

Minutes Meeting of September 8, 2004 – Natgun, Bulldog, PGI, Squannacook Hills

Members Present: Stuart Schulman, Robert Cadle, Jay Prager, Mark Mulligan (Bulldog), Chase Duffy, Cynthia Maxwell (Natgun, PGI, Squannacook Hills)

The Chairman convened the Natgun hearing by reading the legal notice.

The Water Department has a contractor, Natgun Corp., constructing the water tower. The contractor has three construction trailers, none of which have power or water. A generator serves the trailers for minimal service.

The Board moved to allow the temporary trailers until 1/1/05. A separate bond does not need to be posted because the Water Department holds several bonds for the contractor and accepts responsibility for the removal of the trailer on or before 1/1/05.

The motion was seconded and passed unanimously.

The Chairman reconvened the Bulldog Realty hearing. The Chairman read a memo from Town Counsel, dated 9/8/04, into the record.

The Town Counsel memo said that special permit could not be amended.

Mrs. Duffy said that this memo is the first clear wording of the Zoning By-Law that she has read.

Mr. Cadle said that this is the most definitive memo from TC ever received.

The Chairman noted that the Board has no authority to grant a special permit even if they wanted to since the building was demoed.

Mr. Prager said that demolition is not an action with which a special permit can be granted.

The Chairman said that there is no way the Board can act to grant a special permit or override the BI at this point. He suggested asking for a variance and said that he read the by-law as Town Counsel noted even before the memo.

Discussion ensued regarding whether the process should be continued or whether to let the applicant apply for a variance.

The Chairman suggested that the Board deny the motion to amend and uphold the BI.

Atty. Connelly noted that he disagreed with Town Counsel and said some of the facts seem inconsistent. He said that he felt the real key here is on the fourth page before discussion. He said

that he disagreed because of the land court decision that is under appeal.

Mrs. Duffy said that she felt constrained to act according to advice from TC. Mr. Cadle and The Chairman agreed.

Mr. Mulligan said that he felt badly but said that the Board's hands are tied because of the TC decision.

Mrs. Duffy said that she would have considered amending the special permit to allow two units but felt she could not do even that now. She said that that any unclear wording has been addressed.

The hearing is continued to 9/29/04 at 8:30 pm.

The Chairman convened the PGI 8:00 and 8:05 hearings by reading the Legal Notices.

A memo from Dr. Bruner and Sharon Sullivan was submitted.

Atty. Collins submitted new plans pursuant to recommendations from the PB and a photo of the existing structure. He gave a brief history, noting that the property was formerly Wilson's Texaco. He said that there is 116 ft. of frontage on Main St. and 202 ft. on Champney St. He said that it has been a gas station since 1935, along with car repair and a car wash that is no longer used. He said that the current site has damaged, undesignated pavement, no drainage control, minimal landscaping and antiquated pumps. The applicant proposes tearing down the existing building and constructing a new building to the rear of the property, built into the topography. He said that the new building would be architecturally in keeping and the canopy will have trim and shingling to match the building. He said that a drainage system is proposed to contain runoff and landscaping would buffer the proposed project. He said that the canopy has a setback of 23 ft. and thus needs a variance. He said that the lot has little depth and thus the canopy cannot be moved back.

Discussion ensued regarding whether the canopy could be built by-right if setback requirements were met.

Atty. Collins said that it could and noted that the new canopy is more conforming than the existing building. He said that it makes the site more workable to have the canopy and new building as located. He said that the design is safer and has better aesthetics. He mentioned the site plan and the desire of the master plan to foster better small businesses in town. He said that the site is zoned for business and noted that the original building is 70 years old and needs to be changed. He said that it is more expensive to develop the as shown but stressed that this is the best use for the site. He said that his client is attempting to keep up with the times.

Discussion ensued regarding site plan review. Of note: the PB is still reviewing the plan, along with the BOH and the fire chief.

Mrs. Duffy noted that that there are bricks in the addition that came from some old school houses in Groton.

Discussion ensued regarding how many gas stations are currently in town. Atty. Collins said that there are now and eight when he was a kid.

Mrs. Duffy asked what else would be going in there.

Atty. Collins said that gas would be sold out front and inside would be an open concept retail space, ie. one can buy a can of oil, a cup of coffee, sandwiches, candy, etc. He said that it would be a typical filling station mart but more attractive.

The Chairman felt that there are two issues before the Board: the canopy variance and the expired gas station use.

Atty. Collins said that in a b-1 zone, there is no minimum lot size. He said that any “non-conformity” cannot be lost because the lot is conforming. He said that Wilson held a license for tanks through 2002 and noted that his client is applying for a special permit for use: gas sales. He stressed that there is still an auto repair business.

Mr. Cadle suggested taking about one-third off the top of the canopy to make it conform.

Atty. Collins said that the canopy would need to move substantially back and noted that because this is a corner lot, the 50 ft. setback is required on two sides. He said that the Board granted a variance for the existing canopy and it is almost on the street. He said that the Police Chief reviewed the plan and did a lengthy presentation to the PB, stressing that the new plan is safer than what is there now.

The Chairman read the BI letter asking for a special permit application.

The Chairman read the letter from Duane Cromwell asking for a sp. perm.

The Chairman read a letter from abutters into the record.

The Chairman read a letter from Dumont in favor of the project.

Atty. Collins said that although there are residences in the area, this is part of an extended commercial section and the building falls within neighboring building sizes. He said that plan will remain consistent, with lighting only during hours of operation. He said that the canopy has been reduced in size by about 25% and is further back from the street than the existing building and much further back than the existing canopy. He said that 69-foot long proposed canopy is shorter than the existing building on-site now. He said that he felt anything new on site is an improvement. He said that his client needs to be sensitive to making a viable use in a building and stressed that this is a blighted area. He said that his client has an offer from a convenience chain

but they would use the existing building. He thought that a car repair generates more noise and dirt than gas pumps and a convenience store.

Mrs. Duffy noted concern regarding the safety of children when leaving school.

Discussion ensued regarding traffic, etc.

The Chairman made a point of order, that traffic review is for the PB. He said the ZBA needs to discuss the canopy and the gas station special permit.

The Board disagreed, noting that traffic is part of the special permit review.

Mrs. Perkins said that the police are concerned regarding the children and felt that anything happening there would create a safety issue.

Atty. Collins said that it is a marginal increase in traffic.

Mr. Sullivan, abutter, said that the applicant had a model that came up with unreliable numbers. He said that he wants to see the 15 gas stations used in area for the study. He felt that the numbers seem very low and suggested that this could become a convenient point of entry onto Rt. 119 because cars are slowing down to access the gas station.

Atty. Collins suggested having a traffic engineer come.

Diane Rice, Main St., said that the safety issue is a pet peeve. She said that the more traffic generated, the more safety issues will arise around the children. She said that she called Mass Highway and was told it is illegal to park on a state highway. She asked how that will that be policed and noted concern about parked cars on Champney St. She said that it is already a bad intersection and noted that it is not the town's responsibility to manage traffic so the applicant can make a profit. She said that this is cramming too much into a very small lot. She said that it is a very unsafe situation because of the nature of the business.

Atty. Collins said that businesses in the town center are given parking credit pursuant to the town by-law. He said that no on-street parking is proposed and the existing building is bigger. He said that his client could put in a convenience store there by-right. He said that there will be some internal traffic generated but the new building is smaller and because of the setback, safer.

Sharon Sullivan, abutter, said that they have had several neighborhood meetings and she is speaking for many abutters. She said that they would rather have the existing building used and noted that all but one resident is opposed to the grand scale of the proposal. She said that it is too big for the property.

Mr. Prager said that he doesn't think that pushing the business back will increase traffic.

Discussion ensued regarding what kind of business would keep the abutters happy.

Of note: a convenience store could go into the existing 4100 sq. ft. building with no special permit.

The engineer said that this is a safer new design from a traffic standpoint. He suggested having a town rep. present.

Of note: the Board will ask the police chief to attend 9/22/04 at 8:00 pm.

The Chairman reconvened the Squannacook Hills 40B.

David Kelly, engineer for the applicant, noted that unit size is 18x30 and they have gone back to three story buildings. He said that from the rear the units would look two-story because of screening. He said that there are under building garages with front access and described in detail drainage plans, etc. He noted that patios have been added at ground level and much screening will be provided, as well as extensive landscaping.

An abutter noted concern regarding 12 units with patios, fire hazard because of grills and more activity and lighting. He asked how this would be addressed. He noted that there is a big slope that could create privacy issues.

The Board went over JNEI recommendations, as submitted by John Schmidt.

David Kelly noted that the Title V septic system will be designed and constructed.

Discussion ensued regarding the salability of two bedroom units in town and it was suggested that they may not be as marketable.

Mrs. Perkins noted the steepness of the slope, and asked how it will be contained.

Mr. Kelly said that there is a 3 to 1 slope, and will be seeded, etc. and mowed and will have a guard rail. He said that the area above the berm will be mowed.

Mr. Perkins asked why so much land has to be clear cut.

Of note: the brown shown on the plan is wetlands.

Of note: most of the lot is already pretty clear.

Mrs. Perkins asked how the retention ponds would be kept open.

Mr. Kelly said that the operation and maintenance plan is to be kept with the master deed and on file with the condo association and the Con. Comm.

Mrs. Perkins noted concern regarding the joint driveway egresses on the plan.

Discussion ensued regarding the standing water of 6” in the basin after a rain fall. The engineer said that it would unlikely be there for more than one day. Abutters noted that there is a lot of flooding in the area.

Of note: the applicant has not filed notice of intent with the Con. Comm.

Mrs. Perkins said that this project will have a big impact on neighborhood and stressed the need to come up with a detailed plan. She said that they should have a sidewalk because at 9% the slope of the driveway is very steep.

Mr. Kelly said they would not have parking in the culdesac.

Mrs. Perkins noted concern about the turning of the fire truck.

The contractor said that signs would be posted with no parking in the fire lane in culdesac.

Discussion ensued regarding what issues can be addressed within the 40B process.

An abutter asked about guest parking.

The contractor was not adverse to adding guest parking but wanted to keep paving to a minimum. He said that there would be one dumpster emptied twice weekly.

An abutter said that there are wetlands that have six feet of growth and can't be cut. He asked how will people get in and out safely. He said that he was concerned about the density because there are too many units and they are too high. He said that it seems like a parking disaster.

Mr. Kelly said that he will sit down with the Fire Dept. and go over issues.

Mr. Prager said that he shares the concern about so many units, guest parking, etc.

Of note: units could be converted to be handicapped accessible if a purchaser desires.

Mr. Kelly said he will have the revised pro forma soon and wondered if he should send it to Mike Jacobs.

The Chairman said that the Board is not ready for pro forma review yet.

Agenda for the next meeting: traffic review, on and off site, fire issues, pro forma, etc.

Discussion ensued regarding what additional planting is planned.

Mr. Prager noted concern regarding the height of the 3 story buildings.

Of note: an existing rock wall will stay.

An abutter asked whether the number of units could be reduced and the project still be economically feasible.

The Chairman suggested that upon pro forma review, if 20% profit is reached with less units, the Board could ask them to lower the density.

The hearing was continued to 10/6/04 at 8:00 pm.

The meeting adjourned at 11:00 pm.