

TOWN OF GREENFIELD

PLANNING BOARD

DECEMBER 11, 2007

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Gary Dake at 7:00 p.m. On roll call, the following members are present: Gary Dake, Lorna Dupouy, Thomas Siragusa, Michael Thrailkill, Tonya Yasenchak and Michael Ginley, Alternate. John Streit is absent. Gerry McKenna, Zoning Administrator and Charlie Baker, Town Engineer, are present.

NOVEMBER 27, 2007 MINUTES

MOTION: T. Yasenchak

SECOND: T. Siragusa

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of November 27, 2007 with the following correction:

M. Thrailkill states that the correct acreage for his property is about 60 acres and not the 29 as stated.

VOTE: Ayes: Dake, Dupouy, Ginley, Siragusa, Thrailkill, Yasenchak

Noes: None

Absent: Streit

PLANNING BOARD CASES

G. Dake asks G. McKenna to explain his memo to the Board. G. McKenna states that there is a section in the Town Code that requires the posting of public hearing notices at each individual site and that did not get done. He requests holding the public hearings open to the next meeting. G. Dake states that we will hold the public hearings this evening, but we will also hold the hearings open to the January 8, 2008 meeting.

G. Dake explains that Section 105-22-C-3 allows for pre-existing uses that were taking place prior to the change in zoning to be able to apply to continue the use with a much simpler application. It allows for only a continuation of existing operations, it does not contemplate expansion of those actions.

NATHAN DUFFNEY – Special Use Permit/Site Plan Review

Brigham Road

Nathan Duffney is present and states that his wife has a 12 x 22 antique shop, it has been there for about 4 years. It sits in an area that used to be his wood yard right beside the road that at any point in time always had between 30 and 40 full cords of wood stacked there. He and his father were in business there in the mid 1970's. There is now a fish pond, lawn, fruit trees, flowers – so considering what it was with 30 cords of firewood, log lengths stacked up or split sometimes, it is now grass and the wood yard has been moved to where it cannot be seen anymore. There being no public comments, this public hearing is adjourned at 7:05 p.m.

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Board members have no questions or concerns. G. Dake states that the public hearing will be reopened on January 8th. It sounds like the Board is very happy with the project and barring any new information coming up from the public it should not be a problem. N. Duffney states that he will provide photos of the shop – before and after.

EDWARD EICHORST - Special Use Permit/Site Plan Review

King Road

Edward Eichorst is present and states that he would like to remain on King Road keeping the equipment he uses to maintain his rental properties which he has 6 in Greenfield. G. Dake reads a letter into the record from Michael Stark, King Road, stating that he has no problem with the applicant storing equipment that he uses for his rental properties, however he has a problem with all the other equipment that is kept on the lot. There being no further public comments, this public hearing is adjourned at 7:08 p.m.

G. McKenna states that he does not know what the applicant's business is. He states that the Planning Board just granted one of these special use permits down the street and required the applicant to keep his equipment 500' from the road and behind the existing barn. E. Eichorst states that with his property boundaries, he cannot make that 500' limit, he only has 225'. G. Dake asks the Board members to take a drive by to take a look at this property and be better educated before the next meeting. He asks E. Eichorst if any of the Board members would like to walk the property if they may call him. E. Eichorst has no problem with this. C. Baker states that the only question he has is regarding any regulations about unlicensed vehicles. G. McKenna states that there is, but if it is coming in under that clause, it is for what was there before. E. Eichorst states that all the vehicles that he has – the trailers, the flat bed for his tractor – all those vehicles are registered and insured. He states that the one vehicle that belongs to his daughter; she drives to college and puts it back on the road in the winter. T. Yasenchak states that the letter states that the equipment is 'parked along side the garage and at the back of the property' and it seems to her from this letter that the applicant is trying. T. Siragusa asks if all the vehicles have to do with his rental property. E. Eichorst states that he thinks there are 9 mowers for the 6 properties, trailers for furniture and furnaces, etc. He has one backhoe. G. Dake states that we will reopen the public hearing on January 8, 2008 and this is another case where we have to balance the neighbor's rights and the applicant's rights, and try to take a look at screening and location.

ROBERT EICHORST - SPECIAL USE PERMIT/SITE PLAN REVIEW

Middle Grove Road

Robert Eichorst is present and states that he has construction equipment, a backhoe, a dump truck and stuff on the property. Ray Lanne, Middle Grove Road, states that the applicant keeps a clean operation, everything is out of sight, all far enough off the road that it is not an eyesore. There being no further public comments, this public hearing is adjourned at 7:13 p.m.

G. Dake states that there are no negative comments from the Board or neighbors. This will be reopened on January 8th.

MICHELLE GRANGER - SPECIAL USE PERMIT/SITE PLAN REVIEW

Russell Road

Michelle Granger is present and states that she is an attorney and would like to continue her practice at her residence. There being no public comments, this public hearing is closed at 7:14 p.m.

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L. Dupouy states that she thinks it is great having women in business at home in the Town. T. Siragusa states that a small sign was mentioned at the last meeting. G. Dake state this is a very low impact application as we heard at the last meeting and will be continued to the January 8th meeting.

ROCKY DANIELS - SPECIAL USE PERMIT/SITE PLAN REVIEW

Daniels Road

Rocky Daniels is present. G. Dake states that the public hearing was completed at the last meeting, that some of the Board members were able to visit the site and were able to observe the operating of the beast, as the piece of equipment has been named. M. Thrailkill states that it is a large piece of equipment which is somewhat loud. He states that he walked up to the neighbor's house and the noise up there is kind of loud, so he thinks we should discuss limiting some hours and the applicant had stated that he does not run on weekends. He states that the applicant is doing a lot of good things there with the stumps and what the applicant explained about the Town of Greenfield dropping stumps off, that is a positive thing. M. Ginley states that he agrees, it is a very impressive piece of machinery, it was loud but it did a good job on some nasty looking stumps and logs. We just need to figure out some hours and it is good. T. Siragusa states that he walked to the neighbor's house, which is closer than was thought. It is really loud and he would not want it next door to him. This is an existing business and we need to make sure that there is not a continued expansion. What we have seen is from a logging business to a mulching business to a bigger mulching business with something that produces 6 or 7 times faster and he equates that to louder. He states that it still fits within the provision, however, he thinks that not only the hours, but also the day. R. Daniels stated that he was only operating about once a month. If we could make it to a specific day or specific two days so that the neighbor would at least know what that day or days were. He thought that would be an ok compromise. T. Yasenchak states that she was not on the site walk. She agrees that if there is something that the applicant can do to appease the neighbor as far as a specific time or notifying him ahead of time to make sure that it is something that the neighbor knows such as the applicant always runs on a 'Tuesday'. She states that she does not want to make it so difficult on the applicant that he can't, weather permitting, work. She states that it has been cleaned up and that is something that is a benefit to not just Greenfield, but surrounding communities. L. Dupouy states that she did not attend the site walk and she does like it when we try to take into account other people's feelings, etc., she would be very cautious about limiting only when you can do particular things. The thought that you can set only one day that you can do this on, that impinges on this person's right to do business and when they want to do it. This permit is to allow this person to continue doing what they were doing and not grow from what they were doing. She thinks that it is safer to say that you are going to do business during specific hours. If it is agreeable that you can find that you will only do it the first Monday and Tuesday of the month, that's fine. She does not think that the applicant should be held to that specifically because there might be instances that come up and then that is not equally as right for the person as it is for the neighbor. M. Ginley states that he agrees with that. He does not think that it should be the second Tuesday of the month because different material comes in and builds up and he may have to do it on a day that doesn't fit into that schedule. He thinks that if the applicant says that they are only going to do it a couple of days a month, but gives 48 hours notice to that neighbor and not on the weekends. L. Dupouy states that if he adheres to it most of the time, as an outline, considering if people have parties, etc., that's great, but sometimes things change. If for some reason something comes up and you can't hold to that, it shouldn't impact the persons right to work. T. Siragusa states that L. Dupouy was not at the site, we are not talking about not running a business, you had to hear this thing. It is as big as a tractor-trailer with a gigantic diesel engine that eats trees in a residential neighborhood. He is not saying that the applicant should not have his business two days a week, but notifying somebody ahead of time is not enough. L. Dupouy states that she has lived her adult life with the sounds of F14's roaring overhead in a residential area. G. Dake asks what the applicant would suggest. R. Daniels states that he is trying to be fair about it with the neighbors, but like the Board members indicated, if it is only two days a month and there is more material, he does not want it to get overgrown. He is trying to keep it controlled so that it looks presentable for everybody driving by. It would be no different if he is running that machine or if the Town of Greenfield is paving or the

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people who were doing the road work through there with chippers and machines cutting the trees down. He asks if the Board would cut their rights back. He states that it is not fair to him but he would like to notify this gentleman if he has an issue with it, to notify him that he would come in and grind. G. Dake states that we do have to balance rights between the applicant and the neighbor. R. Daniels states he has been doing this for 19 years. G. Dake asks what hours the applicant thinks are reasonable to limit himself to based on what his prior practice has been, because we are not talking expansion. R. Daniels states that he knows that hours, when you work in a housing development, are 7:00 to 4:00. He would rather run from about 9:30 a.m. to 3:30 p.m. G. Dake asks the number of days a month the applicant has typically been running the chipper. R. Daniels states that it depends on how much he was behind – sometimes he would run it 5 times a month, sometimes only a couple of times. G. Dake asks if 5 would be a reasonable number and asks if he were limited to 5 days a month that is a reasonable approximation of what he has done in the past. The applicant had already stated that he would be willing to not do weekends. The applicant agrees with that. M. Thraikill states that he does not think that we can limit his days that he works. What if he gets pneumonia and can't work for two days? He likes the 5 days a month and the hours, 9:30 to 3:30. T. Yasechak states that she understands that with weather permitting, etc., the applicant would not be able to work on specific days. She states that the whole point of this legislation that has been passed has been so that people can continue doing what they have been doing and not to increase. If the applicant were to operate more than that, the applicant is going to have to come back. At the last meeting the applicant had stated that he has only had this grinder for 1-½ years, she understands that he has been in business at this location for a long time, but the neighbor hasn't had to listen to the grinder for 19 years. R. Daniels states that he had a chipper here before. T. Yasechak states that she would be fine with limiting it to a specific number of days and also asking for notification to the neighbor. T. Siragusa states that the only issue he has with "x" number of days is that it can't be regulated so there is no way for anyone to know how many days. That leaves it up to the neighbors in question do the regulating, which seems unfair in a residential neighborhood. If we could pick days that would be preferable and would be a lot more fair to the neighbors so that they could plan their own events accordingly and know exactly what they are up against in terms of the neighborhood that they are living in. The point of this is also so that if someone is moving in next door, they know exactly what they are getting themselves into. This is a moving forward process and not a looking back. We don't know if the gentleman in question is the only one complaining. If we have to notify him, then we have to figure out who else to notify. If we know what days they are, if it's Tuesdays and Wednesdays, he doesn't want to put anybody out of business, but maybe there is a way to be flexible about it. He believes there has to be a better compromise. G. McKenna states that it is all very difficult to enforce, he believes that the applicant will do what is agreed upon because it is his business. M. Ginley asks how many neighbors are effected other than the one they saw. R. Daniels states that the other neighbors said they had no problems. Discussion takes place as to how many houses are here. L. Dupouy states that she thinks we have achieved quite a lot by setting hours and she does not think that you can do days if it is only going to be five days a month. Part of that is that you have to go on the onus of the good businessman. You cannot legislate everything, you do not have enough code enforcement and it has to be on the onus of the business owner to do what we agree upon. She states that the Board has a choice – are you going to legislate to the higher goodness of the people or to the more base part? She would always like to do any legislation to the better. M. Thraikill questions that the applicant drives the 'beast' home every night. R. Daniels states that it depends if the work is completed at a particular location as he has other job sites that he moves it to. He states that he feels that he is doing a good thing for the environment – it is saving from burying stumps, etc.; it is cleaning the environment up and keeping it cleaned up. G. Dake asks how the Board feels about and what would the mechanism of notification be. M. Ginley asks the applicant how many days in advance he knows that he is going there. R. Daniels states that he would make a site visit and notify the neighbors that he is coming in a couple days later. He states that if that is what has to be done, he will do that to keep his business going.

RESOLUTION – R. Daniels - Special Use Permit/Site Plan Review

MOTION: L. Dupouy

SECOND: M. Ginley

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RESOLVED, that the Planning Board grants a Permanent Special Use Permit/Site Plan Review to Rocky Daniels under Section 105-22-C-3 for property located at 113 Daniels Road, TM# 152.-2-4, as follows:

- **To continue the chipping/grinding operation no more than 5 days a month between the hours of 9:30 a.m. and 3:30 p.m. with the provision that the 4 closest residences be notified on their mailbox, no less than 48 hours in advance of commencing the operation**

T. Yasenchak states that the applicant had stated that he wanted to move the grinder another 50 or 70' over and then turn it so the noise will go more towards the woods. R. Daniels states that is what he wants to do, turn everything so that the noise is going towards the bike trails. G. Dake states that the grinder was in the old location and might make a little difference. M. Thraikill states that it appears that the roadway goes from where the applicant is doing the work right down to the neighbor's back door, it is right straight down through the trees. R. Daniels states that if he turns it the other way, the material is going back the other way and faced towards the bike trail. As the members heard, the noise is mainly coming off the radiators because that is where the fan is. T. Siragusa asks if some kind of sound barrier could be considered. G. Dake states that the applicant did talk about putting up a fence and asks if the applicant is still willing to do that. R. Daniels states that he wanted to do it anyway. No weekend hours are discussed. G. Dake asks G. McKenna if these items are things that G. McKenna will be able to enforce. T. Yasenchak comments that other applications the Board has approved are all self-enforcing to – people parking trucks, etc.

MOTION AMENDED TO INCLUDE:

- **Addition of a 8' high fence on the west property line back up to the garage**
- **No weekend hours**

VOTE: Ayes: Dake, Dupouy, Ginley, Siragusa, Thraikill, Yasenchak
Noes: None
Absent: Streit

G. Dake states that the motion does not give a deadline for the fence, that the Town will be reasonable about it and asks the applicant to not take too long.

JONATHAN DAVIS - SPECIAL USE PERMIT/SITE PLAN REVIEW

Chandler Lane

Jonathan Davis is present and G. Dake reviews that he is applying under Section 105-22-C-3. J. Davis states that he is doing a small business with a dump truck, a little excavating. He states that he uses his grandfather's equipment but has his own dump truck. G. McKenna states that he believes it is an existing business and he has had no complaints. G. Dake reviews that the applicant has a single truck and no employees. T. Yasenchak asks where the truck is parked on the lot. J. Davis states that it actually is not – it is at his grandfather's and he just runs the business out of his home, he is 1000' off the road and owns 5 acres. M. Thraikill asks where Chandler Lane is. J. Davis explains. A public hearing is scheduled for January 8, 2008 at 7:00 p.m.

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RAYMOND LANNE - SPECIAL USE PERMIT/SITE PLAN REVIEW

Middle Grove Road

Raymond Lanne is present and states that he has operated a small machine shop since he was 15 years old out of his house. In 1995 he built a garage and moved everything out there. He states that when the opportunity arose to get a special use permit and not hide his operation anymore, he applied. He states that there is no impact on neighbors, it is not visible from the neighboring properties and they do not even know what he does. G. Dake states that he would encourage the applicant to talk with the neighbors, so that when they get the public hearing notice they will understand what it is for. R. Lanne states that this is not what he does for a living. He does about ½ dozen jobs a year, mainly from out of state companies, he does not have traffic and it is nothing in production numbers – it is one or two things. He worked on the Carousel for the City of Saratoga Springs; camera parts for a company out of Massachusetts – a couple a year, so there is really no traffic. It is done over the phone and the Internet. He states that nothing is outside. It looks like a basic two-car garage. G. McKenna states that he has not had any complaints. The Board has no questions or concerns. A public hearing is set for January 8, 2008 at 7:00 p.m.

SALVATORE LOMONACO - SPECIAL USE PERMIT/SITE PLAN REVIEW

Porter Corners Road

Salvatore Lomonaco is not present.

MICHAEL VINCENT – Minor Subdivision

Allen Road

Michael Vincent and Barry Guild are present. M. Vincent states that a new sight distance study has been provided to the Board and that is what has been holding them up. The Town has cut back the corner. He understands that it is just driveway sight distance that is holding them up from getting the subdivision. He has a lot of money into this with the site plans, preliminary surveys and 2 traffic engineers – one before and one after the corner work. C. Baker provides the Board with a copy of a letter and states that he did review the most recent report that was done by Harlan-McGee. A copy is provided to the applicant. The previous report was done by Voellmer. C. Baker states that, unfortunately, the most recent letter still says that the sight distance is not sufficient at the 40 mph regulatory speed limit. It does meet for the advisory speed limit, which is posted on the curve at 20 mph. He states that his understanding, from talking to traffic engineers, is that the regulatory speed is the one that governs. There are a couple of things that can be done, and he has pointed these out in his letter, that could give the Board a way to approve this if the results come back favorably. They can do a speed study to determine what the actual travel speed on the curve is. If it is something less than 40 mph and maybe greater than 20, or whatever the 85th percentile speed limit turns out to be, that is what they can use for their study. The other thing that Harlan-McGee points out in the report is that if some additional grading is done to the west, he feels as though they can meet the 40 mph speed limit. The other option is to do that work and remeasure it. Without having either one of those two things, C. Baker feels that the Board is still in a position where if they approve this, they are approving something that could be a safety issue. G. Dake states that the summary at the end of E. Gailor's letter says that only the approach to the East meets all the AASHTO guidelines. G. Dake states that what the Board has done on some other subdivisions, is that if the applicant can go back and demonstrate that the actual speed cars are traveling is less than 40, which we assume on that corner has got to be, if the cars are only traveling 20 mph, then the engineer can certify and the Board can base their decision on a lower speed limit, because without having data that suggests what the actual travel speed is, it is speculation. M. Vincent states that would be another engineering survey that they would have to pay for. C. Baker states that unfortunately since it is a rural area, he might have to sit there for 3 or 4 hours. M. Vincent states that they already have about \$2,500 into the traffic engineering as it is and he is just looking for a subdivision and they don't meet to the west.

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Once they get the subdivision it would be easy to get the equipment up there and move all the trees out and get the driveway in. That is when they would get the corner down and increase the sight distance. B. Guild states that this is their 9th meeting. The driveway, which is owned by Laura Waite, 404 Allen Road, and the proposed driveway that M. Vincent is putting in is only 12' centerline to centerline difference. This report reflects a safety issue, but her driveway, being 12' centerline to centerline, is not meeting the sight distance either. He states that he guesses you could look at it as a safety issue, but they have sat there, put their car there, measured the 3.5 feet at which engineers specify you need to be able to see "x" number of feet down the road. L. Waite's driveway does not meet either and that is part of his argument. M. Vincent states that this piece of property was allowed to be sold even though it does not meet and he states that there are plenty of driveways that have been put in that don't meet sight distance and at less than what they have. B. Guild states that recently on Plank Road, Middlebrook, that driveway that has been put in does not meet sight distance. He does not understand why they are being expected to put out all this money and do all these studies, and others just slide through. He is beginning to wonder if it is preferential treatment. M. Vincent states that the Board had a problem with the 20 mph before, now they meet the 20 since the corner has been cut and now there is another problem. C. Baker states that this issue has been in every one of his review letters from day one and the applicant has not addressed it yet. He is sorry, he has pointed it out previously and his position has not changed. G. Dake states that when someone has a piece of property and someone wants to build on it, the Town Highway Department has to issue them a driveway permit and it has to be sited at the best spot. There are also times where this Board would be granting a subdivision, in which case what we attempt to do in every case is to evaluate whether or not there is likely to be a sight distance problem and where we think there is the probability of one we ask every applicant, where in our judgment we believe there could be a problem, to go through and do this kind of review. The Planning Board has denied subdivisions; very simple 2 and 3 lot subdivisions, because there was not going to be enough sight distance. The reason the Board does this is to protect the Town from liability because if you are just accessing your own property or the neighbor who has already been there for years, they are not looking for anything from the Town. If the Town is aware of a safety problem, and we have a letter from the applicant's engineer saying that it does not meet the posted speed limit for sight distance, if someone pulls out of the applicant's driveway and is involved in a serious accident, the Town could be held liable, because the Planning Board, knowing there was a safety issue, said he's a nice guy, people don't really drive that speed, it's not a big deal and we are just going to overlook it. We have an engineer's report stating that at the posted speed limit you cannot see safely according to governmental standards, we would be negligent in our job of representing the Town and the taxpayers of this Town who would have to defend that lawsuit. B. Guild states that they are going back numerous meetings from getting the highway superintendent to give them the driveway permit. He states that at the first meeting they were told to get the driveway permit which they did and then were told that the sight distance was a concern and that the driveway permit would not be accepted. C. Baker states that he did not tell the applicant what they need to do. The applicant's engineer's report suggested what needed to be done. The Town went in and did some grading work. B. Guild states that this is going back to the first meeting. He states that he walked the property with the highway superintendent who gave him the permit. At the second meeting C. Baker spoke up and stated that he did not feel that was good enough. B. Guild states that this is their 9th meeting before the Board, that he does not want to endanger anyone's life in the Town of Greenfield or anyone who travels that road. He would like for his son to be able to build his first home and be able to give him the two acres to do this. They have jumped through a lot of hoops. He doesn't want it to be a danger and he doesn't want the Town to be at fault if something should happen. He is looking for help on an answer. He states that Gailor's report states that removing some of the stonewall over and above what the Town did could add to the distance. He states that they are frustrated and need help with a solution to take the burden off the Town and make it safe for the community to drive that road. He states that they gave the Town permission to shave the bank and make it better for the snow removal. M. Vincent states that it has only been improved since they started this. G. Dake agrees and states that C. Baker has addressed what is the most pragmatic solution. He does not know about cost effective. M. Thrailkill states that he drives this everyday and agrees that you cannot go 40 mph. He states that he did, after receiving this letter, go 40 mph the other day going towards his house and he could do it easily. He states that most people do not do that, they slow down because it is a drop off a curve

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and it says 20 coming up, not going down, and there is a big curve sign. M. Thraikill states that he agrees with C. Baker's point to get the study done there. G. Dake states that an engineer might come up and say that the actual traveled speed, the 85th percentile, is at 33 mph and the sight distance still doesn't meet. That could happen. He states that he does not want the applicant walking away thinking that if they spend this money, that will be the end – there is no guarantee. B. Guild states that they have 2 options – bring an individual in to monitor local traffic or maybe better their chances prior to doing that come in and remove some of the rock wall, which the last engineer's report said would gain them some more sight distance. M. Vincent states that this engineer came in a little sooner than as they wanted to have some more of that corner cut back. B. Guild states that they were hoping to be able to be close enough for M. Vincent to go rent a backhoe and at the same time put in his driveway, clear the rock wall, push it back, etc. G. Dake questions that the applicant understands the dilemma that the Board has a piece of paper that says it is not safe based on available information. One of the things that happens is that when an engineer signs off over his stamp on his license, certifying that something is safe, the Town can say we took prudent measures, we trusted an engineer who is licensed by the State of New York. There have been times when we have gotten letters from engineers and we have taken a rather jaundiced view and questioned it, but we will accept it because we have taken the prudent position that is going to take the Town's insurance company, attorney, elected officials and tax payers and put them in a safer position. G. Dake asks the Board if there are other issues besides sight distance so that the applicant is aware. B. Guild states that he believes in the 8 meetings prior to this that they have shown – there was a public hearing, the ZBA was the last meeting, and the next door neighbor was worried about what the applicant might do with the land that he owns up above. He states that they have shown on a survey map where the neighbor's well and septic are; where the proposed driveway would be; there is no zoning law against how close you can put a driveway to a neighbor; her woodshed is 50' from the proposed driveway and her driveway is further from the woodshed. He reiterates that he wants his son to build a house and that they have a year to do it from the ZBA meeting granting the variance. B. Guild states that they will move the rock wall, go out and measure it themselves and if they think that they are within the parameters, and then they will bring in the engineer again to measure or to monitor the speed. He asks if they can get an extension on the area variance. G. McKenna states that the ZBA can grant extensions, but advises the applicant to not let the current variance expire. G. Dake states that without polling the Planning Board, his sense from their actions is that we would not object to making a positive recommendation for that extension, assuming that the applicant has continued the work and that they are showing that they are doing their best to get it done as quickly as they can. He states that he knows they want to, but bear in mind that the record shows that since we started in 2002-03, there was a time when we just let it sit for two years. G. Dake states that the applicant should not delay. Nathan Duffney asks if the only problem is the stonewall, and states that he will come out and take care of it for the applicant. T. Yasenchak states that she does not think that it is necessarily bad news; it is just that when you have an engineer's report, it doesn't automatically mean it is ok. The engineer does make a suggestion. The applicant paid the engineer to do a report and his job, he did it and it states that it is not according to the regulations. The Planning Board cannot override that. She states that the Board is not against this; this is the only sticking point. M. Vincent asks what happens if they can get to 33 mph or something less than 40 mph. B. Guild states that the engineer's report states that the removal of the rock wall will add to the sight distance. G. Dake states that the fewer qualifications on that statement – if we get a declarative statement that says this meets AASHTO guidelines, not "if this", "when this", "because of that", etc., no interpretation. Those are the easy ones for C. Baker to review. C. Baker states that it doesn't give him any pleasure to point out these issues. He just looked through the minutes he has with him from 2003 and he did recommend a traffic engineer evaluation at that time. M. Vincent asks again about if they can only get close to the 40 mph, what happens? C. Baker states that their option would be at that point to do the speed study and prove that the speed driven is less than 40 mph. G. Dake states that they should push the rock, then do their own evaluation and if they think they are there, go ahead and pay the guy to come out. T. Siragusa states that the applicant stated that his engineer came out early and they were not able to get the rock pushed over. He states that we all hope that is the cure, so do that first. M. Thraikill states that they might want to look at the speed because you have to slow down coming down. Pushing the rock out of the way and then having someone do the radar may be the way to go.

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SARATOGA POLO – Site Plan Review

Jack Daly and Lisa Nagle are present representing this application. G. Dake states that while he is recusing himself, because this is only an advisory letting the Town know where they stand meeting, and we are not taking any action – partially because G. McKenna has declared them to be in violation but has not officially sited them for their hard sided tent – so we can't take any action even if we wanted to. J. Daly and L. Nagle state that the tent is down, it was removed today. J. Daly states that they wanted to let the Board know where they are and talk about what they might be coming back to the Town with in January. He states that Polo had a fantastic season with record attendance. He thinks they managed it very well and are very excited about that. They have done a little bit of work and refined the site plan. He states that they have learned a couple of things in terms of even moving the main entrance further down which he thinks will be very beneficial to the Town. Very importantly they have a new partner, Greg Arcuri is a development partner and the builder on the project and he is an equity partner in the project as well. Jim Rossi is also present tonight. He states that they did sign with the Registry Collection, a division of RCI, which is the exchange company with the high-end resorts around the world. He states that they are going to start selling in January in Florida. There are no changes in terms of the program of uses, they have reduced the number of buildings on the site, they will not be phasing the project, when they put in the first stage it will include all the infrastructure. This was a concern in the past. He states that it is in their best interest to complete this. J. Rossi explains that the reason it is January in Florida and not here is that they can start selling in Florida as soon as you file with the Attorney General vs. waiting for an approval. L. Nagle states that they have been very busy with the architects, planners and engineers. She reviews the original site plan and the changes which are being made. As they refined the architecture, the program of uses, the floor plans, etc. things got shifted around. They really wanted to be able to have a little more breathing room because there really wasn't a whole lot of space between the buildings and they needed run off space for the polo field for the horses. The new site plan includes 5 residential pods rather than 6 and they moved one over to the area previously occupied by the sales and operation center. They have the same amount of parking on site, the same amount of impervious coverage – they are still within their limits of the PUD. She states that the pump station and a storm water detention basin had been located in that area of the main entrance. They have now moved the main entrance to the east, they are proposing to put the storm water detention basin below grade and the engineers are working on that right now. They needed the space for the horses and would like to use that for overflow parking. A loop road will go around as before; the internal utilities and where they are run are getting slightly re-routed; coming up on the left side they still have the existing club house; the event hall and the lodge. The event hall got smaller. It was three stories – it had a subterranean kitchen, first story was banquet facilities and second story was offices and a restaurant. They have removed the second story and the subterranean so now it is effectively a one-story event hall and banquet space. There will be a common area between the two buildings. The Lodge will have the same programming uses – they still have the spa, the pools, and the meeting space. They continue to have some residential units in that building. The sales and operation center is now housed here also. Same amount of parking, slight reconfiguration of how the parking is oriented. The residential units are the same with the carports. They were able to pull them a little bit away from the property line, which was a concern of the neighbor, Will Orthwein. There is more space, sort of breathing room, in between there. As we come around to the general admissions side, there is a residential pod and the general admissions parking, and they are still going to incorporate restrooms in this area. L. Nagle states that the hard sided tent is down and there is an area to the south side of the clubhouse area labeled hard-sided tent. They want to create a terrace there, and when the sewer is hooked up, they would locate the hard-sided tent on that. Occasionally you will see a larger event tent. They find that during the Polo season there are a couple of events that people like to be in tents, they like that atmosphere at Polo. The pump station has probably grown. They had talked about phasing all along and they have now decided that the first stage is going to be the spine along the west side of the polo field and pod number one and that carport, and the infrastructure and the car port with the water tank. They are making an application to

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DEC/DOH, who have agreed to accept the application, to provide water for stage 1. One of the concerns in moving forward was if the project never gets built. L. Nagle states that if only that stage were built, and that is not their plan, that this will be a significant improvement on the site in terms of getting the applicant to their completed project. They are still committed to hooking to the county water line, but in the meantime they are planning on building this water treatment facility with the existing water on site right now for this stage 1. Regarding sewer, they have continued to meet with the town – W. Barss and C. Baker – and have come to an agreement on Denton Road and Bloomfield Road and the reconstruction. They have met with Saratoga County Sewer District and just yesterday received their final comments and are about 95% there with them, there are just a couple of technical issue that they are working through. They have also gone through this with Saratoga Springs regarding Kirby Road and have received their comments. They have come to a written agreement with the Putnam Brook Transportation Corporation, not signed yet, but all the terms have been agreed to regarding the hook up rates and flow rates. The Putnam Brook Transportation Corporation's next step is to go to the Town Board for approvals of the expansion of their service area. L. Nagle states that they are moving forward and wanted to update the Board with where they were. One thing they wanted to have a conversation about was the contingencies that they received with the site plan approval and the last one says that no building permits can be issued until all the contingencies are satisfied. She reviews the other three contingencies and states that they have reached the contingency regarding meeting with the Town. G. Dake states that that contingency has not been met. It states that the applicant will meet with the Town Engineer, the Town Highway Superintendent and the Planning Board Chair and G. Dake states that he has not seen a number yet or scope of work, etc. L. Nagle states that they will probably not be able to do anything until June because they did do soil borings on Denton Road. She states that they stand corrected; they do not have agreement but are a very long ways into it. She states that the other contingencies are process oriented and they are moving through that process to get the approvals from the agencies and the Putnam Brook Transportation Corporation will be coming before the newly seated Town Board to start that process. One of the things they would like to consider is to start to break ground, weather permitting, late spring. They would like the Board to consider that a Certificate of Occupancy not be issued until the contingencies are satisfied so that the buildings couldn't be occupied rather than pulling a building permit. They are moving forward with architecture, site plan and engineering to get the drawings to the Town for a building permit. G. Dake asks if there will be the same number of living units with the change in the pods. L. Nagle states that there will be the same number of ultimate living units as they added more residential space and removed the restaurant area. G. Dake asks what happens if the County water line is abandoned. Do they have the well capacity? What have they demonstrated to DOH? L. Nagle states that is the stage 1 area that she outlined. G. Dake states that this is something that he has mentioned to the applicant before and as he has identified, he has been in negotiations, on and off, seriously with Putnam Brook Transportation Corporation and/or Prestwick Chase and/or Polo about what happens with the water line. The Planning Board has to consider how does the water and the phasing work because if they cannot demonstrate additional well capacity, they would never be able to build more than those first three buildings. He believes that the applicant knows that, but the Board has to decide if that is something they would envision and are happy with. One of the things to think about, and the Board should all look at a copy of the contingencies, not only is it agreeing on a number, but this says that the amount must be paid prior to the building permits being issued, and any other bonding that needs to be done needs to be in place. To the extent that the applicant wishes to phase, that is something that the Board should be discussing with the applicant. One of the things that the Board was trying to do with the contingency was to guarantee that this was going to happen no matter what. If the building is not completed, the Town has the money for the road – was the reason we did it that way. That is what the applicant is asking the Town to consider. L. Nagle states that the Board could consider bifurcating the contingencies because they are willing to continue on with the discussions of the road, which can't happen until June or so, but it is really the other process questions. They really are trying to get moving, weather permitting in the spring with the building of stage 1. J. Daly states that it helps with the sale process also, if they are under construction. M. Ginley asks if the applicant is going to move forward and break ground, assuming the that Planning Board allows them to, even if they don't know the County water situation. The applicant states they will. L. Nagle reiterates that they do have enough water for that piece. J. Daly states that if the county water line does not happen, they will find water.

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M. Ginley asks where the county water line stands. G. Dake states that we will have much more information within the next two days regarding what will happen to the existing water authority, based on a conversation he had with the head of the water authority, and then we should know by the first of the year, the final final – is it going to make it or not. L. Nagle states that in terms of building, obviously, they hope the county line comes through. M. Thrailkill asks if there is an area for the ponies and the trailers. L. Nagle states that was part of the reason these changes happened. She states that they are in the same areas that they were before and indicates them on the map. C. Baker states that we are talking about a revised plan now that we have not seen any details on, and at the same time the applicant is asking for the Town to reevaluate the conditions we put on the approvals. His feeling is that he would like to see a little more progress on the applicant's side as far as getting stuff in for the Town to look at. He is concerned that there is still a lot of work that was identified months ago and we really haven't seen any progress. He is sure that the applicant has made progress, but the Town has not seen updates from the DOH, from the sewer district or from the Town Board as far as the Putnam Brook franchise area. He reiterates that he would like to see some progress before we are asked to start to look at our conditions. L. Nagle states that they were not asking for a decision on the contingencies tonight, she does not think that is fair to the Town at all. She got the revisions today. G. Dake states that he did meet with the applicant on both the status and the water issue because of his personal vested interest with his business, and he suggested that the applicant come in to give the Planning Board an update. He states that the timing as to why they are in without some of this stuff is because G. Dake thought that the Planning Board should know where they were. J. Daly states that they will get the information for C. Baker. L. Nagle states that she reread C. Baker's final letter today from last January's meeting, a lot of the issues are valid issues and are being addressed during the construction documents preparation phase which is exactly where they are now. She reiterates that they are also finishing up some final comments with the sewer district and the City.

DALE FISHER – Special Use Permit

Alpine Meadows Road

Dale Fisher is present and states that he is seeking a special use permit for a type II home occupation to start an on-line firearms sale business, it would be strictly e-commerce. He states that regarding the market he is looking at, it is going to be a part-time venture; he is 8 years retired and is not trying to go back into a working profession. He states that the firearms he is looking to sell would be rare, collectable-type firearms, probably the lowest price would be around \$1,000 and the mean might be at \$2,000. He is looking at selling one to two guns a month. It is a very low key, low profile business and he wants to keep it that way. As his application indicated, he needs to have a special use permit to satisfy the ATF and they require that they have a business place that they can come into without warrants or any other paperwork. He has had to define a portion of his garage, about 500 square feet, to that. They are happy with that but they need something from the Town giving permission. He states that he cannot see any impact – environmentally, roads – there will be no change whatsoever, but he does know that as part of the Planning Board functions we need to look at not only now but in to the future. He states that it would be highly improbable that his home would get sold to someone who would carry on this business. He has been doing this kind of thing as a hobby for 50 years and he has a network of people throughout the country who he is very familiar with, he knows what they are interested in and he looks for those items that he has customers for. G. Dake asks G. McKenna if the Planning Board did something similar for someone about 5 years ago. He states that one of the provision we now have in our code is the ability to do a temporary special use permit to address the question of whether someone turns this into a gun shop down the road and perhaps Mr. Fisher would agree to a five or ten year timeline at which point he would have to come in and reapply. G. Dake states that he remembers some conversation on the last one about vaults or storage. D. Fisher states that he is willing to do whatever ATF requires which will most likely be a gun safe which he will concrete into the floor and fasten to the wall. G. McKenna states that he believes this would be done as a renewable permit not temporary. The applicant has 500 square feet listed and that works as the assessor's records have the house as 2424 square feet. The applicant is applying as a Type II because he has to be open. C. Baker asks about security

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systems. D. Fisher states that the guns will be on the property and they would be in a gun safe. These are designed to withstand temperatures for certain time periods at so many degrees Fahrenheit for the security of the guns and to protect them. T. Siragusa states that the applicant has stated e-commerce only but the application talks about parking. D. Fisher states that is because of the ATF requirements. T. Siragusa asks if the guns will be fired on the premises. D. Fisher explains that these are collector items. T. Yasenchak questions that the signage needed is only for the requirements of the ATF. D. Fisher states that the sign will give the hours, by appointment only, with no name of the business. If they ask him to do that, he may have to. The sign would be on the building and not on the property. L. Dupouy questions that the applicant stated "primarily" and her concern is with what doesn't fall into that. D. Fisher explains that any firearm that is made before 1898 and also depending on the type of action that it had, that is an antique. Antiques are not firearms. Then there is a classification that is called C & R, Collectible and Relic, and these are made after 1898 but have just collector value. Then there are guns that are more modern or even made in the early 1900's but they are not C & R. He states that you need the FFL in order to sell the C & R or the more modern guns. He is not going to sell a deer rifle that someone can buy at Wal Mart or Dick's Sporting Goods. L. Dupouy states that her concern is that the applicant gets this permit and is selling collectibles but then how do we know that the applicant won't sell an AK47 in there. D. Fisher explains that there are FFL licenses specific to dealers, manufacturers, explosive devices, fully automatic devices and each one has its own criteria. He will sell no ammunition. G. Dake asks if he would be comfortable with no ammunition as one of the conditions.

RESOLUTION – D. Fisher, Special Use Permit – Complete Application

MOTION: L. Dupouy

SECOND: M. Ginley

RESOLVED, that the Planning Board deems the application of Dale Fisher for a Type II Home Occupation as complete for property located at 560 Alpine Meadows Road, TM#111.-1-2.

T. Yasenchak questions that we have actually looked at the regulations before deeming this as complete. M. Thraikill questions that the applicant will have his own personal guns and questions the condition of no ammunition. D. Fisher states that he does, but they are not part of the business, he will not be selling any ammunition. G. Dake reviews that some of the conditions are not met as far as technical conditions of a map, but when it comes to an existing building and we are simply using part of the garage, this is the type of thing that he is comfortable waiving.

VOTE: Ayes: Dake, Dupouy, Ginley, Siragusa, Thraikill, Yasenchak

Noes: None

Absent: Streit

A public hearing is scheduled for January 8, 2008.

DAVID MURRAY – Minor Subdivision

Route 9N

David Murray and David Barass are present. G. Dake states that the Board has received the long form SEQRA and correspondence from DEC as well as a letter of opposition to the project. G. Dake states that we had to wait for the County, lead agency and SEQRA form. D. Barass states that they have located the well and septic system for the neighboring lot. G. Dake reads a letter from a neighbor, Donald Carter, with concerns regarding this proposed subdivision, the possibility of contamination to his wells and past flooding. G. Dake questions that these people are on the other side of Route 9N. D. Barass states that regarding the septic system concerns, the new septic systems are way to the rear of the property and there are already four existing systems. G. Dake reviews that the home locations are being changed and there will be two living units in the front and two in the rear so if anything we should be improving the situation and this

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will require a DOT approval which should take care of any of the drainage issues that exist. While he understands their concerns, if they have had previous problems he would suggest that those have all been mitigated by the areas subject to review. C. Baker reviews that the DEC letter is requesting delineation be done on the northern boundary of the wetlands and we need to substantiate that recommendation. G. Dake asks if when the applicant finds the boundary, what is their concern – the well location, the house location, the septic location? He questions if the Board should proceed for the benefit of the applicant with some sort of a contingency or is it something that could screw up the whole project? C. Baker states that it is possible that the 100' line could eliminate the lot. G. Dake asks if the driveway is allowed to pass through the buffer. D. Barass states that a new driveway would have to get a permit. G. Dake states that the house would not be allowed in the buffer. D. Barass states that a permit can be issued by DEC for a house in the buffer. C. Baker states that he thinks it is pre-mature to look at the long form. G. Dake asks what the timing is. D. Barass states that this will put the project on hold until spring. G. Dake states that now that we are aware of an issue from DEC this would be a difficult thing to just ignore since they are an involved agency although they are not listed. Since we just received this information tonight, scheduling a public hearing is discussed. C. Baker states that the application before the Board is the most intense development that could take place, however it may be less. G. Dake states that deeming an application complete does not mean that there is not going to be additional information. This application was deemed to be complete at the last meeting and a public hearing is opened at 9:10 p.m. There being no public comments this public hearing is closed at 9:11 p.m.

The long form SEQRA is discussed and the Board will wait to review it and think about the part 2 so that we are not holding the applicant up too much. G. Dake asks C. Baker if we will need to wait until spring or if it will be a contingency of some sort. C. Baker states that he does not think that this will get delineated now. D. Barass asks if the Board can approve the subdivision with a contingency on that particular lot, that the wetlands have to be flagged prior to the issuance of a building permit. C. Baker states that the problem with approving a subdivision is that you are approving the creation of a lot that might not be able to be built on. G. McKenna points out that by having had the public hearing the Planning Board has 45 days to render a decision. G. Dake states that we would have to ask the applicant to extend or we would have to take action. D. Barass states that there are mobile homes on that lot now. The worst case is that it cannot be built on and the applicant could remove one mobile home and leave one there. D. Murray states that will be the last lot he would build on. G. Dake states that based on D. Barass' description, we have every reason to believe it is as he described it, there is a stonewall there, etc. T. Yasenchak asks if the applicant can get it done by someone else and then DEC could verify it. D. Barass doubts they can get anyone to do it in this weather. G. Dake suggests that a contingency could be something like – 'should this lot be deemed unbuildable by the Board because of the wetlands delineation, it will be combined with lot 4'. D. Barass states that they are banking on that not being the case, and that would be a workable contingency to move ahead. G. Dake asks the Board to take the time to go through the long form and think about contingencies.

STEFAN STRAKOS – Minor Subdivision

Greene Road

Stefan Strakos is not present. He did receive a variance from the ZBA.

DAVE JELENIK – Minor Subdivision

Braim Road

D. Jelenik is present. G. Dake reviews that this was an approved subdivision and for a variety of reasons, it did not get filed within the 180 days that were required. He states that he spoke with D. Jelenik last week, spoke with C. Baker and G. McKenna. All of the contingencies were satisfied and we did get a letter stating that the sight distance out of the second lot was taken care of. Nothing has changed on the site;

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the one house is effectively done but does not have a CO yet. He states that D. Jelenik has paid a new application fee. G. Dake asks the Board to reaffirm the SEQRA that was already done, to grant preliminary final approval and to waive the public hearing. T. Yasenchak recuses herself.

RESOLUTION – D. Jelenik, Minor Subdivision

MOTION: M. Ginley

SECOND: L. Dupouy

RESOLVED, that the Planning Board reaffirms the SEQRA previously completed, grants minor subdivision approval and waives a public hearing for Dave Jelenik for property located at 255 Daniels Road, TM#152.-1-12.13.

VOTE: Ayes: Dake, Dupouy, Ginley, Siragusa, Thraikill

Noes: None

Abstain: Yasenchak

Absent: Streit

CORRESPONDENCE

G. Dake asks if the Board has copies of the Guarnieri letter. C. Baker was made aware by the Highway Superintendent that some work had been initiated on the road for Pat Guarnieri's Daketown Road subdivision. He states that the Board had let her get a building permit for the two lots that fronted on Daketown Road with the understanding that she would not get any more building permits on that subdivision until she posted the road bond. Apparently there has been construction initiated on the roadway, contacts were made for crushed stone material to be brought in and there was no contact with the Town that they were starting to do this work. C. Baker states that the concern is that they are starting to build a road with no inspections. G. Dake states that this is not a Planning Board issue at this time. One of the things that C. Baker, G. McKenna and G. Dake discussed is that we did her a favor and it is coming back to bite her and us. The potential is that she does not understand what is going on, that she could go and spend a bunch of money that has to be dug up because she didn't follow the procedures the way that they are supposed to be followed so that we know that the road is good. Ultimately the Town is going to have to maintain it when it is done. This is just for the Board's information.

E. Eichorst asks if he can have a copy of the letter from his neighbor so that he can address the concerns.

L. Dupouy asks the Board members for input as to when everyone might be able to get together sometime in January.

G. Dake thanks N. Duffney for his offer of help with the M. Vincent project.

Meeting adjourned 9:24 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary