

TOWN OF BENNINGTON  
PLANNING BOARD  
Minutes of the meeting- November 12, 2012

Present Susan Smith, Acting Chairman  
Jeffrey Rose, Ex- Officio  
David McKenzie, Acting Vice Chairman  
Sam Cohen

Guests Mike Roina, Fire Chief  
Allan Wilson  
Nick Sanders, VHB  
Chris Nadeau, Nobis  
Raymond D'Amante, DCPA  
Matt Casey, Zarembo Group  
Lori O'Brien, abutter  
Jaimie O'Brien, abutter  
Joseph O'Brien, abutter  
Ashley Saari, Ledger-Transcript  
Peter Martel

Acting Chairman Smith called the meeting to order at 7:00 p.m.

The minutes of the October 8, 2012 meeting were reviewed and accepted as written.

The minutes of the October 22, 2012 meeting were reviewed and accepted as written.

The Dollar General Public Hearing was opened at 7:08 p.m. The public was invited to express any concerns. Abutter Lori O'Brien voiced a concern about the proposed lagoon and the slope of the land. Mrs. O'Brien noted that overflow from the lagoon would flow into her yard as it is lower than the abutting property. She also noted that safety is a concern in that area and one pedestrian has been hit crossing the road. Mrs. O'Brien's driveway is located close to the proposed entrance of the Dollar General and she is concerned about the safety impact.

It was noted that a copy of the New Hampshire Department of Transportation Driveway permit and proposed floor plan has been received. Jeffrey Rose noted that the width of the right of way for Route 202 is 66 feet wide, measuring 33 feet from the center line.

A copy of correspondence from Mr. D'Amante to the Town's Attorney was submitted.

Chris Nadeau from Nobis Engineering described the Dollar General store as a convenience store and not a dollar store. He noted changes to the plan noting that the driveway has been moved away from the abutter's property line. The proposed driveway is now narrower and farther away from the O'Brien's property. The number of parking spaces has been reduced to 26 and the trees on the side of the property will not be removed. The DOT has reviewed the conceptual plan. Mr. Nadeau noted that any drainage would stay on the lot and not run off into the abutter's property.

The water will go back into the ground and the lot will be sloped to direct the flow of any overflow toward the back of their property. The drainage is designed for a 100-year storm. There was some question about the north boundary being within the shoreline-protected area. It was noted that there would be no alteration in the back part of the property. It was noted that once both lots are in single ownership, they would be merged. The Zoning Ordinance requires a 3-acre lot, but it was noted that nearly every lot in the area is sub-standard. It was questioned whether two lots merged must create a conforming lot.

Mr. D'Amante noted that ordinance X.4 and X.5 conflict. X.4 speaks to commercial uses and X.5 speaks to single family residential uses. He also noted that the proposed building complies with the regulations for the Village District. Mr. D'Amante stated that in his opinion the combination of two lots is permitted and it does not need to meet standards.

Joseph O'Brien noted that John Cronin had stated intent to limit the over use of the Water Resource Protection Zone when the ordinance was written. This implies a limit to both residential and commercial uses. Mr. D'Amante stated that the purpose of the Article is to protect the water aquifer from adverse land use practices. An average single family home produces sewage discharge. The Dollar General will produce only as much as a quarter of the amount of sewage discharge as a single family home.

Allan Wilson asked how the building would be heated. It will be heated by propane. The tanks will be located 40 to 50 feet from the building. It was noted that it is preferred to have the tanks buried, but if the supplier wants the tanks above ground, they will be installed that way with bollards to protect them for safety. Mr. Wilson also inquired about the types of chemicals that would be sold. There will be cleaning chemicals and motor oil. There will not be a lot of any one article, but just what would be on the shelf. When an article is sold, more would be ordered and delivered once a week during business hours. A semi truck would typically make a delivery once a week and smaller box trucks would deliver on a more frequent schedule. The location of floor drains and holding tank was questioned. It was suggested that a mop and bucket would be used for most spillage.

Lori O'Brien asked if the drainage from the paved areas would go into the pond. Treated rainwater would drain into the pond. Vegetation and the sand and gravel will take care of the run-off. The holding pond would be cleaned out periodically and employees would be trained in spillage procedure. Allan Wilson pointed out that the pond is designed to hold 6 inches of rain in 24 hours. Recently Keene has had 10 inches of rain in a 2 ½ hour period. He asked what would happen in this type of situation. Mr. D'Amante stated that they could not design to an act of God.

Acting Chairman Smith closed the Public Hearing to public input at 8:23 p.m. and opened the deliberative session. Jeffrey Rose stated that the Water Resource Protection Zone Regulations do not limit themselves to residential use only. It is believed that article X.5 refers to both residential and commercial uses. The proposed impervious surface coverage is 28% and the ordinance states that there can be no more than a 20% impervious surface. It seems to be a conflict if there were restrictions for residential uses and not for commercial uses. The ordinance implies that the lot be 3 acres and 350 feet of road frontage.

David McKenzie noted that article X protects the Water Resource Protection Zone from future land use practices and imposes greater restrictions in the overlay zone. There are density and use restrictions in areas not served by both town water and sewer. The lot size is not adequate for the proposed project.

Susan Smith noted that as the proposed lot is under 3 acres and the restriction for the impervious surfaces are not met, the project does not meet the zoning requirements. Dollar General has taken extreme measures to handle leaching of the ground water and she would suggest that the Planning Board send the Dollar General to the ZBA to seek a variance.

Sam Cohen stated that he is both a Planning Board member and a ZBA member. He noted that most of the public has oil delivered to their houses and there could be a chance of an oil spill from a truck. Dollar General has presented a convincing argument for the requirements. A single family home is required to have 350 feet of frontage and a 3-acre lot. The gas station across the road which is grandfathered presents more of a threat than a Dollar General would. The use of a system of catch basins has been presented and should go to the ZBA for a variance.

Jeffrey Rose made a motion to deny the application as it does not meet the density and use requirement in Water Resource Protection Zone of article X. The requirement of 3 acres and 350 feet of frontage is not met nor is the maximum of 20% impervious surface coverage. David McKenzie seconded the motion. The vote was recorded as 3 yes (Jeffrey Rose, Susan Smith, David McKenzie), 1 no (Sam Cohen). The motion passed.

Dollar General will seek a variance from the ZBA and proceed with the presentation of their plans.

Susan Smith made a motion to continue the Public Hearing on December 10, 2012 at 7:15 p.m. at the Bennington Town Hall to hear the Site Plan Review. The motion was seconded and all were in favor.

There being no other business at hand, the meeting was adjourned at 9:02 p.m.

Respectfully Submitted by

Debra Belcher  
Planning Board Recording Secretary