

TOWN OF LOUDON  
LOUDON, NEW HAMPSHIRE  
PLANNING BOARD MINUTES  
DECEMBER 18, 2014

**Meeting called to order at 7:00 p.m. by Chairman Tom Dow.**

**Attendance:**

George Saunderson, Henry Huntington, Tom Moore, Tom Dow, Stan Prescott, Bob Cole, Ex-Officio Dustin Bowles, and Alternates Bob Ordway and Alice Tuson  
The Conservation Commission was represented by Rob Buzzell.

**Acceptance of Minutes:**

November 20, 2014 Regular Meeting – **Henry Huntington made a motion to accept the minutes as written; seconded by George Saunderson. All were in favor.**

November 20, 2014, Zoning Workshop – **Tom Moore made a motion to accept the minutes as presented; seconded by Stan Prescott. All were in favor.**

**Discussion:**

Bob Smith – Letter of Intent – Chairman Dow read a letter submitted by Mr. Smith requesting permission to operate an additional business out of Plan Tech at 7031 Shaker Road. Mr. Smith explained that he has applied for a federal firearms license and would like to operate from this address where he is currently employed rather than from his home. He said there may be some ammunition handled; there would be no inventory of firearms or accessories on the property. Mr. Smith said there would be deliveries by mail or UPS. Customers would pick up their items by appointment. Mr. Smith explained that there would always be someone there to sign for deliveries. He said he does not want inventory kept there, there will be no signage, and the business will be very low profile. After brief discussion the Board members were in agreement that this would be acceptable as retail use is permitted in that zone. It was noted that Mr. Smith would have to come back to the Board if the business grows beyond what was presented at this discussion.

**Old Business:**

Application #14-11, Inisfree Investments, LLC – Major Site Development in the RR District, Map 11, Lot 12. Abutters Ed and Kenny-Lynn Dempsey were present. Jeff Green represented the applicants. Mr. Green submitted revised plans based on discussion at the last meeting. He said he has looked at the Zoning Ordinance and found that it does not disallow fuel depots. Mr. Green stated that this is a residential area but there is a commercial use currently on the property. He said the ZBA wanted to hear more from the PB before acting on their application. Tom Dow stated that if they are proposing fuel distribution then they need ZBA approval.

Applicant Bruce Marshall said the Zoning Ordinance does not discuss distribution. He stated that his business uses between 46,000 and 50,000 gallons a year, and if he buys bulk he can get a better price. Mr. Marshall said he can get a better deal when hiring trucks if he can get a better price. He said he has researched the Huckleberry facility and they were not made to get a special exception for their tanks. He said there were also no variances for the liquid cold patch that was used previously at the Decato piece. Mr. Marshall said the Huckleberry facility is closer to residents than his site would be. He also noted that there is a landscaper with a commercial business in the residential area not far from his site. He said none of them were told to get a special

exception or variance. Mr. Marshall said he wants to clarify why he is being told he has to and exactly what the Board wants. Chairman Dow stated that Pittsfield Bottle Gas (now Huckleberry) was there prior to zoning. He said the Board needs to know that the plan is going to be for this parcel (selling fuel, for own use, etc). Mr. Marshall said the home heating fuel guy would fill his truck and go deliver. He said that person is the one they would get their bulk from, the same person who currently comes in to fuel their equipment. Mr. Dow said he wants the full picture. He said the applicant has been to the ZBA but there has been no decision from that board. Mr. Green said the ZBA will not make a decision until the Planning Board makes a decision. He said he is stuck between the two boards. Stan Prescott asked what zone this would be in. Mr. Marshall said it is residential. Mr. Prescott said they keep talking about home heating fuel. He asked what they were going to do with it as he doesn't believe it will be put in their trucks. Mr. Marshall said the tanks would not be open to the public which is what distribution is per the State. He said he would like the Board to give him the definition of distribution so they were talking the same language. Henry Huntington said if a home heating company is delivering and selling that would seem to be distribution, asking Mr. Marshall what that would be called. Mr. Marshall again referred to Huckleberry Heating Oil. Mr. Huntington said the Board is not talking about Huckleberry and that one case does not set precedence for another. He said there is nothing in zoning about storing fuel to sell to homes. He noted that the applicant is also talking about selling fuel to hired trucks which is not allowed in this zone either. Mr. Marshall stated that he would not be selling fuel; it would be for reduced trucking rates. He said he would disagree that other cases do not set precedence.

George Saunderson stated that the town's attorney is clearly behind the Board. He said he feels the Board should reject the application as it is the wrong zone for such business. Stan Prescott said he felt there was no need for further discussion. Bob Ordway asked if the intent is to resell fuel. Mr. Marshall said he is running a gravel pit; the guy who buys the fuel would be maintaining the tanks and selling the fuel. Dustin Bowles referred to Bart Mayer's letter with regard to the property being RR, not zoned commercial. He said another commercial use can't just be added. Bruce Marshall asked what he needs to do in order to get the tanks for his own fuel use. Bob Cole said he understands the intent on pricing but the plan/proposal was very gray and confusing. He said once filling the trucks and leaving it becomes commerce. Mr. Marshall asked how that would be different from gravel since that is commerce too. Mr. Cole and Henry Huntington both stated that it is a different business. Tom Moore pointed out that they could keep expanding uses but it is still a residential lot. George Saunderson stated that there is no sense in having a town lawyer if they are not going to follow his advice. Dustin Bowles said if the applicant wants bulk storage to operate the pit then it seems fitting for that use only. Jeff Green said they are before the ZBA for bulk storage but the ZBA will want PB approval. Roy Merrill stated that the applicant first came to the ZBA for storage, then added distribution. He said he does not see where this is allowed. Chairman Dow recapped the information that has been covered and asked the Board how they wanted to proceed.

**Stan Prescott made a motion to reject the application since the parcel is zoned RR and distribution is not permitted in that zone; seconded by George Saunderson.** Henry Huntington asked if storage and distribution go hand in hand. Mr. Prescott said they have to have storage in order to distribute; they need a special exception for the tanks. **All were in favor.**

#### **New Business:**

Application #14-12, Debra Rattee – Minor Subdivision in the RR District, Map 46, Lot 35. Abutters Warren & Paula Wells, Sarah Dalrymple, and Mark and Sherry Blanchard were present. Jeff Green represented the applicant. Mr. Green said State subdivision approval is needed for the new lot because of its size, even though there is an existing system on the piece. **Tom Moore made a motion to accept the application as complete and move to public hearing; seconded by Henry Huntington. All were in favor.**

Mr. Green pointed out the lot which has frontage on both Rainbow Drive and School Street. He said they were before the Board a few months ago when Ms. Rattee purchased the house; she would now like to re-subdivide. There would be two lots, the house with two acres and an 18.23 acre piece with 2.81 acres of contiguous building area next to the house lot. He has shown the 180 x 250 box on each lot. Mr. Green said

they are looking at the 30' easement on Rainbow Drive and would expand it to 50' for better maintenance. He pointed out the 33' ROW off School Street that Ms. Rattee owns but is deeded for others to use. This would be the driveway. The 18.23 acre lot still allows Ms. Rattee access to the pond, still includes the road, and creates a buildable lot. Warren Wells asked where they would be widening the road. Mr. Green said they are giving up a little more than 30' up to Mr. Wells' property; they are not touching anything at his property. Mr. Wells said he thought the road was specified at 50' on other plans he has seen. Mr. Green explained that 105' strip was left after earlier adjustments and the ROW has always been 30'. He said it probably should have been defined as 50' and the rest gone with the farm piece. Mr. Wells asked why they are expanding the road. Mr. Green said they are not expanding the road but offering a wider ROW. This would eliminate problems of exactly where the ROW falls and ensures that maintenance would always fall within the ROW.

Mr. Wells asked where the lot's access would be located. He asked if the 33' ROW shown would be a shared driveway. Mr. Green said it would be, noting that it was originally intended as a shared ROW but the VanWormers currently use it as their driveway. Mrs. Blanchard spoke about Ms. Rattee continually reconfiguring properties. She spoke about logging that was done out behind the pond, using Rainbow Drive for the log trucks and the damage that was done. She explained that the road is only maintained by the people living there and she does not feel that there is any intention by Ms. Rattee to help with the road. She said it is a lot to maintain and it is her opinion that Ms. Rattee bought the original property and owns the ROW so should be responsible to maintain it with some help from the residents. Mrs. Blanchard talked about the timbering, excess water on properties as a result, and no recourse. She said she feels it is the responsibility of the Planning Board if they add more lots then they need to enforce having a maintenance agreement per the Land Development Regulations. Mrs. Blanchard said Deb Rattee has majority ownership, she needs to take responsibility. Jeff Green clarified that they are not adding to Rainbow Drive as the access to the new lot will be from School Street. He said he has talked with Bernie Mayo who takes care of the road maintenance and Frank Kulacz. He said he learned that sixteen parties pay \$250 each per year. Sarah Dalrymple said she manages the road maintenance, not Mr. Mayo. Mr. Green said he would put in the deed that the new owner would have to be part of an association if one was formed. He explained that the owners of the large parcels beyond the Wells' want the land for conservation.

Tom Dow asked if the area by the power lines/beaver pond is buildable. Mr. Green pointed out wetland areas, setback issues, and the PSNH ROW. Mr. Dow said it appears that the applicant wants a house on the new lot, making it more marketable. He said the lot could potentially be sold and the road access could be lost or become more complicated. Mr. Green said it would be a hard sell because the ROW is used by so many. Mr. Dow said it is time for an agreement on the private road, reading from Section 23.3 of the Land Development Regulations. Mr. Green said there are only two lots in this subdivision and Ms. Rattee would have to make an agreement with herself. He said it would be in the deed for this lot as stated earlier. He said it would be nice if any property on the road that is sold would have this stipulated in the deed as well. He again noted that the new lot would be accessed off School Street, not Rainbow Drive. Mrs. Blanchard asked if there is a conflict of interest with the applicant both owning the road and creating the subdivision. Dustin Bowles noted that the Board can only try to make it work as the applicant owns the property and has the right to subdivide. Jeff Green said the two acre lot would fit the rules; the remainder of the parcel owns the ROW. He said he could fit both lots in an agreement and that would cover anything else subdivided from this parcel. Sherry Blanchard stated that plowing of the road is not part of the \$250 annual fee; it is a totally separate bill. Tom Dow said the Board wants to get this all clear for future records. Paula Wells asked if the wider ROW would affect their taxes. Mr. Green said it would not; it simply gives a wider area for maintenance. There was lengthy discussion about the width of the ROW, the formation of a maintenance agreement, and the requirements of the Land Development Regulations.

Abutter Joseph Eggleston submitted an email letter to the Board as he was unable to attend this meeting. The chairman read the letter for the record. Jeff Green addressed the abutter's concern about the wet area at the Rainbow Drive side of the larger lot. He said they will be accessing from School Street, not crossing the wet area. George Saunderson asked Mr. Green if he could get a road agreement to review and put forward with the plan, coming back next month. Mr. Green said he would work on that. **George Saunderson made a motion to**

**continue the meeting to a site walk that was set for Saturday, January 3, 2015 at 8:00 a.m. and then to the next meeting for clarification on the road maintenance agreement; seconded by Henry Huntington.**

Dustin Bowles noted that they would need time to have the attorney review the agreement. Sarah Dalrymple stated that Rainbow Drive Co-op has an agreement. It was suggested that the abutters get together with Mr. Green. **All were in favor.** The next meeting is scheduled for January 15, 2015 at 7:00 p.m. in the Community Building. There will be no further notification.

#### **Board Discussion:**

CNHRPC meeting – Bob Cole and Stan Prescott reported that they attended the recent meeting where Lorraine Merrill of the State Agriculture Department was the speaker. Bob explained that they talked about farming in NH, were presented with the CNHRPC financial report, and got an overview of the regional Master Plan.

CIP public hearing – The CIP sub-committee has completed its review and update of the CIP. A public hearing will be held on January 15, 2015 immediately after the public hearing for zoning amendments.

Change of use – The group discussed changes of business uses around town. Discussion included the uses, parking requirements, safety and code issues and having a record of what is out there. It was agreed that changes of use should go through Code Enforcement for determination if an application needs to be filed with the Planning Board. Letters will be sent to property owners where there are multiple units being used for business, explaining the process to be followed.

Master Plan update – Donna reported that she met with Mike Tardiff and Sam Durfee of CNHRPC. Each has taken sections of the Community Facilities chapter for update. A list of area groups was created and CNHRPC will make arrangements to meet with the groups, along with a representative or two from the Planning Board. There will be an update presented at the January meeting.

#### **Report of the ZBA:**

This month's agenda includes a special exception for a wetland crossing for a driveway on Old Shaker Road, a special exception for fuel storage tanks on Chichester Road, and an appeal from an administrative decision on Loudon Ridge Road.

#### **Report of the Board of Permit:**

Stan Prescott reported that there was no meeting this month.

#### **Adjournment:**

Stan Prescott made a motion to adjourn at 9:05 p.m.; seconded by Henry Huntington. All were in favor.

Submitted by,

Donna White  
Administrative Assistant