer. The developer failed to renew the letter of credit and it lapsed. The Board did not realize the letter of credit had not been renewed until it had already lapsed. It was an oversight. Communication with the bank about this letter of credit has been going on since March 2008. If the letter of credit had been renewed, work would have continued as usual. If the Board had suspected the developer was going to default on the letter of credit, the Town could have called the letter of credit and finished the subdivision.

Jeff Bates, abutter to Angel Hawk, asked what recourse the Town has. He stated that the Town should take responsibility for the letter of credit lapse.

Mr. Weiler stated that the Town did not allow the letter of credit to lapse. He explained that it is the developer's responsibility to keep the letter of credit current, and they failed to do so. The developer has run out of money, and the Town should not have to support the development.

Mr. Jones asked if the developer defaults and the subdivision folds, does the Town take on the responsibility for the road.

Mr. Powell explained that the Board of Selectmen has already taken the stand that there will be no more building permits approved for Angel Hawk until the situation is rectified by completing the off-site improvements or posting security in some form.

Ms. Sias asked if there will be no building permits issued on *any* of the lots or just the lots owned by Angel Hawk, LLC.

Mr. Powell stated that there will be no building permits issued on any of the lots due to the lack of power and adequate access. All of the elements to support emergency services need to be satisfied.

Robert Nelson, abutter, asked what impact this revocation would have on the existing third-party landowners in Angel Hawk.

Mrs. Freeman stated that the existing lots that are already sold stay sold to the new owners. The revocation will apply to all of the lots that have not been sold and still owned by Angel Hawk, LLC. She explained that as soon as the owner comes up with the letter of credit, it is a fairly easy process to reinstate the subdivision.

Mr. Powell informed the Board that the Angel Hawk is mostly in the Town of Newbury, but the access to it, Nelson Hill Road, is primarily in the Town of Sutton. Therefore, the Town of Sutton has been maintaining Nelson Hill Road. The Sutton Highway Department is not longer willing to send its equipment up that road to plow since it is in such rough shape. Therefore, the Town of Newbury will have to send its trucks into Sutton to swing back around to maintain the Newbury portion of Nelson Hill Road.

Mr. Jones asked if the Board of Selectmen have given consideration to the fact that there was a letter of credit in place at one time to protect this road issue. He commented that when he purchased his lot in Angel Hawk subdivision, he did so knowing there were provisions made to protect his interests. Through no fault of his own, the letter lapses and the protection is gone. He commented that the Town should have some responsibility in this situation, and shutting down the subdivision will not solve anything.

Mr. Powell commented that he does not think the Town will take the responsibility to build that road to Town standards. The road issue is very complicated. The one good thing that has come of this is that we have all gained a much clearer view of the ramifications and how this process works.

Mr. Weiler clarified that the letter of credit is supposed to be in place to protect the Town, not the current and future residents of the subdivision.

Mr. Gould asked if the revocation gets signed this evening, could Lot 1 be excluded. It has to be able to be sold in order to generate revenue to begin the reinstatement in order to finish the subdivision.

Mr. McWilliams asked Mr. Gould if he would be interested in the Covenant Restricting Lot Sales approach as a method of security instead of a letter of credit.

Mr. Gould said he would be interested in the Covenant Restricting Lot Sales approach as long as he would be able to sell Lot 1. He asked if the Covenant Restricting Lot Sales could be rescinded in exchange for a letter of credit prior to the off-site improvements being completed.

Mr. McWilliams said that could be done.

Mr. Gould asked if the bond amount is set in stone, or could it be lowered since he and his father would be able to do the work for less money.

Mrs. Freeman explained that the amount is not negotiable. She explained that even though Mr. Gould and his father could complete the work for less money, the amount reflects what it would cost the Town to get the work done without Mr. Gould involved.

There was no further comment from the public. Mr. Vannatta closed the public input portion of the meeting and the Board began deliberations.

Mrs. Freeman commented that this revocation is not very severe. She stated that as soon as the ducks are in a row again, the Board can rescind the revocation. The revocation does not prevent a buyer to come before the Board and ask the Board to rescind its decision, and it does protect the Town. There could be many more lots sold and new owners wanting to build on a substandard road.

Mr. Powell asked the Board for an explanation of what harm would there be to the Town if the Board did not revoke the subdivision.

Mrs. Freeman reminded Mr. Powell that it was the Town's Counsel advised the Board to revoke the subdivision.

Mr. Weiler commented that more lots could be sold which would expose the Town to more liability.

Mr. McWilliams pointed out that if the developer was able to sell all of the lots quickly, the onus would then be on the Town to finish the road.

Mr. Powell pointed out that the Board of Selectmen already refuses building permits on Class VI roads.

Mr. Weiler commented that at some point in the future when the composition of the Board of Selectmen changes, the practice of not issuing building permits on Class VI roads could change. Additionally, if the subdivision sits idle for four or more years, a new developer would have to reapply for a new subdivision under whatever regulations are in effect at that time.

Mr. Williams asked if there was a way in which the Board could secure collateral for the off-site improvements by taking ownership of a certain lot(s) that has equal value to the cost of the off-site improvements. The property would be put in escrow in lieu of a letter of credit. That way, if the Town has to step in to finish the off-site improvements, the Town-owned lot(s) could be liquidated and the proceeds used to fund the improvements.

Mrs. Freeman commented that there is a mechanism already in place to address the protection of the Town. Placing lots in escrow would be complicated and it could be a long time before the lots are liquidated to pay for off-site improvements.

Mr. Weiler made a motion to revoke the Angel Hawk subdivision immediately as per the public notice. Mrs. Freeman seconded the motion. Discussion followed.

Mr. Powell commented that he does not think this is an easy decision, and it is not clear. There are exposures to the Town no matter how it goes.

VOTE: Majority in favor. The Angel Hawk Subdivision was revoked.

DECLARATION OF REVOCATION OF THE ANGEL HAWK SUBDIVISION BY THE
NEWBURY PLANNING BOARD

On September 16, 2008 the Newbury Planning Board conducted a public hearing to consider revoking part of the Angel Hawk Subdivision owned by Angel Hawk LLC as provided by RSA 676:4-a Revocation of Recorded Approval. Specifically, the part of the Angel Hawk Subdivision the Planning Board considered revoking includes lot 1 (Tax Map #048-599-101), lot 4 (Tax Map #048-599-1 04), lot 6 (Tax Map #048-

599-106), lot 7 (Tax Map #048-599-107), lot 8 (Tax Map #048-599-108), lot 10 (Tax Map 3048-599-110), lot 11 (Tax Map #048-59-111), and lot 12 (Tax Map #048-599-112). The Angel Hawk subdivision is recorded as Plan Numbers 18307, 18308 and 18309 and was filed with the Merrimack County Registry of Deeds on January 31, 2007.

At the conclusion of the public hearing, the Newbury Planning Board voted to revoke the part of the angel Hawk subdivision referenced above since the owner of the Angel Hawk Subdivision has failed to provide for the continuation of adequate security as provided by RSA 674 :3 6, III(b) until such time as the work secured thereby has been completed.

Dated: September 16, 2008.

The Board took a short recess break.

CASE: 2008-017: Final Lot Line Adjustment – Emily Welsh & Sarah Harris – Shultis Farm Road – Tax Map/Lot 043-576-307 & 043-592-097.

The Planning Board will receive submission of an application for a Final Hearing for a Lot Line Adjustment from Emily Welsh and Sarah Harris for property located off South Road on Shultis Farm Road, Newbury, NH Tax Map 043-576-307 and 043-592-097 on Tuesday, September 16, 2008 at 7:45 p.m. in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the application will commence at the same meeting.

The Board reviewed the application for completeness

Mrs. Freeman made a motion to accept the application as complete. Mr. Weiler seconded the motion.
All in favor.

David Eckman, Eckman Engineering, LLC, presented the plans for the lot line adjustment. He advised the Board that he is also submitting two requests in writing for waivers. One waiver is from Article 7.3.5. and requests a waiver to 'not complete a full boundary survey because the annexed area falls along an interior boundary/driveway and is not directly related to the external boundary...and would not be contrary to the purpose and object of the regulations as a partial boundary survey has been completed to get all of the required information to complete the lot line adjustments. This interior boundary adjustment has no adverse affect to the public.' The other waiver requested is from Article 10.10 and requests a waiver 'for use of Iron Rods for monumentation in place of granite bounds. The proposed Lot Lines are located in the lawn area near the driveway and setting the granite bounds below grade is not reasonable. It is more appropriate to use capped iron rods that can be easily located below grade with a metal locater. Iron rods are also easier to drive into the ground to avoid interference with a lawnmower and would not adversely affect the public.

Mr. Eckman explained to the Board that he did not prepare a mylar for this evening because he was not certain that the Board would approve the request for waivers. The monuments are not yet set since that step is contingent upon the Board's decision for the waiver from Article 10.10.

The Board reviewed the plans and had no questions.

Mr. Weiler made a motion to grant the request for waiver from Article 7.3.5. to not require a full boundary survey. Mr. Williams seconded the motion. All in favor.

Mr. Weiler made a motion to grant the request for waiver from Article 10.10 to allow the use of subsurface iron rods with iron caps caps for monumentation in place of granite bounds. Mr. Williams seconded the motion. All in favor.

Mr. Vannatta opened the meeting to the public. There were no questions from the public.
Mr. Vannatta closed the meeting to the public and the Board began deliberations.

There were no further questions from the Board.

Mrs. Freeman made a motion to approve the lot line adjustment as presented. Mr. Williams seconded the motion. All in favor.

CASE: 2008 – 008: Site Plan Review – Thomas & Kerry Behrens – Mountain Edge Academy Daycare – 1380 Route 103 - Tax Map/Lot 007-338-000.

The Planning Board will receive a submission of an Application for a Site Plan Review from Thomas & Kerry Behrens, for property located at 1380 Route 103, Newbury, NH Tax Map Lot 007-338-000 on Tuesday, September 16, 2008 at 8:15 p.m. in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the application will commence at the same meeting.

The Board reviewed the application for completeness.

Mr. McWilliams referenced back to the minutes of July 15, 2008 when this proposal was heard on a conceptual basis. At that meeting, the Board agreed that photographs of as-build conditions and signage would be accepted in place of engineering plans since the outside of the building would not be changing from its existing conditions. Also, the Board agreed that the proposed changes in parking and the addition of the proposed play area could be overlaid on the original site plan for the existing business. If there are no proposed changes in the existing conditions, then those aspects of the site plan will not have to be addressed.

Mr. Vannatta informed the Board that there were no sign-off sheets from the Highway Department or the Board of Selectmen.

Mr. Powell stated that the Highway Department does not need to sign off on this site plan because it is on a State road. Additionally, he stated that the Board of Selectmen has no objections to this proposal.

Mr. Vannatta informed the Board that the Conservation Commission sign off sheet included a comment from the Chair of the CC requesting temporary and permanent erosion control measures to be required.

Mr. Weiler made a motion to accept the application as complete. Mr. Williams seconded the motion. All in favor.

Mr. Vannatta commented that most of the information was reviewed and addressed at the

conceptual hearing in July.

Mrs. Freeman commented that in her experience with designing day care centers, the State Fire Marshall is usually very fussy about providing two locations for fire egress on each floor. The loft area that will accommodate the older children has only one way down to the main floor.

Mr. Behrens explained that the site has already been inspected and approved by the State authorities. Their determination was that children should be able to exit the building without assistance in the event of a fire. Since the building has a loft and not an enclosed second floor, there does not need to be a second egress from the loft area.

Mrs. Freeman emphasized a word of caution for having children in a loft that does not have a second exit.

Mr. Behrens stated that he is well aware of the safety issues and does not see the loft as a danger and has gotten the approval of the State and Town fire department. He stated that the State is encouraging the idea of open concept with temporary partitions. The bathrooms are separated from the main space.

Mrs. Freeman commented that the Board usually requires a floor plan for a site plan review hearing.

Mr. Behrens commented that there is no change in the floor plan. The only new construction will be performed to accommodate a security door.

Mr. McWilliams asked Mr. Behrens if he has decided on a ground material for the outdoor play area.

Mr. Behrens stated that they would be going with the recommendation of the State and using pea stone since it does not compact and become hardened.

There were no members of the public present for comment or input.

Mr. Williams made a motion to approve the Site Plan proposal for the Mountain Edge Academy as presented contingent upon the required State approvals. Mr. Geddes seconded the motion. All in favor.

CASE: 2008-004: Conditional Use Permit – Courtney Galluzzo – Chalk Pond Road – Tax Map Lot 028-369-268.

The Planning Board will receive submission of an Application for Conditional Use Permit for new construction from Courtney Galluzzo, for property located on Chalk Pond Road, Newbury, NH, Tax Map Lot 028-369-268 on Tuesday, September 16, 2008, at 8:45 p.m. in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the application will commence at the same meeting.

Peter Blakeman, Blakeman Engineering, Inc. and Courtney Galluzzo were present to discuss the application for Conditional Use Permit.

Mr. Blakeman explained to the Board that at a previous hearing, Mr. Galluzzo was denied a

conditional use permit and was advised to consider a smaller house with less impact on the wetlands. He commented that this is a lot that is part of the original Rolling Hills Development that had been approved in 1973 and has been taxed as such since then. It is a 2.1-acre lot on Chalk Pond Road, and at the back of the lot, but not on the lot, is Blodgett Brook. This lot is 91% wetlands, which was delineated by a wetlands scientist. There are two intermittent streams that run down either side of the property. The land is severely constricted by the wetlands and streams. There is no area on this lot that is not within the 75 ft. wetland buffer. These plans have been in the making for approximately two years. State permits have been obtained. There is an approved septic system permit with a waiver granted from the State for a clean solution system, and there is only one place on the lot that it can be built and that is within the driveway area. The driveway was designed in a horseshoe shape in order to minimize the impact on the wetland and create a safer egress onto the road. There is a Wetlands Board permit granted for the fill beside the house. The permanent impact on the wetland is 370 sq. ft. and the temporary impact is 590 sq. ft. The actual proposed developed area is a little less than 0.2 acre. The house is proposed as 28ft X 30 ft, which has been reduced from the previous proposal.

Mr. Galluzzo commented that he has been paying taxes on a buildable lot for over 18 years. He informed the Board that when he appealed to the town to tax him on an unbuildable lot, the Town Administrator told him 'there is no such thing as an unbuildable lot.' Therefore, he is trying to create a plan that works for this property. One of the conditions of the State permit is that a septic engineer has to be present to oversee the construction of the septic system to make sure it is done properly.

Mr. Blakeman commented that this application still has to go to the Zoning Board of Adjustment for a waiver from the setback from Chalk Pond Road and Use Variance due to filling in the wetlands.

Mr. Vannatta opened the hearing up to the public. There was no public input. Mr. Vannatta closed the hearing to the public and the Board began deliberations.

Mrs. Freeman asked if the copies of the State permits were in the application.

Mr. Vannatta commented that the State permits were not in the application, but would be in the property file.

Mr. Blakeman provided a copy of the septic permit, and the general note #4 on the plan references the Wetlands Board permit number.

Mrs. Freeman commented that she is satisfied that this project could not be done with any less impact than what was presented at this hearing. Additionally, she commented that the Town Administrator's comment that there are no non-buildable lots is not true.

Mrs. Freeman made a motion that the Conditional Use Permit be approved with the State permits as presented. Mr. Geddes seconded the motion. Majority in favor.

CASE: 2008-018: Site Plan Review – Gerald Bundy – 1230 Route 103 – Tax Map Lot 019-733-289 – Granite Hill Stone.

The Planning Board will receive submission of an Application for a Site Plan Review from Gerald Bundy, for property located at 1230 Route 103, Newbury, NH Tax Map 019-733-289 on Tuesday, September 16, 2008 at 9:15 p.m. in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the application will commence at the same

meeting.

The Board reviewed the application for completeness.

Mrs. Freeman noted that there was no site location map, parking area layout, date of plan preparation or dimensions of the proposed driveway on the plan.

Mr. McWilliams commented that those items are not as critical when considering a cottage industry and that perhaps a waiver would be in order. He recognized that Mr. Bundy's narrative within the application addressed much of the information missing on the plan.

Mrs. Freeman made a motion to waive the requirement of the missing items from Mr. Bundy's plan. Mr. Geddes seconded the motion. All in favor.

Mr. Vannatta pointed out that within Mr. Bundy's narrative; he describes the proposed driveway, which is currently an existing logging road, as 250 ft. long, 15 ft. wide, and a State driveway permit has already been issued. The proposed parking area is 50 ft. – 60 ft. long and 40 ft. wide to accommodate a turn-around.

Mr. Williams calculated that the overall grade of the proposed driveway would be below 10%.

Mr. Bundy explained that the area where the building is proposed to be built, the ground is very level and require minimal site work.

Mrs. Freeman asked Mr. Bundy why he angled the building and did not make it parallel to the road.

Mr. Bundy explained that he is proposing to position the building that way to accommodate the approach of the driveway and to work with the contours of the land. This siting of the building will keep the grade work at a minimum, maybe a 2 ft. maximum cut.

Mrs. Freeman asked Mr. Bundy how many employees he would be hiring.

Mr. Bundy explained that he currently has no employees and plans to keep it that way, but, he would like a contingency of one employee in case circumstances change in the future.

Mr. Geddes asked Mr. Bundy how frequently he receives deliveries and in what size truck.

Mr. Bundy explained that he receives approximately one delivery every couple of weeks, and those deliveries come in a medium sized truck. He explained that he gets deliveries of stone for his mill work for columns, fireplaces, moldings, etc. He informed the Board that he also operates an office out of his house to arrange for installations, and that sometimes he may go for months without manufacturing.

Mr. Geddes commented that traffic does not seem as though it will be a problem since there are such infrequent deliveries in medium-sized trucks.

Mr. Vannatta informed the Board that the Zoning Board of Adjustment had approved a special exception with conditions on September 8, 2008 for Mr. Bundy to operate his business in a residential district. The conditions are that there is to be no on-site retail service and the special exception is contingent upon site plan review approval.

Mr. Weiler made motion to accept the application for Site Plan Review as complete. Mrs. Freeman seconded the motion. All in favor.

Mrs. Freeman commented that Mr. Bundy's narrative description of his business is very clear. She asked Mr. Bundy if he was planning on having any toilet facilities in the new building.

Mr. Bundy stated not at this time. If in the future he decides to install toilet facilities, a separate septic system would need to be built.

Mr. Williams commented that Mr. Bundy's building plans will require more detail when he applies for a building permit. He also asked Mr. Bundy how he was planning on supplying power to the new building.

Mr. Bundy explained that the power would come off the pole at the end of his driveway and travel underground to the building site. He stated that 440 power is available from that pole.

Mr. Williams made a motion to approve the application for site plan as presented. Mr. Geddes seconded the motion. All in favor.

Mr. Vannatta reminded the Board members of important dates coming up in the near future.

Tuesday, September 23, 2008 at 6:30 p.m. there is a presentation of the Comprehensive Shoreland Protection Act scheduled in the Newbury Meeting Room.

Tuesday, September 30, 2008 at 7:00 p.m. there is a Joint Board Meeting for members of the Planning Board, Zoning Board, Conservation Commission and Board of Selectmen.

October 25, 2008 the Fall Planning and Zoning Conference is scheduled. See Denise to sign up as soon as possible.

The Board reviewed the minutes of August 19, 2008 and made corrections.

Mr. Weiler made a motion to approve the minutes of August 19, 2008 as corrected. Mr. Powell seconded the motion. All in favor.

Mr. Weiler made a motion to adjourn. Mr. Williams seconded the motion. All in favor.
Meeting adjourned at 10:15 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary