

ZONING BOARD OF ADJUSTMENT

Wednesday, April 25, 2007
Belmont Corner Meeting House
Belmont, N.H.03220

Members Present: Vice-Chairman P. Oberhausen; N. Patten, L. Couture and J. Bennett.
Members Absent: P. Harris (E).
Alternates Present: E. Hawkins.
Staff: C. Daigle and E. Murphy.

The vice-chairman opened the meeting at 7p.m.and appointed E. Hawkins as a voting member. All stood for the Pledge of Allegiance

Abutters' Hearing – Ronald & Elaina Shuten: Continuation a request for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a 25' x 30' garage closer (25') to the property line than allowed (50'). Property is located at 80 Farrarville Road in an "R" Zone, Tax Lot 224-031, ZBA # 1007.

Mr. & Mrs. Ronald Shuten presented the application.

Mrs. Shuten addressed G. Boisvert's staff concerns about them owning a business and that this be a residential garage only. She stated that the purpose of the garage is for storage of their personal outdoor equipment and recreational vehicles as well as a pool house. The existing garage isn't large enough for their vehicles and storage. Currently they are storing some of their personal items at their business facility. Next she addressed staff's concern that this is a newly subdivided lot with enough area to put the garage in a conforming location. Mrs. Shuten explained that she has talked to the surveyor to find out where else she could put the garage. It can be put in the front of the house but she does not want it there. Mr. Shuten stated that because of the wetlands, slopes and well location they are limited to where it can go. There is a 50' slope where the pool is and they cannot add fill because of the wetlands. Mrs. Shuten stated she doesn't want to block the front of the house with the garage because it would be an eyesore. They cannot put it near the pool because it would be too close to the wetlands. They also want to have access from the driveway so that they can drive the truck in the garage to put on the plow. They use the plow to plow their own driveway. If they put it on the other side of the wetland then it would not serve its purpose.

Mrs. Shuten addressed the criteria for a variance. It would not be contrary to the public interest because it is a residential use in a residential area. The garage would conform to the house. It will have the same siding and roof as house and will conform to others in the neighborhood. Denial of the variance would create unnecessary hardship because it will not meet the purpose for what they need it for which

is a pool house to store their recreational equipment and a place to be able to put the plow on their truck. The spirit of the ordinance would be observed because it would increase the property value and not exceed the 30% allowed buildable area. It is similar to others in area some of which are closer than 50' from the property line. It would allow them reasonable use of their land for the storage of equipment considering the wetlands on the property. It would be an improvement to the property and neighborhood and a tax benefit to Belmont. Mrs. Shuten submitted three letters from abutters who do not have any objections to the garage.

J. Bennett wanted to know the distance between the garage and the pool. Mr. Shuten stated that it is about 21'. N. Patten wanted to know if they considered adding to the existing garage. Mrs. Shuten stated they couldn't because of the septic. E. Hawkins wanted to know if they thought about a smaller structure. The garage is too large and is completely outside the setback. Mrs. Shuten stated that the purpose of the garage is to be able to put the plow on the truck and to serve as a pool house. She doesn't want to walk 100' to get equipment. E. Hawkins stated that the size of the garage and having it sit completely outside the setback makes this a hard proposal for the Board. The garage could be reduced. He wanted to know what the dimensions of the existing garage are. Mr. Shuten stated it is 32' x 24'. E. Hawkins stated that it is a large garage. It is bigger than his house. Mr. Shuten stated that they have large vehicles and they just fit in. E. Hawkins stated that there are alternatives. Mr. Shuten stated that the slopes limit the options and he wants to be able to drive into the garage. Mrs. Shuten stated that the size is necessary to fit all their equipment. J. Bennett wanted to know if it could be longer. The equipment could be in back and the vehicles in front. Mr. Shuten stated that they want two garage doors to be able to fit everything in without having to moving everything around. He stated that they worked with the surveyor and there is no other place to put it. It would be costly to fill in the slopes. He also wants the Board to know that he will not be storing any business equipment on site.

P. Oberhausen wanted to know how many gallons of water would be in the proposed pool because it is sloping towards the wetland and any overflow could go into the wetlands. Mrs. Shuten explained that they already had the pool permit.

The vice-chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

E. Hawkins stated that he appreciated the applicants for giving the Board an opportunity to review the application but the difficulty for the Board is that it is a large second garage that sits outside the allowable setbacks. The garage could be smaller even if it inconvenient for the applicant. P. Oberhausen stated there is plenty of space on the property to put the garage in a conforming area. L. Couture suggested moving the pool back and put the garage closer to it. Mrs. Shuten stated that it would be closer to the wetlands. Mr. Shuten stated that the drop off would affect the stability of the pool. If they brought in more fill it would be too close to the wetlands. They are as close to the wetlands as they can be without getting a wetland permit or variance.

BOARD ACTION – RONALD & ELAINA SHUTEN:

MOTION: E. Hawkins moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a 25' x 30' garage closer (25') to the property line than allowed (50').

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would not result in unnecessary hardship to the owner seeking it:
 - A. An area variance is not needed to enable the applicant's proposed use of the property given the special conditions of the property;
 - B. The benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. The structure can be downsized and relocated on the property.
3. The spirit of the ordinance is observed.
4. Substantial justice will not be done given the Master Plan and purpose of uniformity of development in a residential area.
5. The variance would not diminish the value of surrounding properties.

The motion was seconded by N. Patten and carried. (5-0)

Abutters' Hearing – Lawrence Dupont: Request for a Special Exception of Article 10. A. 3.d. of the Zoning Ordinance to allow a deck closer (41') to the front property line than allowed (50') but not closer than the existing structure. Property is located at 12 Dupont Road in a "C" Zone, Tax Lot 104-017, ZBA # 0407.

At least three members have viewed the site.

Ms. Jennifer Abbruzese presented the application.

Ms. Abbruzese explained that 2' is what is in question. It was not hurting anyone until Belmont took 5' of her lot when they paved the road to make it wider for fire trucks. The deck is the only place she can sit outside. To take off the 2' would be costly and if she has to bring in fill that could cost up to \$30,000. There was no issue until the Town took that 5'. P. Oberhausen explained that it is important for a fire truck to have access to that area in case of emergency she will be glad that a fire truck can reach her house. Ms. Abbruzese agreed but stated that she is a single mom and this is her only place to sit and enjoy the wildlife in the area.

The vice-chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

BOARD ACTION – LAWRENCE DUPONT:

MOTION: L. Couture moved to grant a Special Exception of Article 10. A. 3.d. of the Zoning Ordinance to allow a deck closer (41') to the front property line than allowed (50') but not closer than the existing structure as it meets all the criteria.

1. The use is allowed in the district
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. All property bounds/existing footprint certified during construction as required.
10. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by J. Bennett and carried. (5-0)

Abutters' Hearing – Robert J. and Joann L. Skowrya For Mallards Landing: Request for:

- a. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (0') to the rear property line than allowed (12.5').
- b. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (5.6') to the interior road than allowed (15').
- c. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (5.9') to an unrelated structure than allowed (20').

Property is located at 69 Mallards Landing Road in an "RS" Zone, Tax Lot 110-002-000-602, ZBA #1107,1207 & 1307.

Mrs. Skowrya explained that they purchased a 1955 mobile home that was unoccupied for two years with the intention of replacing it with a 2 story structure. They want to increase the existing footprint to 24' x 36' with a second floor. The new structure will be entirely off the railroad ROW. The new structure will be 5.6' off Mallards Landing Road which is a seasonal private road private road with limited use. The neighbor's shed is entirely in railroad ROW and will have to be moved. They are relocating their existing shed and attaching it to building. The reason for the expansion is because they have a large family and want to spend more time at Mallards. They will meet or exceed State and Town building codes.

P. Oberhausen stated that he has looked at the property and the area is congested with homes next to each other and big storage propane tanks outside. If there ever was a fire there is only one way in and one way out of the area. The proposal is almost on the road and there is no access around it. The existing footprint should remain the same with a two story structure. The proposal would be 0' from the rear property line. E Hawkins wanted to know if the abutting shed would be removed. C. Daigle stated that it belongs to an abutter and they are not required to remove it. L. Couture wanted to know if the applicant thought about a smaller size. Five feet from the road doesn't appear safe. It is a large building on a small lot. Mrs. Skowrya stated that she has talked to the surveyor to determine the best location for the structure. The size of the road changes because when they plow the roads they tear up the grass and

the road just keeps getting bigger. N. Patten stated that the applicant could stay with the existing footprint and add a second story. The proposal is covering the entire lot and there is no room for emergency vehicles. E. Hawkins clarified that the existing front setback is 8.7' and the proposed is 5.6' the rear setback is going from 10.8' to 0'.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

BOARD ACTION – ROBERT J. AND JOANN L. SKOWYRA FOR MALLARDS LANDING :

MOTION: N. Patten moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (0') to the rear property line than allowed (12.5').

1. The variances would be contrary to the public interest.
2. Denial of the Variance would not result in unnecessary hardship to the owner seeking them:
 - A. Area variances are needed to enable the applicant's proposed use of the property given the special conditions of the property;
 - B. The benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than area variances.
3. The spirit of the ordinance would not be observed.
4. Substantial justice would not be done.
5. The variances would not diminish the value of surrounding properties.

The motion was seconded by L. Couture and carried. (4-1) E Hawkins opposed.

MOTION: N. Patten moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (5.6') to the interior road than allowed (15').

1. The variances would be contrary to the public interest.
2. Denial of the Variance would not result in unnecessary hardship to the owner seeking them:
 - A. Area variances are needed to enable the applicant's proposed use of the property given the special conditions of the property;
 - B. The benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than area variances.
3. The spirit of the ordinance would not be observed.
4. Substantial justice would not be done.
5. The variances would not diminish the value of surrounding properties.

The motion was seconded by L. Couture and carried. (4-1) E Hawkins opposed.

MOTION: N. Patten moved to deny a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (5.9') to an unrelated structure than allowed (20').

1. The variances would be contrary to the public interest.
2. Denial of the Variance would not result in unnecessary hardship to the owner seeking them:
 - A. Area variances are needed to enable the applicant's proposed use of the property given the special conditions of the property;
 - B. The benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than area variances.
3. The spirit of the ordinance would not be observed.
4. Substantial justice would not be done.
5. The variances would not diminish the value of surrounding properties.

The motion was seconded by L. Couture and carried. (4-1) E Hawkins opposed

Abutters' Hearing – Winnisquam Beach Campground Unit Owners Association: Request for a Special Exception of Article 10.A.2 of the Zoning Ordinance to expand a nonconforming use by allowing

the campground to remain open eleven months a year instead of the allowed nine months. Property is located at 10 Grey Rocks Road in an "RS" Zone, Tax Lot 117-015, ZBA # 1407.

At least three members have viewed the site.

Atty. Rod Dyer, Atty. Katherine Broderick and Mr. Robert Slater presented the application.

Atty. Dyer stated that the Planning Board has directed the applicant to apply for a special exception in order to relax the condominium restrictions to allow the campground to remain open eleven months a year instead of nine months. He explained that Winnisquam Beach Campground has been in existence for over 40 years with 139 sites. In the late 1990's they converted the form of ownership to condominium form of ownership. During the review process he was aware of the Town's concerns that the people would change from using the property as a recreational property to using it as their primary residence. A bargain was struck as a safety valve to determine a period of time the campground could be opened.

Atty. Dyer read from the condominium document Article 19 Special Provision 19-100. "All Campsites shall be used and occupied exclusively for recreational/vacation purposes by the owner and the owner's family or by guest or authorized lessees of the owner and not for any business, commercial or residential use whatsoever. No unit owner or any other person shall, under any circumstances, use any camping unit as a fixed and permanent residence or domicile, or use any camping unit with the intention of establishing a fixed and permanent residence or domicile. Provided, however, that the unit occupied by the campground manager may be occupied on a year-round basis, and the Declarant may continue to

own, operate or lease commercial facilities intended to serve the campers. Residential use shall not be deemed to mean the occupation of a camping unit within a campsite as defined in Article 19-200.”

Atty. Dyer also read Article 19-300 that outlined the time that the campground would be closed. “Campsites may be occupied at any time between May 1 and October 15 of each year. Winter camping shall be permitted from November 16 to February 28 of each year. The campground shall be closed to all campers for the period commencing October 15 and ending November 15, and for the period commencing March 1 and ending May 1 of each year. During this period, no campers shall be allowed to occupy their campsites, except that the Manager of the campground may continue in residence. There shall be no overnight occupancy of a campsite during any period not specified herein. The purpose of this Article is to make it clear that campsites are intended only for intermittent occupancy for vacation/recreational use and not for permanent residency or domicile.” They are here tonight to shorten that restriction from three months to one month.

Atty. Dyer referred to the case of *Clearwater Cove Condominium Association vs Gilford Planning Board*. That case went to Superior Court to allow the condominium cottages to change the length of time they were to close each year. The ruling allowed them to close for a thirty day period from March 16 to April 15th instead of from November 15th to April 15th. It also stated that the cottages could not be used for permanent basis or as primary residences. This is similar to what WBCG is asking for. No unit can be used as primary unit but the campground can be used all four season which is the typical standard. He referenced other condominium conversions that were similar to WBCG and who were given approval to change the length of time they are required to close. WBCG has community water and municipal sewer. The campground has gone to the Planning Board to change their operating time to allow winter camping. Atty. Dyer stated that it is impossible to claim WBCG as a domicile to become a citizen of Belmont. He explained that WBCG is an important part of community and produces \$190,000 in tax revenues.

Atty. Katherine Broderick explained that the change is an expansion and doesn't impact the neighbors or alter the existing site. The specific site is a 139 site campground that has existed for over 40 years. The site is a recreational/vacation campground that is asking for a change in use or expansion and there is no factual evidence that there will be a reduction in property values. The declaration states that the owners have to maintain the aesthetic of the site, obey the evening quiet hours and speed limits. There will be no physical changes to the site. Only about 10% of the owners would use the campground in the off season. The water to the individual units is shut off in the off seasons so the campers would have to use the four public toilets and bathhouse during that time. No nuisance or hazard is involved. The roads are dirt. She has talked to Fire Chief Siegel and his concern was that heavy equipment be able to access the campground. Mr. Robert Slater stated that the roads are maintained in the winter because there is a ROW through the campground for Mr. Mastenbrook and Mr. Morway to access to their property. The only road not plowed is Sparrow Drive and there are no units on that road. Another of the Fire Chief's concerns is access to the lake in case of a snowmobile accident. Mr. Slater stated that the roads are well maintained and graded. Atty. Broderick stated that the campground is not proposing to offer water to the units. There is adequate water and sewer. She explained that she has letters from DES and Mr. Rich Fournier, Sewer Commission, and there are adequate facilities for all year round use. The

water supply will not change. No new structures are proposed.

Mr. Slater stated that in the past several years the roads have been upgraded with road signs and reflective numbers for the sites. The gate is computerized to record who goes through it. Every spring the roads are maintained. The gate has a crash bar for access in case of emergency. Atty. Broderick stated that the gate can be checked every month to see who goes through it. Heavy vehicles like those from Waste Management and propane delivery truck use the road and have no problems with them.

Ms. Beth Brown, an abutter, stated that she has no problem with the proposal. Grey Rocks Road leading to the campground is a dirt road and is in the same condition as the roads inside the campground. The campground pays taxes and should be allowed to remain open.

P. Oberhausen stated that he has been in the campground on numerous occasions to review zoning applications and the roads are a disaster. He couldn't access some lots because the roads were flooded and not passable. He wanted to know if the applicant has done any studies on how many campers would use the campground during the extended season. Atty. Broderick stated that the water is shut off so she doesn't think that many people would want to deal with the inconveniences of using the public restrooms and bathhouse. She explained that the average age of the unit owners is early forties who have young families. The extension would allow the park to be open October 15th to November 15th to allow them to enjoy the fall season. The other extension would allow the families to use the sites during the April school vacation weeks or to start spring clean up. She explained that she wouldn't know where to find the kind of study Mr. Oberhausen is looking for. Mr. Oberhausen stated that if there is an influx of people will the sanitary facilities be able to handle them. Atty. Broderick stated that DES didn't see any problems with the expansion. They will be doing testing quarterly instead of twice a year. The water was approved for year round use and they are not using it to capacity.

E Hawkins wanted to know when they converted to a condominium form of ownership did they have to go to the Zoning Board for approval or was it just Planning Board approval. Atty. Dyer stated that Planning Board approval was all that was necessary. C Daigle explained that as part of the condition of the approval Atty. Dyer offered to abide by the closing dates. E. Hawkins stated he doesn't think they need a special exception because nothing in the definition of Article 7H talks about the required amount of time that the campground needs to be closed. The 1998 approval is an issue between the Planning Board and the applicant and not the Zoning Board. C. Daigle explained the reason they are here is because they are expanding the nonconforming use. E. Hawkins stated the use is not expanding they need to go back to the Planning Board it is not the Zoning Board jurisdiction. Atty. Dyer stated that if the Board feels that way they can vote that is not their jurisdiction so the applicant can go back to the Planning Board. E. Hawkins stated that Article 10 A.2 and Article 7H don't address time limits and he doesn't feel that this is an expansion of use. The conditions more than satisfy the definition of RV resort. C. Daigle wanted to clarify that E. Hawkins didn't think opening the campground for an additional 60 days is an expansion of a nonconforming use. E. Hawkins stated that he didn't because there is no time limit in the definition. Atty. Dyer stated that they need to either grant the special exception on the conditions they feel are reasonable or deny it because it is not the Zoning Board's jurisdiction. E. Hawkins stated in his opinion it is not their jurisdiction and he will abstain because he

doesn't think it is a legitimate application. He will do this so the Board can move forward if they don't agree with him.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

C. Daigle stated that in the past the Board has talked to counsel if they had concerns about an application. They can table the application and ask counsel if they have any question on if they have jurisdiction on this application. E. Hawkins stated that he doesn't feel that they need to consult counsel he doesn't feel they have jurisdiction on this application. J. Bennett stated that if in doubt they should refer to counsel. N. Patten agreed. Atty. Dyer stated that he preferred that they deny the application because it isn't their jurisdiction and refer it back to the Planning Board. The Planning Board can get counsel's input if they think it is important. E. Hawkins stated that RV Resorts have no time restraints other than temporary basis. C. Daigle stated that RV Resorts that meet those standards would have to be in a permitted zone and meet the road standards and this resort doesn't meet those standards which makes it a nonconforming use. The nonconforming use is expanding. E. Hawkins stated they are just softening the restriction that they put on themselves. C. Daigle explained that the abutters understood the conditions of which was that WBCG be closed three months a year. The applicant received a letter from the Zoning Administration that this was an expansion and they did not appeal that decision within the required time.

BOARD ACTION – WINNISQUAM BEACH CAMPGROUND UNIT OWNERS ASSOCIATION:

MOTION: E. Hawkins moved that a Special Exception of Article 10.A.2 of the Zoning Ordinance to expand a nonconforming use by allowing the campground to remain open eleven months a year instead of the allowed nine months is not required given Article 7H definition of RV resort being that there are no time restraints for RV Resorts other than on a temporary basis.

The motion was seconded by P. Oberhausen carried. (4-1) N. Patten opposed.

Abutters' Hearing – Daniel Dunn & Tonya Rapter: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a contractor's yard in a "C" zone. Property is located on Old State Road, Tax Lot 201-005, ZBA # 1507.

At least three members have viewed the site.

The Board and the applicant received copies of a letter from abutter, Mr. Alfred.Mitchell, who is opposed to the proposal.

Atty. Brouillard presented the application. Mr. Daniel Dunn and engineer Paul Fluet were also present.

Atty. Brouillard explained that due to zoning changes in 2000 a special exception is needed to allow a contractor's yard in a commercial zone. They received Planning Board approval in 1999 for a contractor's yard and now would like to expand the yard and need to apply for expansion of the use. This is a grandfathered contractor's yard and they want to make improvements including a maintenance building, stockpiling, parking and proposed fencing. He explained that the specific site is appropriate because there are four or five contractor's yards on that road. They will have the proper containment area for spill control. The property values will not be diminished because there are several contractor's yards on the street. The use is allowed by special exception. No nuisance or hazard is involved because the road will have proper grading. There is adequate and appropriate facilities. There are sewer connections on both sides of the property. They need site plan approval from the Planning Board. Atty. Brouillard explained that it was an allowed use when they originally received approval in 1999. The use is grandfathered and they want to expand the use. To hook up to the town water they have to pay the required fee. They will provide the police department with contact information for emergency use. The building plans will be reviewed by the fire department. There are several contractor's yards on that road and this one is existing. The objection from the abutter is not valid because they are going through the proper site plan process. It is environmentally safe and should be allowed to upgrade.

Mr. Paul Fluet explained that the site has stockpiles of reclaimed asphalt, loam, gravel and asphalt. They want to build a small building for vehicle maintenance. They will be collecting drainage on site. The stockpiles will have berms behind them so the drainage will remain on site. The site will have a grass treatment swale. The sheet drainage will flow out to the woods. Municipal water will be connected to the building. The traffic pattern will be circular so that the trucks can go behind the stockpiles and out. They will get Site Specific approval from DES and EPA approval. The fire department will receive the building plans so they can address any safety concerns.

Atty. Brouillard pointed out the Mr. Mitchell has a contractor's yard on another site. Mr. Fluet stated they will plant a tree line buffer and will not be cutting any trees. Parking for the paver and truck will be in front of the building. He explained that the stockpile is for processed asphalt, crushed and unprocessed gravel. E. Hawkins clarified the expansion activity is just the building and surface regrading. Atty. Brouillard stated that in 1999 approval was for a 170' x 100' gravel area with a total disturbed area less than 20,000 square feet. The current stockpiles are in violation of the approval. J. Bennett wanted to know if the runoff will run off across the street. Mr. Fluet explained that the drainage will go to a swale across the street. Currently it runs off over the embankment. It will gather in a culvert then drain to the swale.

E. Hawkins wanted to know if there would be any on site fueling. Mr. Dunn stated there would be no on site fuel. They go to Foley's to fuel up. E. Hawkins stated that under State law they need a stormwater management plan. C. Daigle stated that will be part of the Planning Board review. She wanted clarification on the processing that is being done on site as they have not applied for on site processing. Mr. Fluet stated that he thought it was part of the application to allow grinding of asphalt. Mr. Dunn stated that every couple of years they bring a portable crusher on site to process the reclaimed asphalt. Mr. Fluet stated that it is a small volume process and is not there all the time. Atty. Brouillard stated it may only occur once a year. He stated that as a condition of approval they can require that

processing not be allowed.

E. Hawkins addressed the letter from Atty. Giere representing Mr. Mitchell. He wanted to know if it applied to the expansion or the original approval. Atty. Brouillard stated the contractor's yard had been in its present location for a year and half and Mr. Mitchell hasn't complained. C. Daigle stated that Mr. Mitchell has had concerns. E. Hawkins stated that it is a good plan and what they are asking is to control what is happening on the site. He wanted to know what would happen if the State denies their permit. Atty. Brouillard stated that the stockpiles would be removed.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

E. Hawkins wanted to know what the Board thinks about Atty. Giere's letter. J. Bennett stated that it has some valid objections. N. Patten wanted to know if Mr. Dunn had been cited for the violations. Atty. Brouillard stated that is why he has been asked to bring in a site plan. He has not been cited by DES. N. Patten wanted to know if Mr. Mitchell complained prior to tonight's meeting. C. Daigle stated that he has. He is concerned about it being bigger than originally permitted. This is the first time he has done it in writing. E. Hawkins stated that the criteria is that it is a valid objection based on fact. If they approve the application then they are saying it is not a valid objection. L. Couture stated that it is a commercial zone. E. Hawkins stated that the use is allowed by special exception. The town needs an area for commercial use for the economic stability of the town. The proposal has safeguards in place and approval would rectify what is out there. L. Couture stated that the objection comes from someone who has a residential use in a commercial zone which is not allowed. C. Daigle explained that it is a grandfathered residential use. L. Couture stated it would be an improvement on what exists there. It would be an economic improvement. C. Daigle stated that there may be a way to mitigate the abutters concern. The applicant could offer not to do processing on site. N. Patten stated that the residence was there before the contractor's yard. J. Bennett stated that it would be a good compromise.

BOARD ACTION – DANIEL DUNN & TONYA RAPTER:

MOTION: E. Hawkins moved to grant a Special Exception Article 5 Table 1 of the Zoning Ordinance to allow a contractor's yard in a "C" zone as it meets all the criteria.

1. The use is allowed in the district. It is already an approved use.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact. The primary objection dealt with processing and mitigation has resolved that issue. No processing allowed on site.
5. No nuisance or hazard is involved. Must have all applicable Federal, State and local permits.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal. Sewer and water hookups available.

8. Structures must otherwise meet all dimensional requirements of the Ordinance.
9. Proposal also requires Site Plan approval.

The motion was seconded by P. Oberhausen and carried. (5-0)

E. Hawkins wanted to specify that all other necessary Federal and State permits be acquired prior to site plan approval. There will be no crushing or material processing on site. This is for a contractor's yard. only

OTHER BUSINESS:

BOARD'S ACTION - MINUTES:

N. Patten made a motion to approve the minutes of March 28, 2007. L. Couture seconded. Carried (4-1)
E Hawkins abstained.

ADJOURNMENT:

MOTION: On a motion by N. Patten, seconded by E Hawkins, it was voted unanimously to adjourn at 9:18p.m. (5-0).

Respectfully submitted,

Elaine M. Murphy