



TOWN OF WARE

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Planning Board Minutes

March 19, 2014

Planning Board Members present: Rick Starodoj, Chris DiMarzio, Fred Urban, Joe Knight, Dave Kopacz
Planning Board Members absent: John Chabot (Alternate)
Staff present: Karen Cullen, Director of Planning and Community Development
Public: Chris Lowe (representing ABC&D/TriCounty Recycling), Thomas Reidy (representing Cumberland Farms), Luke DiStefano, Steve Savaria, and Tracy Roll (for Cumberland Farms)

7:05 Meeting opened

DIMARZIO Motion to approve the minutes of the March 5, 2014 meeting as submitted;
URBAN Second;
ACTION All in favor.

7:10 **PENNYBROOK ESTATES LOT RELEASE**

At the last meeting, the Board had discussed at length the covenant and monetary surety situation with Todd Marion of MRT Development. Based on the developer's willingness to work with the Board on these issues (i.e. increase the surety by some as yet undetermined amount), the Board was comfortable with releasing Lot 31 (Assessor's lot 14-9-36) from the covenant.

DIMARZIO Motion to release Lot 31 of the Pennybrook Estates subdivision from the covenant on file at the Hampshire District Registry of Deeds at Book 8523 Page 289.
KOPACZ Second;
ACTION All in favor (5/0/0).

The Board signed the release document and Attorney Thomas Reidy of Amherst notarized it; we will mail the original to Todd Marion for recording at the Registry of Deeds, which must be done prior to issuance of the Certificate of Occupancy. Dave suggested that we look into whether a board member can notarize signatures of the board, for future reference. Karen will do so. Rick suggested we include language on future lot releases that it does not become effective until recorded at the registry of deeds, but without recording, the covenant (which is recorded) remains in force, thus such language is not necessary.

7:17 **Public Hearing – Special Permit for 198 East Street; SP-2014-001**

Rick Starodoj opened the hearing and read the legal notice.
Chris Lowe presented the application: they would like to amend the special permit application to allow the operation of a small U-Haul dealership at the site as a secondary use. They propose to store the vehicles on the northeast side of the site, in the corner closest to the intersection of East Street and Gilbertville Road. They don't anticipate having many trucks (3-4 at a time), and they will rotate in and out. They would like to be allowed to have up to 6 vehicles at a time, including both trucks and trailers. The office operations will be conducted inside the existing office space. It will have the same

hours as the existing operations, and there will be no after-hours drop offs at the site since the gates are locked.

Discussion points:

- There will be no other types of vehicles at the site as part of this operation; it is just for U-Haul trucks and trailers. Karen noted that the decision will be written to include any brand of consumer rental trucks and trailers, it's not appropriate to limit it to one company; the Board and applicant concurred.
- The applicant does expect to apply for additional signage; the Board noted it must comply with the zoning bylaw.
- U-Haul rotates vehicles throughout their dealer facilities in the region, generally one vehicle will not sit for long in one location.
- Customer parking will be in front of the office and only allowed short term – people will not be able to leave their car on the site while they are using a truck.
- Tow dollies will be included in the number of trailers allowed on the site.
- Discussion regarding limiting operation, whether by maximum number of vehicles or by specifying an area where vehicles can be parked. Various numbers were mentioned as a cap, including 6, 8, and 10, including trucks, trailers, and tow dollies. In the end, decided to go with an area designation rather than a numerical cap (see below).
- The applicant has committed to installing the landscaping and cleaning up the existing landscaping as required in the previous special permits by June 1, 2014.
- Discussion about where the 2013 special permit intended for landscaping to be installed; not just the lines drawn on the plan which date back to the original decision, but specifically was to include the area at the corner near the cell tower to buffer the view from drivers coming down the hill from West Brookfield as well as those approaching East Street from Gilbertville Road.
- Rick suggested the Board needs a more detailed description of what is to be planted; Chris D. suggested they follow the original buffer plan. He added this is not the type of facility that people need to be able to see; if they are going there, they know where and what it is. So landscaping can be denser to form more of a solid screen. Board members concurred.
- Traffic circulation on the site is obviously not a concern today, but adding another use to the site is concerning.
- Chris D. also asked about access to the cell tower for the trucks that service that facility as well as for emergency vehicles – where do they access, and will U-Haul vehicles being parked in this location impede their access? Chris L. was not sure but thought access could be obtained through the back. Chris D. pointed out that may not be the case since the 2013 special permit allows piling of metals in that area.
- The one-year anniversary review of the traffic circulation on the site for the consumer recycling facility is nearly upon us, but with that facility not yet having opened there is no point in having that review. The Board agreed that a review of the functioning of the site should be done at the one year anniversary of the approval of the decision for this special permit (i.e. April 2015 if approved in April).
- The Board requested the applicant to work with Karen Cullen to revise the site plan to show the exact areas that will be landscaped as well as the exact area where the U-Haul vehicles can be stored on the site, and to address the access to the cell tower at the next meeting.

STARODOJ

Announced the public hearing for SP-2014-001 is continued to the next meeting on April 2, 2014, at 7:20 pm or as soon thereafter as possible.

7:57 **Public Hearing Continuation – Major Site Plan Review for CUMBERLAND FARMS; SPA-2014-001**

PB Chairman Rick Starodaj turned the meeting over to PB Vice Chairman Chris DiMarzio who is acting as Chairman for this hearing due to a potential conflict of interest for Rick Starodaj. Chris reopened the hearing at 7:58 pm.

The applicant's team consisted of:

- Thomas R Reidy, Bacon/Wilson PC (attorney; primary contact)
- Luke DiStefano, Bohler Engineering (site design)
- Steve Savaria, Fuss & O'Neill (traffic engineer)
- Tracey Roll, T.M. Crowley & Associates (site developer)

Mr. Reidy introduced the members of the team and stated they had met with the Fire Department after the first hearing, and turned it over to Luke DiStefano, who summarized the meeting. The Fire Department's concerns had stemmed from a belief that there was access for emergency vehicles behind the building, which was never the case. In the end, Cumberland Farms agreed to install a sprinkler system inside the building, thereby eliminating the concern for the distance between the retaining wall and the building. They reported the Fire Department is now in support of the project; Karen confirmed that Building Commissioner Art Lawler, who was at that meeting, told her the result of the meeting to install sprinklers in the building and that the Fire Department was satisfied now.

The Board then reviewed the draft decision and modified conditions 7 and 8: add the size/footprint and include the directional signs in condition 7, and add "prior to" the infiltration system for the gate valve in condition 8. The applicant agreed to all of the conditions, with these modifications.

The applicant noted that MADOT is reviewing the plans and have indicated they are okay with the installation of the crosswalks. They have made no comments to date on the number of curb cuts. Final approval is expected in a couple of weeks.

KOPACZ Motion to accept and approve the major site plan application for Cumberland Farms, SPA-2014-001, for a new auto fueling station and convenience store located at the corner of West Street and Fourth Avenue as summarized in the Certificate of Decision, with the conditions as stated at this meeting.

URBAN Second;
ACTION All in favor (4/0/0).

DIMARZIO Closed the public hearing at 8:23 PM.

8:24 pm Rick Starodaj re-joined the meeting.

GENERAL DISCUSSION ON ANR ISSUES

The Board discussed issues surrounding the Kularski/LaGrant ANR endorsed in 2012 and the ANR request (but not endorsed) in 2013. Rick had prepared a supplemental document regarding this issue which the Board agreed to attach to the 2013 ANR request in the Planning Department's file. Discussion on whether to ask Town Counsel to review the question of when an ANR becomes effective (at time of PB signing a plan or at time of recording at the registry of deeds); the Board decided to wait until an active ANR request necessitates the expense.

The Board also discussed the Winslow Road ANR question which was discussed at the March 5, 2014 meeting; Thom Martens had sent a letter to Fred Kozyra regarding what would be required for upgrading Winslow Road. No additional action is needed on this issue until someone submits an ANR application for this parcel.

Karen asked if anyone on the Board knew anything about the lots at the end of Lee Road, specifically whether the Board had considered the road to be eligible for ANR endorsement based on the condition of the roadway at the time of endorsement. None of the members today were on the board at the time (mid-1980's), but Chris said there was some sort of a roadway there; the assumption is the Board at the time felt it met the minimum standards to allow ANR endorsement. Furthermore, the Board feels it may be appropriate at times to endorse an ANR when there is not adequate access for construction of a home; for example when the owner wants to sell of a piece of land as a wood lot or for agricultural use or other use which does not involve construction of any structures. Karen noted there is substantial case law on ANR endorsements and what constitutes "adequate access."

Finally, there was a brief discussion on whether the Town should increase the application fee for ANR's and we take the plan to the registry for recording ourselves, instead of leaving it up to the applicant. Such a policy could also apply to special permits and variances. For the moment, no change will be made, but Karen will look into this further.

NEXT PB MEETINGS

April 2, 2013

Public Hearing: Zoning Amendments

Public Hearing continuation: Tri-County PB-SP-2014-001 UHAUL Rental

April 16, 2013

Public Hearing continuation for Zoning Amendments, if needed

KOPACZ Motion to adjourn at 9:15 PM
KNIGHT Second
ACTION All in favor (5/0/0).

Minutes Approved on: _____
Starodoj _____
DiMarzio _____
Urban _____
Kopacz _____
Knight _____