

Present: Vice Chair Jack Karcz, Jack Downing, Andy Kohlhofer, Tim Lavelle, Roger Barham, Paul Powers, alternate member Mike Wason, and Land Use Administrative Assistant Casey Wolfe

Also Present: Mary O'Brien, Anders Ragnarsson, Mike Rislove, Mike Riopelle, Cynthia Feeley, Edward Feeley, Steve Bassett, Bill Gregsak, Elizabeth Beaulieu, Dan Smith, Candace A. Smith, Dennis Acton, George Cowan, Mary-Ann Blaikie, Mark Queiros, Josh Yokela, and Dan Tatem.

Mr. Karcz opened the meeting at 7:05 pm.

I. MINUTES

Mr. Powers made a motion to approve the minutes of October 17, 2018. Mr. Downing seconded the motion. The motion passed 5-0-1.

II. CONTINUED BUSINESS

(Lots One, Two, and Three) Applicant Kasher Corporation has submitted a site plan application for a proposed condominium multi-family development at the recently subdivided Map 2 Lot 148-1. The proposed project involves construction of a four unit multi-family structure.

The applicant has asked for a continuance. Ms. Candace Smith, a resident on Copp Drive, stated that she has some environmental concerns about the project. She stated that the site has Blanding's turtles, which are an endangered species. There are also Wood turtles and Spotted turtles which are not endangered but are protected species. She also noted that she has seen a Lady Slipper on the property. She explained that the Blanding's turtle is on the rare species database for the Natural Heritage Bureau. Ms. Smith stated that one of the biggest threats to this turtle species is getting run over by cars. She felt that if this project goes through, this turtle species would not have a healthy habitat to thrive in. Ms. Smith also wanted to know how this project would affect Spruce Swamp. She submitted the information that she presented in writing to the Board.

After some discussion, Mr. Barham made a motion to deny all three Kasher Corporation applications without prejudice. If the applicant reapplies within six months, the application fees will be waived except the notification fees. Mr. Downing seconded the motion. The motion passed 5-0-1. Mr. Karcz noted that alternate Mr. Wason is a voting member at this meeting. The abutters to the Kasher Corporation projects left the meeting.

III. OTHER BUSINESS

Preliminary discussion for employee parking expansion for Colonial Poplin at 442 Main Street

Mr. Mark Queiros passed out a summary sheet of a proposal to add more employee parking at Colonial Poplin. Ms. Wolfe stated that the Board needs to decide if this should be a minor site

plan or a regular site plan application. Mr. Barham stated that he could see this proposal go through as a minor site plan application. Mr. Karcz asked if there was a site plan already on file for this business. Mr. Kohlhofer noted that the site is already well past the 10% impervious coverage limit for lots that are in the aquifer protection district. Mr. Powers stated that the applicant would need to provide a stormwater drainage plan for the added impervious surface. The applicant will need a variance to add more impervious surface area to the lot. Mr. Queiros stated that they need the additional employee parking because the cars are currently blocking an egress. Ms. Wolfe stated that he should contact her office to begin the application process for a variance from the Zoning Board of Adjustment. Mr. Queiros left at 7:29 pm.

IV. CONTINUED BUSINESS

Public Hearing for a site plan application for two proposed manufacturing and assembly buildings for Ragnar Original Innovations, Inc. to be located at 662 Main Street (Map 2 Lot 151-2). Application submitted by Fremont Land, LLC.

Mr. Lavelle recused himself from this part of the meeting. Mr. Gregsak introduced himself as the engineer representing Fremont Land, LLC. He passed out a waiver request letter and a response letter to Stantec's comments to the Board members. Mr. Gregsak stated that the application was not accepted as complete at the last meeting because of Stantec's review letter. He would like to get the conditional use permit addressed tonight and have the project move on from there. Mr. Karcz stated that this project is in the Aquifer Protection District and that the main problem is that there will be hydraulic fluid stored on site. He felt that if the applicant cannot prove that this will not be toxic, then they will need to get a variance from the Zoning Board. He felt that this use, as proposed, is prohibited in the Aquifer Protection District. Mr. Karcz wants to know the proposed quantities of toxic fluid that will be stored on site. Applicant Mr. Ragnarsson stated that they will store somewhere between 50 and 150 gallons of hydraulic fluid. He explained to the Board that it is far more likely for one of his machines in the gravel pit to leak fluid than it is for fluid in this proposed building to be leaked into the environment. Mr. Karcz restated that this use is prohibited in this district and that they may need to go to the Zoning Board. He also mentioned that there is an area of their property that is not in the aquifer protection district.

Mr. Ragnarsson stated that the Town needs to decide if they want a manufacturing facility on this piece of property. If he needs a special permit, then he will get the special permit. He stated that he needs hydraulic oil on site for this operation. Mr. Kohlhofer stated that the Aquifer Protection District does restrict what people can do with their property. Mr. Karcz felt that this use is prohibited in this district. There was some discussion about the proposed changes to the Aquifer Protection Ordinance. Mr. Ragnarsson stated that he came in four years ago and asked if the Town wants this proposed business on this parcel and then they purchased the property. Mr. Barham stated they may need to go to the Zoning Board to get a variance for this proposed use. Ms. Wolfe read from Article XII Section 1203.4 of the Zoning Ordinance, "Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such activity can demonstrate the contrary to the satisfaction of the Planning Board." Ms. Wolfe stated that the applicant needs to demonstrate that the proposed use will not be toxic or hazardous to the aquifer protection district. Mr. Anders stated

that it is not realistic to list out all the types of hydraulic fluid that they will be storing. Mr. Powers stated that the Board would like more information about the containment.

Mr. Karcz restated that they need to go to the Zoning Board. Mr. Anders stated that they use secondary containment for their own protection. A spill would be very costly for them. Mr. Karcz was concerned about repair work they would potentially be doing on the site. Mr. Ragnarsson stated that any repairs that they do would be mechanical. Generally, any repairs that they do would be at the customer's site. It would be highly unusual for the machines to come back to the Fremont site. Mr. Barham summarized that if the Board is not satisfied that this use is safe for the aquifer, then the applicant will need to go to the Zoning Board. Mr. Anders did not find it consistent that machines in his gravel pit can have hydraulic oil but he cannot store hydraulic oil inside a building for this proposed commercial use. He felt that common sense needs to prevail. Mr. Rislove stated that these fluids are not a threat unless they leak outside of their containment. These fluids will have secondary containment to prevent that from happening. Mr. Gregsak asked if there is a chance of convincing the Planning Board to allow this use or is this a done-deal? Mr. Anders restated that they have been before the Planning Board and the Board of Selectmen multiple times over the past few years. He was told that the use is allowed and that the Town wants the facility here. If the Town does not want this proposed use, then he will do this business in Canada instead.

Mr. Powers asked if there were any alternative fluids that they can use instead of hydraulic oil that would be non-toxic. Mr. Anders stated that there were not any alternatives. Mr. Rislove asked the Board if secondary containment would be enough to convince them to allow the use. There was some discussion about the substances defined in the New Hampshire Water Supply and Pollution Control Rules. Mr. Kohlhofer was not sure that these rules refer to hydraulic oil as a hazardous substance. After some discussion, the Board concluded that the ordinance itself lists "petroleum products" as a hazardous material. **Mr. Kohlhofer made a motion that the proposed use will not be considered prohibited if there is proper containment to the satisfaction of the Planning Board. Mr. Powers seconded the motion. The motion passed 5-1-0.** Mr. Barham emphasized that the containment needs to be done to the satisfaction of the Board. Mr. Anders proposed that the plans state that any hydraulic fluid or diesel oil needs to be in a secondary containment. Mr. Barham would rather see an environmental study that demonstrates how these materials would be handled in an environmentally friendly manner. Mr. Rislove asked the Board to move along with the approval process and in the meantime the applicant can get together this information. Mr. Powers pointed out that they still need a conditional use permit and that the secondary containment can be a condition of that approval.

Ms. Wolfe stated that the waivers need to be addressed before the Board should take jurisdiction of the project. The applicant submitted new waiver requests earlier that day. Mr. Barham pointed out that normally the Board has comments from Ms. Rowden before they take jurisdiction. The Board members briefly looked at the waiver request letter. Mr. Barham would like to take jurisdiction, but wait until the Board receives Ms. Rowden's advice before they act on the waivers. **Mr. Powers made a motion to take jurisdiction of the project. Mr. Barham seconded the motion. The motion passed 6-0-0.** Mr. Gregsak stated that a major change since the last meeting is that they are now proposing to pave the entire driveway rather than leaving it as gravel. He has also added a loading dock to the back of the smaller building, the lighting plan

has changed, and they have added a well to the plans. They have also combined phases one and two into one phase. There was a discussion about the Altaeros Energies site on the same parcel.

There was also a brief discussion about a disputed right-of-way on the property. Mr. Barham stated that Town Counsel has confirmed that this right-of-way issue is a civil matter. **Mr. Kohlhofer made a motion to open the discussion to the public. Mr. Powers seconded the motion. The motion passed 6-0-0.** Mr. Dennis Acton asked if the aquifer protection rules were from the State or if they were local laws. Mr. Lavelle confirmed that the laws for the Aquifer Protection District were created at the town level and are a part of the Zoning Ordinance. Mr. Acton stated that he has 500 gallons of heating oil, half a dozen five-gallon jugs of diesel fuel for his generator, and multiple jugs of hydraulic fluid for his tractor in his single family home. He stated that he did not understand why hydraulic fluid would not be allowed with proper double containment in a commercial building. He felt that this Board is bias against commercial development in this community. Mr. Kohlhofer stated that they are acting based on how the regulations are written. Mr. Yokela stated that the regulations need to be changed. Mr. Acton felt that developers are getting the run-around. Mr. Yokela stated that he had issue with how the Planning Board treated the Cooper Paving Company's recent site plan proposal. Mr. Acton felt that if the Board does not want commercial activity in Town, then they need to make that clear.

Mr. Kohlhofer made a motion to close the public hearing. Mr. Powers seconded the motion. The motion passed 6-0-0. The Board would like both Ms. Rowden and Mr. Tatem to look at the waiver request letter that was submitted earlier in the day. After some discussion, the Board decided to continue this application to November 28th. There was a brief discussion about the waiver request pertaining to the surety. Mr. Gregsak stated that they only want town inspections to be for erosion and sedimentation on the site. Mr. Ragnarsson expressed the urgency to pour concrete before the ground freezes. After some discussion, the Board agreed to meet on November 21st, the evening before Thanksgiving. **Mr. Powers made a motion to continue this application to November 21st. Mr. Kohlhofer seconded the motion. The motion passed 6-0-0.** The applicant left at 8:47 pm.

V. OTHER BUSINESS

Mr. Lavelle joined the Board as a voting member. Mr. Bradford Jones of Jones and Beach Engineers Inc. came before the Board representing Mr. Steve Bassett. He gave a brief presentation about a proposal to subdivide a 24 acre parcel off of Scribner Road into eight lots. Mr. Karcz recused himself, realizing that he is an abutter. There was some discussion about the proposed cul-de-sac and about the minimum lot size. The next step for the applicant is to schedule the test pits and then to formally apply for the subdivision approval. Mr. Jones left at 9:04 pm.

There was a discussion about the proposed changes to the Fremont Zoning Ordinance (including a new definitions section, changes to the zoning districts, and changes to the table of permitted and prohibited uses within all districts) that were discussed at the October 17th Planning Board meeting. The Board agreed with the changes that the Planning Board subcommittee made on the

25th. Mr. Lavelle made a motion to move these changes to a Public Hearing on December 5th. Mr. Powers seconded the motion. The motion passed 7-0-0.

There was a short discussion about a recent letter from Dan Tatem about the Altaeros Project. The Board will continue with this discussion at the next meeting.

Mr. Powers made a motion to adjourn at 9:18 pm. Mr. Lavelle seconded the motion. The motion passed 7-0-0.

Respectfully Submitted,

Casey Wolfe
Land Use Administrative Assistant