

Minutes from Meeting of March 24, 2004 – Squannacook Hills, St. George

Members Present: Stuart Schulman, Chase Duffy, Jay Prager, Robert Cadle, Cynthia Maxwell

The Chairman convened the Squannacook Hills 40B hearing by reading the legal notice. He then described some of the basics regarding the process for abutters and concerned citizens. He said that little of substance will be discussed at length in this meeting but noted that consultants will be hired as peer reviewers, at the expense of the applicant. He said that the town is somewhat limited but the issues regarding health and safety, etc. are still paramount. He noted that the Board could not reject the project just because it is too dense, although the Board can work to lower the density if appropriate in the negotiating stage. He said that the next is determining the completeness of the application.

Mr. Cadle went over the specifics required for a complete application. He said that the site approval letter is present but noted concern regarding the section on page 3, whereby the Board should look at local concerns. He said that he was not clear which subsidy program the application is filed under.

Atty. Julie MacNeil, agent for applicant, noted that the Housing Starts is the program for the application.

Mr. Cadle said that under 31.02 a preliminary site plan review was submitted with no landscaping plan, that typically is submitted later. He said that the existing site conditions have been submitted, but noted that no summary of conditions in the surrounding area has been submitted. He said that no traffic study was submitted but noted that that will likely be done later. He said that he wanted to clarify number of the number of bedrooms, which seem to be two bedrooms per unit.

Atty. MacNeil said that the units are two-bedroom.

Mr. Cadle noted that there is evidence of site control going from Mr. Page to Groton West LLC. Mr. Cadle said that the deed and the p and s are for different addresses, but noted that the application is substantially complete.

Atty. MacNeil, from Doug Deschenes' office, submitted an agreement to put \$10,000.00 into a 593 account and an agreement to hire the three consultants as requested by Board. She noted that there would be seven buildings with four units per building. She said that there are .36 acres of wetlands total on the site and noted the small area in yellow on the plan that would be disturbed for the access crossing. She said that there would be Town water and outside septic. She said that they met with the HA, who asked them to consider lowering the buildings and moving the garages from underneath. She said that seven units will be affordable, priced at \$167,000 and the market rate units at approximately \$235,000.

The Chairman asked whether any town boards wanted to comment.

Mrs. Collette said that the PB wants more time and a presentation to the PB so they can make comments.

The applicant agreed to this.

The BOH said that they want a septic plan and noted concern that the proposed lofts could be bedrooms and thus the units are 3 bedroom.

Mr. Dillon, BOS, was present to make sure their letter was before the Board. He said that otherwise he is here as a citizen.

The Chairman read the letter into the record. The BOS has major issues with the proposal, particularly related to the density and the ability to support a communal septic system. The BOS also wants one unit as handicapped. The letter noted serious drainage issues and traffic concerns around the W. Groton intersection. He said that developer will be meeting with Housing Partnership but noted that this letter from the BOS cites more problems.

Atty. MacNeil said that the plan has been substantially changed because of the BOS.

An abutter said that the plan looks identical.

Atty. MacNeil said that they are working to change the plan, but noted that it is not done yet.

The Chairman read letter from abutters into the record dated 11/11/03 noting concern regarding the project. He noted that many of the issues raised will be addressed in meetings to come.

Mrs. Collette said that construction impact and earth removal issues need to be addressed as part of the by-laws. She said that the hillside is very susceptible to erosion and things can end up in the Squannacook River. She stressed the need to look at the project carefully. She made a “nitpicky comment” regarding the spelling of Squannacook, noting that the Groton spelling has an additional n.

The Chairman noted that the next thing on the agenda is the nomination of consultants.

The Board moved to nominate Gary Hebert, traffic, Mark Bobrowski and Sandy Brock of JNEI for engineering. The motion was seconded and passed unanimously.

The Chairman noted the need to schedule a site walk and continue with engineering first and traffic next.

A Site walk scheduled for April 10th at 9:00 am. The hearing was continued to 5/5/04 at 8:00 pm for engineering and 5/26/04 for traffic and 6/23/04 for septic, water and conservation.

The Board moved to continue the meetings as listed above. The motion was seconded and passed unanimously.

Wes Blair, abutter, said that there is still a hole open on the property. He noted concern regarding the safety hazard.

Dr. Horowitz said that he should talk to the BOH office and file a complaint.

The Chairman convened the St. George hearing by reading the legal notice.

The Applicant said that wants to continue operating the business that he has run since 1989. He said that he just parks trucks there and does not run the business from the house.

The Chairman said that a number of findings need to be made in order to grant the permit. He then submitted photos of the property into the record, as well as a petition signed by Willowdale Road residents opposed to the operation. The petition noted concern that a towing service will be more hazardous to an already dangerous street, particularly for handicapped residents. He also submitted a letter from David S. Woods opposed to the operation, particularly due to lack of compliance with other Town regulations and the condition of the yard.

Mr. Cadle asked what kind of tow trucks are parked there.

Mr. St. George said that he owns two trucks and keeps one on site while the other one is being used. He noted that he is a general contractor and that he has worked for another towing contractor for five years, until last year. He said that he has parked there for years.

Mr. Prager asked about the cars in the photos.

Mr. St. George said that they are rehab projects for his teenage sons. He said that last year he bought two trucks to operate the business, and noted that his son drives one. He said that he has other locations where he picks up and drops off cars. He noted that on occasion, he will have a car on the back of the flatbed overnight if a dealership is closed. He said that this

only happens once or twice per week. He said that he has run his own towing business about 1.5 years. He said that he did file with the town hall as part of his contracting business.

Mr. Schulman said that as a part of a home occupation there cannot be visible evidence of trucks. He said that the testimony states that the trucks are seen and heard at all hours. He said that the applicant clearly that cannot do the by right and noted that the operation is also not grandfathered.

Cheryl King, 85 Willowdale Rd., said that the tow trucks are twice the size as used for the other business and beep when backing up. She said that she has a hard time believing that he has a business elsewhere and noted that other residents say that they hear the trucks at all hours. She noted concerned regarding excessive trash production. She said that the trash in the yard is appalling and felt that it brings down property values. She said that on numerous occasions, trucks have blocked the street. She said that there are elderly and handicapped living on the street. She said that there is a history of the family of not following town rules, which includes an illegal dog, occupancy permit issues, unregistered cars and BOH issues.

The Building Inspector said that he has been working on this complaint since September. He said that he contacted the applicant by letter on several occasions. He said that he was told that the applicant was going to file with the ZBA and when he did not the BI had to file a complaint in Lawrence Court. He said that through research and findings he found 36 Willowdale Road to be the physical address of the business. He submitted photos of the property. He said that the Court ordered the filing and noted that it is up to the board to decide under 218-16.2 about the outside storage, parking, excessive noise, etc.

The Chairman read from the regs.

Mr. St. George said that the trash and cars are separate from the tow truck parking and said that he has several addresses with which he does business.

The Chairman felt that the Board could not consider this without keeping the other issues in mind.

The BOH said that there have been many complaints regarding trash, smell, noise, etc. Dr. Horowitz said that they asked him to go to the Board in December and he blew them off. She said that they cannot go onto the property so they have been using the neighborhood to help. She said that he was told in February that he is in violation of several state codes and was given 7 days to clean up. As of Monday 3/22/04, there has been no compliance and thus he could be incurring \$500.00 a day in fines. She said that as of the next meeting he would begin incurring fines.

Thad King, abutter, noted that he works at home all day and the trucks are in and out constantly. He said that a lot of residents walk into town. He said that he wakes up at any given time to beeps and diesel rumbles. He said that he owns a small business on the street and he thinks he would get into trouble if he ran his business like that. He felt that if the applicant truly had a business somewhere else he would and could park the trucks there and pick them up when he gets a call. He also noted that there is an unfrozen puddle in the front yard during 12 degree below weather. He noted concern regarding a point source pollution going into the Nashua River. He stressed that the operation is not acceptable for a residential street. He said that relationships with dealerships are not places of business and stressed that he needed to find a place to park his trucks.

Even Katz, abutter, noted that there are no sidewalks on Willowdale Rd. He said that he wants the applicant to be able to provide for his family but said that this operation goes over the line. He said that the neighborhood is comprised of a very diverse group of residents, and noted that a low impact type of operation such as crafts, massage, etc., would be acceptable.

Mr. St. George said that he parks the trucks in the yard and is a partner in one garage in Pepperell and has business relationships with two others. He apologized for the condition of the site, noting that there is no excuse, but that that was separate from the tow trucks. He said that he complied with the BOH in the Fall and said that he was unaware of any more recent complaints.

Dr. Horowitz said that as of Monday the trash was still there and asked the applicant why he did not go to BOH meetings.

Mr. St. George said that he was towing out of state.

The Chairman noted that there are a lot of complaints relating to the towing business, such as noise, etc.

Mr. St. George said that he wants to focus on only towing.

The Chairman asked why he could not park in Pepperell.

Mr. St. George said that it was not fair to ask him to park the trucks 10 minutes away.

The Chairman said that he is causing serious concern in neighborhood and noted that this is a business in an R-A zoned neighborhood, which is illegal. He noted that it is personally disgusting to have so much trash, etc. in his yard, but said that this not a consideration.

Mr. St. George said that there are willows around and water in basement that is clean water.

Thad King said that the issues are separate but compliment each other. He said that the applicant has a fresh water spring and the trucks are polluting it.

Mr. Katz noted that there have been a number of occasions that vehicles come home with the trucks. He stressed that it is not just trucks and not just the parking trucks.

Mrs. Duffy said that this is not something you can do as part of a home occupation. She said that any operation needs to be completely screened from neighbors and the street. She said that he should move to an area zoned for business.

The Chairman said that the proposal fails on grounds that it is not a home occupation and impacts negatively on the neighborhood.

Mr. Cadle said that the operation is not incidental to home but a separate business.

Mr. St. George said that he could park a large plumbing truck there.

The BI said that some plumbers have home occupations but their vehicles are screened and/or parked in a garage.

Andy Morin said that he has lived in town since the 1960's. He said that he bought a ramp truck in the 1970's and was told by the town that he could not park the truck at his residence on Gratuity Rd. He said that he abided by that. He said that he has been at the Willowdale location since 1979 and was there when the applicant moved in. He noted the awful condition of the property. He said that it was okay when the applicant worked for community garage but when he got his own trucks, he began parking on his property and blocking his yard. He said that the towing business is being run out of the premises.

Dr. Horowitz said that even if the neighbors were in favor of this operation, the permit should not be granted if BOH conditions are not complied with.

Discussion ensued regarding what is in the by-laws and how it would stand up in court and/or should be handled.

Mrs. Duffy said that she wants to deal with the trucks and noted that there is nothing in the zoning by-law that says that this permit should be granted. She said that the operation is hazardous for this neighborhood and in no way complies with

218-16 home occupation.

The Board moved to deny the permit in that it does not meet the requirements of 218-16.b.2.b or the definition of a home occupation in the by-law.

The motion to deny was seconded and passed unanimously.

Mr. Katz thanked the boards present for following up and noted that he wants a nice neighborhood. He said that he hopes that the applicant will comply but wants to have the town follow up swiftly.

Dr. Horowitz said that Boh Cutone will be down there several times/week until their next meeting and if the site is not cleaned up he will have fines of \$500/day.

Discussion ensued regarding enforcement.

The meeting adjourned at 10:00 pm.