

PLANNING BOARD  
March 11, 2015

**APPROVED:**

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AGENDA: 15MSPR01, MINOR SITE PLAN/CONDITIONAL USE PERMIT: JOSEPH SANVILLE, 265 Lake Street, #112-024

14SUP01, SPECIAL USE PERMIT/14SUB01, SUBDIVISION/14SPR01,  
SITE PLAN: ZAREMBA PROGRAM DEVELOPMENT, LLC, 215 Lake St.,  
#112-001

ATTEND: Denice DeStefano (Chairman), Dan Paradis (Vice Chair), Betsy Schneider (Sel. Rep.), Debbie Denning, Clay Dingman, Steve Favorite, Betty Seeler

ABSENT: -----

OTHER: Michael Capone (Town Administrator), Shaun Lagueux (Selectman), Janet Cote (Selectman & Conservation Commission Chair), Sandra Heaney (Conservation Commission & Historic District Commission), public

The meeting opened at 7:00 p.m. with a quorum.

**MINOR SITE PLAN AND CONDITIONAL USE: JOSEPH SANVILLE**

The Board went over the checklist. Mr. Paradis felt that there should be a waiver request for parking and Mr. Dingman agreed. Mr. Sanville wrote this up.

C. Dingman made a MOTION, second by E. Seeler, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED with one abstention.

Mr. Sanville stated that he would shut the signs off at closing; that he just needs these so that folks can see where he is and that he is open as he sits back from the dog grooming building. The Board turned to page 24, Section IV, 4.11 E of the Zoning Ordinance which pertains to neon signs.

Mr. Dingman asked if Mr. Sanville has an outside sign and was told that he does. It is above the door and is without a light. Mr. Dingman noted that the speed at that area is 30 mph. Ms. Denning asked what he felt that his hardship is and Mr. Sanville answered that, before daylight savings time, it is dark at 4:00pm and the building sits in a bit and is hard to see. Ms. Denning then asked if it was cost effective that he wants the window signs in place of a lit outside sign. Mr. Sanville stated that it is about the same but he saw the window signs were available. Mr. Dingman asked about lighting the outside sign and Mr. Sanville said that he thought he would

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SANVILLE MINOR SITE PLAN continued:

start this way. Mr. Dingman felt that lighting the outside sign would be a better way to go. Mr. Sanville noted that the Pizza shop down the road has a neon sign and it attracts customers. Mr. Dingman read the Zoning Ordinance section on externally lit signs. Ms. Seeler mentioned that this is not an area of high traffic speed. Mr. Paradis pointed out that there are others with neon lights on this street. Ms. Denning asked if they will be shut off at night and was told that they would be. It was noted that one has flashing lights. Mr. Sanville explained that it is a system of dots that move around the "PAWN" sign. Ms. DeStefano explained that movement on signs is prohibited. Mr. Sanville stated that he is willing to stop the movement.

At this point, Ms. DeStefano asked for public input. None was forthcoming.

Mr. Paradis felt that 3 signs is a problem as it is not in character for the area. Mr. Sanville stated that they are small signs as shown on the application. Ms. Seeler stated that businesses are allowed one "OPEN" neon sign but not flashing. Mr. Paradis thought that there were 3 "OPEN" signs across the street. Mr. Dingman stated that there are 2 but that is allowed as each faces a different street. Ms. Seeler said that she feels there should be a sign in each window, no moving, and to be shut off at closing. Mr. Sanville asked about lighting the outside sign and the Board stated that it should be a down-lit sign and pointed away from the street. Ms. Seeler asked when he closes and was told anywhere from 6:00 to 8:00pm. Ms. DeStefano repeated that it would be not past 8:00pm.

E. Seeler made a MOTION, second by C. Dingman, to APPROVE A LIGHT ON THE OUTSIDE MAIN SIGN, TWO NON-FLASHING NEON SIGNS IN THE WINDOWS, AND ALL TO BE OFF BY 7:00 PM. Mr. Sanville would prefer 3 non-flashing window signs. He determined that 7:00 pm would be okay. The Board felt that 2 plus the outside sign would be enough. The vote was taken and CARRIED with one abstention. The Board signed the Notice of Decision and the plans.

CONTINUED SPECIAL USE PERMIT/SUBDIVISION/SITE PLAN: ZAREMBA PROGRAM DEVELOPMENT, LLC: Scott Holman (Representative), Erin Lambert (Engineer – Nobis Engineering), Kevin French (Surveyor), John Sokul (Attorney)

Ms. DeStefano stated that the Board must determine if the application is complete and it was noted that another plan and storm water management booklet have been submitted. Ms. Schneider recused herself and Mr. Favorite asked to step down. Ms. DeStefano mentioned that both consultants are present tonight (Damon Burt, Wetland Scientist, and James Houle, Hydrologist). She added that this application is dealing with the wetlands issue only.

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ZAREMBA SPECIAL USE continued:

C. Dingman made a MOTION, second by D. Paradis, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

Ms. DeStefano asked if the applicant had any comments at this time and was told that they did not at this time.

The Board turned to page 60 of the Zoning Ordinance, Section 9.6 SPECIAL USE PERMIT. Mr. Dingman questioned or not the building should be allowed within the wetland setback; do they need to build in that buffer? Mr. Holman stated that it is only 700 sq. ft. that is within the buffer. The Conservation Commission asked if it could be less when they do the Site Plan and Mr. Holman stated that 560 sq. ft. is the best that they can do.

Ms. DeStefano asked for public input – none at this time.

Mr. Dingman asked what the Conservation Commission has to say. Ms. Cote stated that they met again with Mr. Holman and Nobis Engineering and the Commission still felt that they should recommend denial. They also questioned enforcement of filtering maintenance. Ms. Heaney added that there was a warrant article passed which was meant to protect the wetlands by a buffer. Mr. Dingman asked Mr. Houle's opinion and was told that buffers should be kept. He added that the applicant has considered other configurations. Mr. Dingman asked if a Variance has to be followed. Ms. Seeler stated that this case involved parking for the other businesses, as well. Mr. Houle mentioned that the outfall does not go directly into the river.

Mr. Dingman again asked why the need of a 9000 sq. ft. building when other Dollar General stores have been smaller. Mr. Holman explained that Dollar General builds some of the stores (as in this case) while others build to suit and then ask Dollar General if they are interested. It all depends on how they service the store. They need to make money and a 9100 sq. ft. building is their best model for this area. He added that improvements need to be done to this site and a smaller business there might not be able to do these. Ms. Denning asked if they were firm on this size and Mr. Holman answered that they are. Ms. Denning mentioned the impact to the traffic on the road and was told that this gets addressed with site plan. Ms. Seeler felt that the store is too big for the lot.

Attorney Sokul explained that they reduced the impact by 6,650 sq. ft.; that 90% will be restored to natural. Mr. Dingman thought that something underneath might be disturbed when building. Mr. Holman stated that it is all asphalt now. Ms. Denning feels that the fill is concerning. Mr. Holman stated that the fill material is fill. Ms. DeStefano pointed out item #1 that speaks about the fill. Mr. Holman stated that the test pits went 10' down. Mr. Burt stated that he did a soil sample and found a trace of contaminant. Mr. Holman said that, if it comes back

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ZAREMBA SPECIAL USE PERMIT continued:

contaminated, the State law then governs the clean-up. The applicants feel that this project will improve the lot greatly. Mr. Dingman stated that, if nothing is done, water goes off the top. Ms. Lambert mentioned that there are pollutants in storm water. With what they propose, these will all be taken care of. One boring went 12' down and found native ground. Mr. Paradis alluded to paragraph 4 of the answer sheet from Peter Spear, Wildlife Biologist used by Zaremba in which they feel that the trash seen can be easily removed. Mr. Dingman stated that they would not have to deal with any of this if they were not attempting to build within the buffer. Mr. Houle stated that the existing situation is a concern and the improvements proposed by Zaremba would help. However, a fully restored buffer would be best. The buffer area could still be restored.

Ms. DeStefano asked if there was any public comment at this time.

Kevin French, surveyor, agreed that it is important to maintain buffer protection but a smaller project applicant who would propose a business not in the buffer might not have as much wetland protection as what is being proposed by Zaremba. 700 sq, ft, of improvement is a big improvement.

Frederick Schneider, owner, mentioned that at the business next door, the parking lot run-off goes right down into the wetland. The Fire Department, down the street, just built a lean-to behind their facility. Mr. Dingman stated that, in the case of the business next door, the Planning Board found that they built up to the buffer. Ms. Denning added that we have to look at the size of the lot and the size of the building. Ms. DeStefano stated that the Planning Board has to consider what is fair to the applicant and what is fair to the town. We do not care if this is for a Dollar Store; we have rules to uphold.

Dina Robie, 190 Lake Street, asked if there is a limit as to how far down to drill. Mr. Burt answered by saying that they generally do the first couple of feet. He added that no borings or corings could be done by him in January. Ms. Robie then asked about run-off, adding that the river is often very high (Spring, especially). Mr. Burt stated that small drainage can seep in. Ms. Lambert stated that they did 12' borings and 6'-8' corings.

Steve Favorite, Baker Street, explained that this all started back in Sept. 2013. Chris Northrup, Nobis Engineering came in and was told then to check into the wetlands issue. Parking was reduced from 56 spaces to 34 spaces via a Variance. Mr. Favorite rarely sees 3 or 4 cars at a time in a similar store (other Dollar Generals, Family Dollar, etc.). The front parking could be moved closer to the road so that the building could be moved out of the wetlands. It is a shame that they cannot cut parking further.

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ZAREMBA SPECIAL USE PERMIT continued:

With no other comments forthcoming, Mr. Paradis read 9.2, page 56 of the Zoning Ordinance, which lists the Purpose and Intent of Wetland Conservation Overlays.

Attorney Sokul then addressed the Special Use Permit criteria (Zoning Ordinance, page 61, Section 9.2):

1. To prevent the development of the structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage, sediment, and/or noxious substances:

Nothing is on natural wetlands; a minor section of the building is within the buffer.

2. To prevent the destruction of, or significant changes to, natural wetlands which provide flood protection:

Nothing to alter flood storage; there is to be a small rip-rap at the drain pipe.

3. To protect rare, unique, and unusual natural species, both flora and fauna:

The area is already a parking lot. They will be restoring 6,650 sq. ft. of grass.

4. To protect wildlife habitats and maintain ecological balances::

No wildlife affected.

5. To protect existing and potential water supplies and aquifers (water bearing strata) and aquifer recharge area:

Project to have less pollutants and less impervious coverage.

6. To prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands:

There will be no expenditure of municipal funds. We expect a maintenance plan will be asked for.

9.7B. Standards and criteria for decision:

Zaremba has supplied reports and findings.

9.7B1. To consider the environmental impact of the proposed action, including the effects on the wetland's capacity to support fish and wildlife, to prevent flooding, to supply and protect surfaces and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety:

The overall project is a net benefit.

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ZAREMBA SPECIAL USE PERMIT continued:

9.7B2. The character and degree of injury to, or interference's with safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may be so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetlands plants, the dangers of flooding and pollution, and the destruction of the economic, esthetic, recreational, and other public and private uses and values of wetland to the community:

Wetlands do not exist on site. Zaremba has tried to minimize the impact to the buffer area.

Mr. Holman stated that he agrees with Mr. Favorite but they tried to do something to bring down the parking and cannot go any farther with it.

Andy O'Hara, Lake St. abutter, stated that there is turtle habitat there and they lay their eggs in that sand bank. Betsy Schneider agreed when asked. Fred Schneider added that it will be cleaner water and better for the turtles.

With no other public comment, the public portion of the hearing was closed.

Ms. DeStefano stated that we have received supporting documents from the Conservation Commission but no comments from the Health officer. She read the consideration recommendation. Mr. Paradis used an example of a sculpture set up by the river with parking which would be approved. Ms. Denning stated that the Conservation Commission has recommended that we deny the application. Ms. DeStefano added that there is more space to move a statue where a building could not be moved. The application has been done as the best that can be.

Ms. Seeler asked if the filled land would be deemed stable and mentioned that she had an electric pole that was replaced and not compacted enough so that it fell. Mr. Holman stated that many items must be addressed when putting up a building. Atty. Sokul asked to read the Conservation Commission's recommendation. He was lent the copy given the Board.

E. Seeler made a MOTION, second by D. Denning, to FOLLOW THE CONSERVATION COMMISSIONS RECOMMENDATION TO DENY. The motion CARRIED, 3 for, 2 against. The Notice of Decision was signed.

Ms. Schneider and Mr. Favorite came back to the table.

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MINUTES OF FEBRUARY 23, 2015:

The following amendment was made: Page 2, Reports, HDC, 2<sup>nd</sup> line, replace "Registry" with "Register of Historic Places".

C. Dingman made a motion, second by E. Schneider, to approve the minutes as amended. The motion carried with 1 abstention.

REPORTS:

HDC: No meeting due to Town Voting Day.

SELECTMEN: They will meet tomorrow.

CIP: They will meet next week.

COMMUNICATIONS:

Looked at were: DES Approval for David Bliss, LRP)C request for Nominations for the Kim Ayers Award (given to Dan Paradis last year) and for the Award of Excellence, a seminar with National Business Institute, DES permit for Red Fox Village, and notice for information on Northern Pass Transmission Line Project. The latter, Mr. Capone has notified them for Bristol.

OTHER:

Mr. Capone presented a question for Newfound Properties. They received many calls for Waste Management (who had the phone number previous to them) and have had to change their number. They are asking to hang the new number at the base section of their sign. Ms. Seeler saw no problem as long as it doesn't block a view. The rest of the Board felt it would be okay.

Mr. Dingman wished to clarify reasons for abstaining: this is done when you have not been present. Otherwise, it's for a veto, which means a disagreement with. A discussion followed.

Mr. Favorite thanked Ms. DeStefano for her handling of the Zaremba hearing, also Mr. Dingman and Mr. Paradis for their research on it. Mr. Dingman stated that Zaremba now has three courses of action: to resubmit a new plan, to withdraw the subdivision and site plan, or to appeal. They have 30 days for the latter. It is to be appealed in Court for a Special Use Permit.

NEXT MEETING: Our next meeting will be March 25<sup>th</sup> at 7:00pm. Election of officers and a workshop with Mike Izard, LRPC, on the Master Plan is on the agenda. Ms. DeStefano added that we should approve the final version of the VISION section of the Master Plan and she also wants to go over the housekeeping items needed for the Site Plan/Subdivision Regulations.

With no other business before the Board, the meeting adjourned at 9:12pm.

Respectfully submitted,  
Jan Laferriere, recording secretary