**Planning Board**

**February 16, 2017**

Approved April 4, 2017

**Members Present:** Bruce Healey, Chair; Bill Weiler, Deane Geddes, Mike Beaton, Members; Ken McWilliams, Advisor.

Mr. Healey called the meeting to order at 7:10 p.m.

**CASE: Case 2017-001 Conceptual – Site Plan Review** – Cosmos LLC-agent Rob Stenger/Simple Energy Partners-1423 Route 103-Retail Space

Mr. Stenger reviewed his career in petroleum marketing and noted that Simple Energy Partners is currently located in West Lebanon, NH with 11,000 customers and 75 employees. He said he wants to expand his business to include the Newbury lake region customers with a physical location at 1423 Route 103, Newbury. Mr. Stenger added that plans also include opening a second business on the site called Simple Auto which would offer some auto body work for high-end cars in Sutton and Sunapee.

He added that Simple Energy partners would offer home and business delivery for liquid fuel as well as plumbing, electrical and solar services for home and business customers. He stated that plans would include renovating the existing building on the property for the business retail space.

Mr. Healey noted that the entire lot in question is located in the Shoreland District because of its proximity to Johnson Brook.

Mr. Beaton asked if plans include fuel storage on the site. Mr. Stenger said no, bulk fuel storage would be in Grafton and White River Junction.

Mr. Weiler noted that Johnson Brook is a “gusher” and that the property floods. Mr. McWillians added that the lot is located within the 100 year floodplains for that reason.

Mr. Weiler suggested to Mr. Stenger that he read the town ordinance regarding the shoreland district and the regulations that must be met within that district.

Mr. Healey asked about parking spaces. Mr. Stenger said they will need 15 – 20 parking spaces. Mr. Weiler suggested that he read the town regulations regarding determining the allowable number of parking spaces.

Mr. Beaton asked about the auto repair portion of the proposed plan. Mr. Stenger said there will be no auto repair at this site. He added that this will primarily be a retail spaces for sales and showroom.

Mr. Healey suggested that Mr. Stenger contact two organizations regarding this proposed plan for guidance: the Lake Sunapee Protective Association, and the Newbury Conservation Commission. Contact information for both groups was given to Mr. Stenger.

It was determined that Mr. Stenger will need a Special Exception for use and a Site Plan Review.

Mr. Healey asked about employment opportunities for the community. Mr. Stenger said yes there will be jobs available.

Mr. Healey said the Board sees value in Mr. Stenger’s proposal from the standpoint of a retail business that has an office and a showroom.

Mr. McWilliams said that drainage issues and how to prevent runoff from entering Johnson Brook will be important considerations for the Board.

There was general discussion regarding possible alternative locations for Mr. Stenger’s proposed business.

**CASE: Case 2016-010 Final - Lot Line Adjustment -** Walter Goddard II Trust at 49 Blodgett Landing Rd. and Mary Thayer at 16 Pine St.

At 7:42 p.m. Mr. Healey read into the record the following Public Notice:

*You are hereby notified that the Planning Board will receive submission of an application for a Final Hearing for a Lot Line Adjustment from Walter E. Goddard II Trust and Mary Thayer, Agent CLD Consulting Engineers, for property located at 49 Blodgett Landing Road & 16 Pine Street, Newbury, NH, Tax Map 16A-233-395 & 16A-249-427 on Thursday, February 16, 2017, at 7:15 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. Copies of the plan are available for public review at the Town Office Building during regular business hours. Business hours are as follows: Monday, Tuesday, Thursday, and Friday from 8 a.m. to noon.*

The application was reviewed for completeness.

Mr. Weiler made a motion to accept the application as complete. Mr. Geddes seconded the motion. Mr. Healey called for a Roll Call Vote.

**In Favor:** Mr. Geddes, Mr. Beaton, Mr. Weiler, Mr. Healey

**Opposed:** None

Doug Gamsby, CLD Engineers, presented to the Board. He stated that the Zoning Board of Adjustment granted a Variance from Paragraph 6.10.2 on January 23, 2017 to allow for a lot line adjustment that would decrease the lot size and frontage of the lot belonging to Mary Thayer at 16 Pine Street.

Mr. Gamsby reviewed the current dimensions of both lots in question, noting that Ms. Thayer’s lot will decrease in size to .56 acres and Mr. Goddard’s lot will increase to 1.85 acres with a bit more road frontage. Mr. Gamsby said there is no intent to build anything. Ms. Thayer wanted to sell this portion of her lot and Mr. Goddard wanted to buy it. This is just a transfer of land from one party to the other.

There being no questions from the Board, Mr. Healey opened the public portion of the hearing.

Reed Gelzer, Newbury resident and member of the ZBA, asked if stormwater management is an issue. Mr. Healey said not with a lot line adjustment.

There being no further comment from the Public, Mr. Healey closed the public portion of the hearing and the Board went into deliberations.

Mr. Healey asked if Mr. Gamsby had the mylar with him this evening. Mr. Gamsby said no, he will have it next week.

Mr. Healey asked if the mylar will meet Section 7 of the PB subdivision regulations. Mr. Gamsby said yes.

The Board agreed that per Section 3.8, the application is complete as submitted.

Mr. Weiler requested that a condition of approval state that within 30 days, Mr. Gamsby provide the deeds for recording and that the Newbury land Use Coordinator be responsible for the filing of same. If needed, a one-time 30-day extension is available from the PB with a written request.

There being no further discussion from the Board, Mr. Healey called for a Motion to Vote.

Mr. Weiler made a motion to approve the Lot Line Adjustment applications for co-applicants Walter E. Goddard II and Mary Thayer, Newbury Tax Maps 16A-233-395 (49 Blodgett Landing road) and 16A-249-427 (16 Pine Street) with the following conditions precedent:

* Within thirty (30) days after the date of PB conditional approval, the applicant shall deliver signed deeds to the Land Use Coordinator ready to be recorded.
* The applicant shall provide the Land Use Coordinator with payment for all recording fees associated with filing the plat and the deeds with the Registry of Deed of Merrimack County.

Mr. Geddes seconded the motion.

Mr. Healey called for a Roll Call vote.

**In Favor:** Mr. Geddes, Mr. Beaton, Mr. Weiler, Mr. Healey

**Opposed:** None

Mr. Healey stated that the applicant or any party directly affected by this decision may appeal to the proper Board or Superior Court within thirty (30) days of this decision.

**CASE: Case 2017-002 Conceptual – Site Plan Review –** Jolly Molly’s Ice Cream- Newbury Plaza LLC/Agent Arty Katsanos – 976 Route 103 – Ice cream shop

Arty Katsanos reviewed the proposed plan for the Board. He stated that Jolly Molly’s Ice Cream has been operated by Bob Williams since 2005 and that Mr. Williams wants to move the business from its current site at the Newbury Plaza to a currently vacant retails space next to the Lake Sunapee Bank. The empty space had been used by the coffee shop called Newbury News and that when that enterprise closed, the build-outs were left behind. Those include a 3-bay sink and grease trap, 220 volt electric service, and a front door. The space is 600 square feet.

Mr. McWilliams asked about the last use of the space. Mr. Katsanos said the Tackle Shop was in that space for a while.

Mr. Healey said this would be a retail trade/restaurant use. Discussion followed whether this proposed plan constitutes a change of use. Also, there was discussion about the number of seats proposed for the ice cream shop, and the potential increased parking needs.

The Board concurred that a Minor Site Plan Review is appropriate and that Mr. Katsanos must include an updated site plan per Article 6 Section 6.2.1 of the PB Site Plan Review regulations.

**CASE: Case 2017-003 Conceptual – Site Plan Review –** The Game Room- Newbury Plaza LLC/Agent Arty Katsanos – 976 Route 103 – Arcade

Mr. Katsanos described the proposed plan of installing a game room in the now vacant space next to the Newbury Post Office. He said Arcade Monadnock Games would supply an air hockey table and seven other similar games. He noted that the space has ample electrical outlets, two coat rooms, and would operate from 11:00 a.m. to 8:00 p.m. daily under full supervision.

Mr. Healey said this is a commercial recreational facility and would need a Special Exception per Article 4 Section 4.3.11 of the zoning ordinance. He added that if a Special Exception is granted, then the proposed plan would require a Minor Site Plan Review.

Mr. Beaton asked if the space had more than one exit. Mr. Katsanos said no, just one exit.

Mr. Beaton asked who would review the exit situation. Mr. Healey said the Fire Department has oversight.

Discussion followed regarding other uses for the space.

**CASE: Case 2017-004 Conceptual – Site Plan Review**- Willow Pond –Dredge and Excavate Land Holding, Owner Carol Edmunds – 215 Village Road – Gravel Pit – Construct an office and scales to weigh trucks.

Mr. Healey reviewed the case noting that the property was formerly owned by Walter & Marlene Graf and was purchased by them in the 1950s. The property was purchased by D&E Land Holding, LLC, Franklin, NH. It is a grandfathered sand and gravel business with one building on the property. He said D&E Land Holding met with the Code Enforcement Officer (CEO) with plans to install truck scales and a small office building and the CEO sent the applicant to the Planning Board for a conceptual review.

Mr. Healey noted that there are no town regulations for gravel pits and that state regulations are applicable. He noted that he and Mr. McWilliams conferred regarding this. He added that Mr. McWilliams will address the proposed application.

Garth DuBois was present to meet with the Board. He said the scales measure 70-feet in length and are portable. He said he hoped to be finished with the property in 5-to 10 years after providing gravel for use in home construction and road maintenance. He described a newly designed entrance that includes an increased grade for the scales and a culvert installation on the west side of the entrance to handle runoff away from the nearby wetlands.

Mr. DuBois noted that the runoff would be from the proposed new 14-foot by 24-foot office building. Mr. Geddes asked if the new building includes a bathroom Mr. DuBois said no. Bathroom facilities are in the existing building.

Mr. DuBois said he wants to pave the entrance up to the truck scales which totals about 300 feet of paving. He added that he intends to have clean professional landscaping installed to minimize dust from entering South Road.

Mr. McWilliams asked about the proximity of the retention pond to the wetlands. He added that it is close enough to require a Conditional Use Permit.

There was discussion of the Reclamation Plan that was filed with the NH DES and transferred to the new owner. Mr. McWilliams stated that this is not an Excavation Permit.

Mr. McWilliams refers to Section 4.3 Paragraph 4.3.12 of the zoning ordinance which states: *4.3 Uses Permitted by Special Exception, 4.3.12 Earth excavations subject to approval by the Planning Board under RSA 155:E and not Site Plan Review;*

Mr. McWilliams says this is a grandfathered gravel pit and suggested that Mr. DuBois file an amended grandfathered excavation permit with the Planning Board (PB) since RSA 155:E sites the PB as the regulator of earth excavation. He added that an excavation permit file is needed.

There was discussion about who has oversight regarding the excavation permit. Mr. Weiler noted that what is under discussion is jurisdictional. Mr. Healey suggested contact town counsel for guidance.

There was further discussion about what the property will look like after the Reclamation Plan is implemented. Mr. DuBois said the property will be essentially a flat, level parcel.

Mr. Healey said the PB does not have an answer for Mr. DuBois at this meeting but that town counsel will be contacted and Mr. DuBois will be given an answer regarding how to proceed as soon as possible.

**ADMINISTRATIVE BUSINESS**

**Minutes**

The Board tabled the available draft minutes for review until the April 4, 2017 meeting.

**Warrant Article # 10/Preliminary Review of Site Plans**

The Board reviewed the draft of justification points the Mr. Geddes will share at Town Meeting for the Warrant Article # 10.

**Subdivision Regulations Section VII**

The Board discussed that current procedure regarding lot line adjustments. Mr. Healey noted that the Planning Board is taking a more active role in same. As a result, Mr. McWilliams, with input from town counsel, drafted proposed changes to the Subdivision Regulations Section VII. Discussion followed. Mr. Healey suggested that the Board review the document more thoroughly at the April 4, 2017 meeting. The Board agreed.

**NH Land Use Handbooks**

Mr. Healey informed the Board that the NH Planning and Zoning Land Use Regulation Handbook 2016-2017 is available for pickup at the Land Use office in the Town Office.

**OEP Planning & Zoning Conference**

Mr. Healey informed the Board of the upcoming OEP conference on April 29, 2017 and encouraged all to attend.

**Newbury CAP Elderly Housing**

Mr. Healey informed the Board that in June 2015 the Newbury Elderly Housing management presented to the Board a conceptual for the installation of a 12-foot by 20-foot storage shed on the property. At that time, the Planning Board requested that the applicant submit an application for a Minor Site Plan Review along with an updated site plan. The applicant did not comply and installed the storage shed without a building permit. The Code Enforcement Officer has notified the Newbury Elderly Housing management that they are in violation of the town regulations. Mr. Healey noted that he expects the applicant will submit the appropriate application in time for the April 4, 2017 Board meeting.

Mr. Weiler made a motion to adjourn. Mr. Beaton seconded the motion. All in favor.

Meeting adjourned at 9:51 p.m.

Respectfully submitted,

Meg Whittemore

Recording Secretary