

**TOWN OF CHESTERFIELD, NH  
PLANNING BOARD**

**Monday, November 20 2017**

**Present:** Joe Brodbine, Rolland Vollbehr, Joe Parisi, James Corliss, John Koopmann, John McKeon, Davis Peach

**Call to Order**

James Corliss called the meeting to order at 7:00

**Seat Alternates**

**Review of the Minutes**

November 6, 2017

*Jon McKeon motioned to accept the minutes as presented from November 6, 2017. The motion was seconded by Joe Brodbine and passed unanimously.*

**Appointments**

**Mark Lanoue** – This is a continuation of a hearing on an application for a Major Site Plan Review of property located at 1763 Route 9 (Map 10A, Lot A5) consisting of approximately 4.17 acres in the Office/Retail/Services District.

Jon McKeon recused himself from the application, yielding his seat to Norm VanCor. Mark Lanoue, Dave Bergeron and Steve Bonnette were present.

Bergeron noted that Brickstone Land Use Consultants has been asked by Mr. Lanoue to assist in the application and meet some of the concerns voiced by the Planning Board over previous plans.

Bergeron provided a signed copy of a designation of authorized representative.

Bergeron noted that the first sheet is the topography sheet prepared by Ron Bell (pre-fill). Bergeron

noted that after doing some research, he believes it to be pretty accurate. Bergeron noted that the second page is topography done by Ron Bell with the fill (what it looked like when it was done)

Bergeron noted that the next plan is the revised grading plan, which brings it back to a 3:1 slope as requested by the Board. Bergeron noted that the retention pond has been reconfigured but has the same basic design. Some fill will be removed and some will be moved to balance out the site and

open up the back for some parking. It was noted that there is 70 parking spaces on the lot and the requirement is 28 for this lot. Bergeron noted that after reading the minutes and seeing the

discussion regarding the possibility of fill being a structure because it holds up the parking area, the parking area has been moved and there will be green space there, not parking. Bergeron gave the

board copies of sheet 3, showing parking lot fill cross section. They are proposing to cut the slope back and flatten it by removing material and in order for the fill to not be considered holding up the

parking lot. Bergeron noted that he has done the calculations and the fill is no longer holding up the parking lot and therefore not considered a structure.

Bergeron provided the board with a copy of a drainage report. Corliss asked if all of the water on the East side coming off the parking lot will be captured in the swale. Bergeron noted that yes it will be captured by the swale. (4 feet wide and 1.5 feet deep) Corliss asked if the expectation is for the detention pond to hold the 50 year storm. Bergeron noted it will hold the 50 year storm and will reduce the original runoff. Bergeron noted that all the runoff will eventually make it down to Partridge Brook.

Brodbine noted that the Zoning Variance allows 65 cars for sale on site, but with the business requirement of 28 and the total only 70, there will not be enough room for 65 cars for sale. Bergeron noted that the parking can be labeled if the board would like them to label the parking. Bergeron noted that Manny's does not have 10 customers at once and is not staffed to cater to such a number, and those will never be full. Brodbine noted that he is pointing out that Lanoue will be allowed a smaller number of cars on the site than what is stated in the zoning decision. Bergeron noted that the owner is aware that there will be 42 spaces that will be available to use for cars that are for sale. Bergeron noted that they have done the calculations and the biggest fire truck (6Tower1) can make it around the building and cars as they are proposed. Parisi noted that 2 of the parking spaces are in the setback. Bergeron noted that those parking spaces are existing and not changing. Corliss noted they would be pre-existing non-conforming. Brodbine noted that it is noted that you cannot drive on the storage tank, leach field and septic tank. Bergeron noted that a 6 inch pad will be put over the tanks which will support and distribute the vehicle weight. Bergeron noted that they are waiting on the septic designer as they have looked at it. Lanoue noted that the report had been received and sent to the board. Koopmann asked if there was parking in front of the office door. Bergeron noted there is and also a 4 foot walkway between the door and the parking area. Koopmann noted that he has continued to see loading and unloading on the eastern side of the building instead of the western side where it is designated. Bergeron noted that is Manny's. Parisi noted that the septic report states that the property is currently used commercially by two different businesses and asked if the auto service is already up and running. Bergeron noted that the space is there, but the business is not operating out of the building currently. VanCor noted that there is a business being operated out of there as was stated in the past many times. Bergeron noted that the space is divided, but he is not operating a retail business there. Steve Bonnette noted that this is not an issue for the Planning Board. The issue before the board is the Site Plan review. Bonnette noted that Lanoue has stated he is not operating and selling cars from there.

VanCor noted that previously the applicant stated that the line from the building to the septic tank was frozen, but the report says it is all in good condition. Bonnette noted that the pipes were replaced.

Koopmann asked why the applicant would use the proposed 3:1 slope instead of from the setback line. Bergeron noted that there was discussion at the last meeting if the fill was supporting the parking lot it was considered a structure and could not be in the setback. Bergeron noted he would prefer to do it that way if the board was alright with that. Bergeron noted that the fill exists and it is extremely expensive to have it removed and it will disturb the site again. Bergeron noted that at this point, the site has started to stabilize and he would like to minimize and disturbance. Koopmann noted that he believes that the previous topo numbers were incorrect when they stated 12 feet at the base of the fill noting that he had gone out and measured it about 28 feet. Bergeron noted that the plan done by Ron Bell was an on the ground survey and it was measured. Bergeron noted that they did not create new data. Bergeron noted it is about 20 feet at its deepest point in the corner. Lanoue noted that Bell had gone out to redo the numbers. VanCor stated that the entire fill in the setback needs to be removed and asked if you removed the entire fill in the setback and used the hypothetical slope, what would happen to the parking lot. Bergeron noted that the parking lot would look just like it does on the proposed drawings. Corliss noted that Bergeron is stating that all the fill could be removed, but it is too expensive. VanCor noted that he believes that the fill is still

supporting the bank which supports the parking lot. Bonnette noted that the issue before the board is if the fill is a structure and if not, then there is no issue. Bonnette noted that there has been a ruling in the recent court case and the court stated they have no problem with them bringing in the fill. Bergeron noted that they had a structural engineer look at the fill and he would be able to say what actual material is supporting the parking lot. Corliss noted that the board has questions in part because they need to look at the 1992 site as pre-existing and then the modifications that need to be approved, noting that all of the modifications are before this board. Bonnette noted that the Town filed the law suit about that and the Court sided with Mr. Lanoue. Bergeron noted that the modifications have been made to move the parking lot away so that the fill is not supporting it. Koopmann noted that the fill goes through the setback and intrudes on the property line. Bergeron noted that it will no longer do that once the plans are approved and the work is completed. Koopmann noted that there is a sanctity to a setback and once it is intruded upon, it dramatically affects the abutters property. Koopmann noted that the proposed slope is wonderful, but it is useless unless it is moved back closer to the parking lot. Bergeron noted that the plan they have come up with addresses all of those concerns: The slope will be moved back from the abutters property and the water will not run onto the abutters property. Corliss noted that the proposed slope does appear to hit the property line. Bergeron noted that they can pull it back more if they need to do so noting that the property line will not be crossed. Bergeron noted that the retention pond is big enough they can slope back the green area and there will be no water over the bank if the board prefers that. McKeon noted that the board has a duty to look at the impact on the abutting properties. Barbara Girs noted that all of the fill in the setback should be taken out. Girs noted that there is a thinking in Town that it is easier to ask forgiveness than permission. Girs noted that a man with his businesses knew he needed permission and the board should not care if it costs a lot, it should all be removed. Jeff Scott noted that the judge decided that he was given permission to put that fill in there, but he does not believe he was given permission to have it in the setback. Scott noted that he is violating the code with where he put it and how he put it on the property. Brodbine noted that the applicant is proposing to bring the slope back, not remove all of the fill and he is not sure if the board can require him to remove it if the court said he can leave it there. Parisi noted that the board has not looked at the decision and should make any decision based on an order they have not read. Parisi noted that the board should read the decision and talk about it after. Lanoue noted that Chet Greenwood used to own the property and was there monitoring the fill being placed. Lanoue noted that the court is aware of where the fill was put and the slope and found that I did have permission to put it in where it is located. Lanoue noted that he would not have put the fill in without permission. Girs noted that she has some video that she is willing to share showing where the fill was going when Greenwood was not the Code Enforcement Officer. Corliss noted that the board will look at the litigation.

Koopmann asked if Bergeron was suggesting in the plan that all of the drainage to the east will be eliminated. Bergeron noted that he can do that. Bergeron noted that it is not in this current proposed plan, but it can be done. Bergeron stated that right now, they anticipated sloping out, but it could be graded to slope back. Koopmann noted that prior to the next meeting, he believes that the board cannot fully deal with this application and all of the contention until they have walked the tree line and the view and impact on the property. Koopmann strongly urges all of the board members to do a site visit. Corliss noted that the board could meet on site if it would be beneficial. McKeon noted that the court case is separate from the Planning Board approval, stating that the Planning Board still has a responsibility to look at the plan and do what needs to be done. There was talk about old contour lines being on the proposed plan and how it may be confusing years from now. Bergeron will adjust the proposed plan. Corliss noted that the plan shows snow storage at the swale at the end of all the parking spots heading down the slope. Bergeron noted that the parking is laid out so that they can plow it to the back and it will melt into the retention pond. It was stated that most of the

snow will be moved to the back of the lot. Koopmann asked how parking spaces are delineated if the lot is gravel. Bergeron noted they can make signs for employee parking if needed or a fence with paint lines could be used if needed. McKeon asked what the aggregate area of disturbance was and Bergeron stated about 20-30 thousand square feet. Bergeron noted that there was about 13,000 yards of fill brought into the site. Corliss noted that the dumpster issues seem to have been addressed. Parisi asked about the screening that was a condition from the Zoning Board. Bergeron noted there is screening on the plan. It was noted that they are not currently asking for any waivers, they are using the previously submitted use intensity statement and the only state permit needed has been issued on the waste water holding tank. They are waiting for Rod Parsons to look at the tank as he expressed a need to look at the tank. It was noted that there are no building elevations and Bergeron will request a waiver for that. Corliss noted that the applicant will have to capture the 42 car limit on the plan, identify customer parking, employee parking and sales parking. McKeon noted that there is a zone of influence in the slope and although Bergeron does a great job, he is not a structural engineer. McKeon suggested an engineer be contracted to identify the zone of influence for the parking lot structure. McKeon noted that the soil sampling was done, but it was a small sample. McKeon noted that the analysis notes different types of soils including silty clay material which is different from the gravel granular material that was previously stated. Bonnette noted that he does not see any mention of clay in the report. Corliss noted that he does not remember clay in the report, but does remember seeing some on the site. Bergeron noted that he believes the board may be looking for a soils engineer, not a structural engineer, and he believes that most of the work has been done. Bergeron noted that samples have been taken and they have given an opinion. Bergeron noted that some of the soil appears like clay because of the color, but the particle size makes it not classified as clay. It is a gravely silt material which holds differently than clay. Bergeron noted that there are currently two engineers looking at the property and they can get additional information from the soils engineer as to the cone of influence. Corliss noted that sometimes the board hires their own expert. Bergeron noted that they have been using M&W soils and they have a great reputation in this area and will not risk their reputation or license for any project.

McKeon provided the board with some before and after pictures of the site.

Corliss noted that if the board was going to talk to an expert, they would want to know further information on the stability to the slope as it will be modified and what the cone of influence is from the parking lot down, and is the fill capable. VanCor noted that more soil samples may need to be taken at different points on the site.

Corliss asked if the board believed the screening to the residential area is adequate. VanCor noted that the Selectboard gets a lot of complaints around town about inadequate screening.

Bergeron noted that the house to the East of the property is about 1000 feet away and the area between is pretty wooded. Brodbine asked if the proposed (3) three trees in front is enough.

Vollbehr noted he would prefer more trees and shrubbery along Route 9 to be added. Peach noted that there are existing mature trees to the southwest corner which block nicely and the proposed are adequate for his liking. Parisi noted that the screening for the building has not changed, but because of the change in use, it would be nice to have screening for the cars, but the damage has been done with the removal of the trees. VanCor noted that generally screening is a double row of something staggered and he would prefer something that will mature, last a long time and grow high. It was noted the proposed is what the ZBA told them to have installed. The majority of the board would like to see double the proposed screening vegetation.

McKeon noted that a change in use or expansion takes away any pre-existing non-conforming use.

Bonnett noted that the change does not change the non-conforming use of the current parking spaces.

McKeon noted that he believes it is RSA 674:16. Brodbine noted that the first twenty feet of

the building is also non-conforming. McKeon noted that the building would not have to be moved. Bonnett stated he will look into this and get back to the board.

Parisi noted that it would be helpful to have the recent court decision. Lachenal will get the ruling and distribute it to the board.

Jeff Scott stated that he believes that if the board had an onsite visit, he believes a lot of public would attend. The board discussed the need for an on-site visit. The consensus of the board is to have an on-site visit.

*James Corliss moves to continue the public hearing to November 30, 2017 at 10:00am at 1763 Route 9. In the event there is no quorum, the hearing will be continued to December 4, 2017 at the Town Offices building at 7:00PM. The motion was seconded by John Koopmann and passed unanimously.*

## **Items for Discussion**

### William Penny - Conceptual Consultation

No minutes were taken as conceptual consultations are non-binding on either party.

Board of Selectmen are seeking the recommendation of the Planning Board per RSA 41:14-a to receive a gift of two properties. The properties are owned by John Summers, located at the corner of Old Swanzy Road and Stones Mill Road, Map 18- Lots C1 and C2

McKeon noted that this was placed on the agenda because the Selectboard was not sure of the process it needed to take to accept a gift of land. McKeon noted that there will be some associated costs to the Town such as deeding and a conservation easement. The Town did receive legal counsel and because any cost will happen after receiving the gift, the Town does not need approval. McKeon noted that board members are welcome to give input if they desire even though it is not required.

McKeon noted that it is about 11 acres and the Town is looking at having some broad conservation restrictions put on the property.

### Land Use Review Committee

The board received a letter from Rick Carrier regarding any interest in being part of the Chesterfield Land Use Review Committee. McKeon noted that John Koopmann is heading up the committee. Koopmann noted it is slowly getting started. Koopmann noted that the committee has not formally met yet, but they hope to communicate with the Planning Board and come up with some recommendations for Zoning Regulations and Land Development Regulations that will enhance the lake and the environment for the future. Koopmann noted that they are looking for assistance on the committee which will consist of a lot of research.

### Land Development Regulations

McKeon noted that he went to a conference and the last day was all about sign ordinances. McKeon noted it was 4 attorneys providing information. McKeon noted that Chesterfield is not in bad shape. McKeon will continue to make his best attempt to provide the appropriate amendments.

**Items for Information**

Peach noted that he will be unable to be on the Southwest Regional Planning Commission and it would be better for someone else that will be able to make the meetings.

**Other Business**

**Items for Signature**

Meeting minutes – October 16, 2017

**Adjournment**

*Joe Parisi moves to adjourn at 10:06. The motion was seconded by Norm VanCorand passed unanimously.*

The next meeting will be held in the Town Offices at 7:30 PM December 4, 2017

Respectfully Submitted by:

**Patricia Lachenal**  
**Planning Board Secretary**

Approved by:

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**James Corliss, Chairman**

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**Date**