

**Town of Auburn  
Planning Board  
PUBLIC HEARING  
August 20, 2014**

**Present:** Ron Poltak, Chairman, Alan Côté, Vice-Chairman, Paula Marzloff and Karen Woods, Members. Jim Tillery, Alternate and Steve Grillo, Alternate. Minutes recorded by Denise Royce.

**Absent:** Russell Sullivan, Selectmen's Representative.

Mr. Poltak called the meeting to order at 7:00 p.m. Mr. Poltak pointed out that Mr. Sullivan was not present at tonight's meeting and therefore elevated Mr. Grillo to full voting status for tonight's hearing. Mr. Poltak explained the procedure for tonight's meeting and noted the emergency exists.

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**MINUTES**

The Board did not vote to approve the Planning Board minutes for July 16, 2014. The minutes will be voted on at the next Planning Board meeting scheduled for Wednesday, September 3, 2014.

**ANNOUNCEMENTS/CORRESPONDENCE**

➤ None were reviewed at this time.

**GENERAL BUSINESS**

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**Informal – Eric Mitchell  
On behalf of Strategic Contracting Company, LLC  
77 Pingree Hill Road, Tax Map 5, Lot 19  
Discuss Potential Cluster Subdivision**

Mr. Mitchell was unable to attend tonight's meeting and sent Mr. Bernie Temple to present the proposal for a cluster subdivision for the above referenced property. Mr. Temple began by saying that they are going for a Special Exception next week for a cluster subdivision. They are proposing an open space cluster subdivision with a 26 acre lot with 11 lots/units with each lot having approximately one acre plus or minus and 16 acres of open space. They have met with Conservation Commission and they are okay with it of which he passed out copies of for the Board members to review. Mr. Temple indicated that there would be a 1,200 foot cul de sac road and pointed out the Level One and Level Two wetlands. At this time, Mr. Temple asked the Board members if they had any questions. Mr. Côté began by saying that he had spoken with Mr. Mitchell today and informed him that he would have to come before the Planning Board first and then go to the Zoning Board of Adjustment. Mr. Côté stated that in the Zoning Regulations under Article 7, Section 7.02(5) it states that "The tract of land shall have a minimum of twenty (20%) percent of its area consisting of wetlands, class V and VI soils, bodies of water and/or slopes of greater than twenty (20%) percent for a residential development." Mr. Côté did not believe they had 20% and went on to read Article 7, Section 7.02(6) which further states that "The tract may be accepted for cluster development if, although not meeting the preceding paragraph 7.02(5) of this Section, in the opinion of the

Planning Board, the tract contains some geological, environmental, historical, or agricultural properties or formations which would be prudent to protect from conventional grid-type development.” Mr. Côté stated that, when he looks at the plan, the one piece he would look at protecting would be lots #1, #10 and #9 and did not see anything in the back woods that they would be protecting that would be a great geological or environmental concern to him and believed they could put a grid subdivision. Mr. Côté asked Mr. Temple to show the Board what they would be preserving. Mr. Temple said the wetlands. Discussion ensued with regard to the fact that there was no buffer between the cluster subdivision and the existing homes. Mr. Côté reiterated that there was nothing on the plan that indicated anything that they would be preserving and asked to hear from the rest of the Board members to see what their thoughts were. Ms. Woods agreed with Mr. Côté and was a little concerned and asked if this was the first the Planning Board was seeing this. Mr. Temple said yes. Mrs. Marzloff also agreed and stated that using the wetlands as a reason to do a cluster was not valid. Mr. Poltak informed Mr. Temple that, the message to carry back to Mr. Mitchell would be that, based on the Town of Auburn’s Zoning Ordinance and based on the Board’s knowledge of the property that the intent that they are pursuing in terms of a cluster for this property is not being well received by the Planning Board and will have some difficulty in the future. Mr. Temple said okay and thanked the Board members for their time.

Mr. Poltak asked Mr. Temple if there was another informal that he wanted to present to the Board tonight. Mr. Temple said no, that he was not aware of any other presentation.

## **PUBLIC HEARING**

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Doug MacGuire on behalf of Elie Elchalfoun  
New Sunset Realty, LLC  
Re: Mega X Mobil Gas Station on By Pass 28  
903 Londonderry Turnpike, Tax Map 1, Lot 36-43  
Minor Site Plan Review  
Continued from July 16, 2014**

Mr. Poltak did not believe that anyone was present at tonight’s meeting but in fact, Mr. MacGuire was present. Mr. MacGuire indicated that, on behalf of the applicant they are requesting that the application be withdrawn. Mr. Poltak indicated to Mr. MacGuire that they understood why and that he did not have to explain. Mr. MacGuire asked if they received his e-mail that he sent to Ms. Royce. Mrs. Marzloff asked if they needed to make a motion on the request to withdraw. Mr. Côté said that they did not have to make a motion as they have withdrawn the application. Mr. Poltak agreed and moved on to the next applicant.

**Ralph Daniels  
BAT Realty Holdings, LLC  
45 Priscilla Lane, Tax Map 1, Lot 16-18  
Major Site Plan Review  
Continued from July 16, 2014**

Mr. Barry Gier of Jones and Beach on behalf of the applicant believed that everyone was familiar with the project by now. Mr. Poltak said yes. Mr. Gier stated that since the last meeting they have added lights to the new parking area and pointed out the locations to the Board members. Mr. Gier further added that they have revised the plans to reclaim the gravel parking area and replant the trees. At this time, Mr. Gier passed out revised plans to the Board

members. Mr. Gier also stated that they have relocated the detention basin which was one of the big contentions last time. They have pushed it into the wetland buffer to prevent any storm water from backing up on to the loading area. This will require a Conditional Use Permit of which they have applied for it already for which it will impact approximately 2,586 square feet. They did attend the Conservation Commission hearing and received their endorsement of the project. The last thing was the fire lane and they have applied for a driveway access from DOT and that he has spoken with DOT today and they have indicated that they are in favor of the driveway application. DOT has asked them to modify a few items where the gravel extends out to the pavement and pushing the emergency gate out of the Right Of Way and onto Mr. Daniels property.

Mr. Gier pointed out to the Board members that they do still have the waiver request for parking lot lighting still out there and they still need to discuss the required lighting for the parking lot. They have made two revisions that Mr. Tatem asked for which was that they relocate the light pole to prevent any light going onto the adjacent property and they have the trees along the seven (7) parking spaces on the south side. Mr. Gier asked the Board members if they have any questions and if not, they would like to request conditional approval tonight conditioned upon the DOT permit which should be forthcoming.

Mr. Poltak stated that he received a phone call from Stantec and they have indicated that all the items have been addressed to their satisfaction. Mr. Poltak asked if anyone had any questions. Board members did not have any further questions. Mr. Poltak asked if anyone in the audience had any questions. Ms. Peterson asked if the shed would be moved. Mr. Gier said yes, if it is on her property then they would move it.

Mr. Poltak asked the Board members that a motion would be in order.

***Mrs. Marzloff made a motion to accept jurisdiction for Ralph Daniels, BAT Realty Holdings, LLC, 45 Priscilla Lane, Tax Map 1, Lot 16-18. Mr. Côté seconded the motion. All were in favor, the motion passed unanimously.***

***Mrs. Marzloff made a motion to grant conditional approval with the following conditions: 1) That the curb cut on By-Pass 28 is obtained from DOT; 2) That appropriate escrow for the lighting be submitted; and, 3) That the mylar be submitted and recorded within 60 days (by October 20, 2014); and, 4) That compliance with Stantec's letter dated August 6, 2014 be completed for Ralph Daniels, BAT Realty Holdings, LLC, 45 Priscilla Lane, Tax Map 1, Lot 16-18. Mr. Côté seconded the motion.***

At this time, Mr. Côté withdrew his second on the motion and Mrs. Marzloff withdrew her motion in order to deal with the waivers first.

***Mr. Côté made a motion to grant the waiver from Section 10.13(5) Parking Lot Lighting as stated on the plan for Ralph Daniels, BAT Realty Holdings, LLC, 45 Priscilla Lane, Tax Map 1, Lot 16-18. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.***

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**2014 be completed for Ralph Daniels, BAT Realty Holdings, LLC, 45 Priscilla Lane, Tax Map 1, Lot 16-18. Mr. Côté seconded the motion. All were in favor, the motion passed unanimously.**

**Mr. Côté made a motion to approve the request for Conditional Use Permit for Ralph Daniels, BAT Realty Holdings, LLC, 45 Priscilla Lane, Tax Map 1, Lot 16-18. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously.**

Mr. Poltak thanked Mr. Daniels and Mr. Gier for their presentation and moved on to the next applicant.

**Craig and Kathy Zamoida  
563 Londonderry Turnpike, Tax Map 4, Lots 11 & 11-2-3  
Lot Line Adjustment and Minor Subdivision (1 Lot)**

Mr. Roscoe Blaisdell presented on behalf of the applicants, Craig and Kathy Zamoida. Mr. Blaisdell gave a little history of the property when the Zamoida's purchased the property and began by saying that, back in 1999 they did a subdivision and then a few years later they wanted to make it one lot again so they combined the two lots. They recently came before him to re-subdivide the property so he went out and located the corners and instead of 400 feet of frontage as shown on the original Gillis subdivision plan there was 399.06 feet of frontage so they did not have enough land to re-subdivide. With the lack of frontage, the Zamoida's went and got a variance that was approved and then was contested so rather than go through all that, they went to talk to their neighbor, the Milne's who offered to give them two (2) feet of land. With that in mind, they are before the Board tonight seeking a lot line adjustment with the Milne's and then to re-subdivide the lot into two (2) lots again. At this time, Ms. Royce passed out copies of the request for lot line adjustment to the Board members for them to review and comment. Mr. Côté reiterated what they were looking for relief from the Board which was to do a lot line adjustment between the Zamoida's and the Milne's to gain the two (2) feet of frontage so that they could subdivide correct. Mr. Blaisdell said correct. At this time, the Board members reviewed the request for lot line adjustment. Mr. Côté believed it was simple. Mr. Poltak asked, so somewhere along the way a surveyor or something was amiss. Mr. Blaisdell explained that RSL had conducted a survey of the whole area and that Gillis took RSL's plan verbatim and another subdivision without physically locating it and he is no longer with us.

**Mr. Côté made a motion to accept jurisdiction for a lot line adjustment for Craig and Kathy Zamoida, 563 Londonderry Turnpike, Tax Map 4, Lots 11 and 11-2-3. Mrs. Marzloff seconded the motion.**

Mr. Poltak asked if there were any questions. Mr. Socha asked if the lot line adjustment if their right to trespass on that driveway would not be affected at all. Mr. Blaisdell indicated that they did not have the right to stop them from using it. Ms. Woods pointed out that that was not the intent. Mr. Côté wanted to point out to Mr. Socha that 547 Londonderry Turnpike had the right to cross over that driveway but that the new lot did not have the right to cross over because it was specifically spelled out in his subdivision plan that he had to use the northerly driveway for the new lot. Mrs. Zamoida verified that the easement is for the main house and was for their driveway for the subdivision that they are proposing which the town only allowed two driveways. It was noted by the Board members that the northerly driveway was not open.

***All were in favor, the motion passed unanimously.***

***Mr. Côté made a motion to approve the lot line adjustment for Tax Map 4, Lots 11 and 11-2-3. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.***

Mrs. Marzloff suggested that the bounds be set before the plan is to be signed because sometimes they are forgotten. Mr. Blaisdell understood. Mr. Blaisdell asked if a bound certification would be acceptable. Mr. Côté said yes. This was to be included in the motion.

***Mr. Côté made a motion to approve the lot line adjustment for Tax Map 4, Lots 11 and 11-2-3 with the condition that a bound certification be submitted prior to the Mylar being signed. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.***

***Mr. Côté made a motion to accept the application for subdivision for Craig and Kathy Zamoida, 563 Londonderry Turnpike, Tax Map 4, Lot 11-2-3. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously.***

***Mr. Côté made a motion to approve the subdivision for Tax Map 4, Lot 11-2-3 subject to a bound certification being provided to us and a recordable Mylar being submitted to the Town of Auburn within 60 days (expiring on October 20, 2014). Mr. Grillo seconded the motion.***

Mr. Socha wanted to know if this was for approval of the subdivision. Mr. Poltak and Mr. Côté both said yes. Mr. Socha wanted to know if there was public comment. Mr. Poltak said yes. Mr. Socha was wondering about their driveway access. Mr. Côté said that they have a legal driveway access. Mr. Blaisdell said that he had a plan from 1999 which shows the driveway access at that time. Mr. Socha stated that approximately 30 days after that plan was done that they granted an "Exclusive Easement" so they cannot use that driveway because they gave it away and it's all mine. Mrs. Zamoida said that they did not give it away and they made that clear when they signed the easement. They have it on their deed. Mr. Socha reiterated that they had an "Exclusive" right to the easement. Mrs. Marzloff asked Mr. Socha if he had a copy of the document. Mr. Socha did not. Mr. Côté informed Mr. Socha that if he did not have the document tonight then it meant nothing to the Board because it was hearsay. Mr. Socha believed that tonight's meeting was only to discuss the lot line adjustment. Mr. Côté said no, that the Public Hearing was noticed for a lot line adjustment and minor subdivision (1 Lot). Mr. Côté explained that first of all Mr. Socha did not have the document tonight and that second of all, the Zamoida's would not have done something where they deeded it over to make their lot landlocked so it could not be used because we had an approved subdivision at the time and they would not have had the right to land lock that parcel as it would not have been a legal thing to do. Mr. Socha reiterated that they could not get a curb cut to use that driveway. The Board informed Mr. Socha that they could not act on hearsay. Ms. Woods informed Mr. Socha that they could not speak on the direction that he wanted it to go. Mr. Côté stated that he was ready to approve this plan tonight and that he could legally challenge the subdivision on his own but it was not the problem of the Planning Board. Mr. Poltak spoke to Mr. Socha by saying that they have been down this road before when Mr. Socha was before the Planning Board looking for a one (1) lot subdivision and that they were kind and gentle and expected Mr. Socha to be kind and gentle. Mr. Socha stated that Mr. Poltak was kind and gentle. Mr. Poltak stated that once

Mr. Socha was done pointing things out that they would move to make a decision. Mr. Socha stated that his point was that they cannot use that driveway. At this time, Mr. Poltak turned to Mr. and Mrs. Zamoida to speak. Mr. Zamoida explained that approximately a month to a month in a half, they approached them with a deed that EJS Trust drew up and they saw the word exclusive and wondered what it was all about and Mr. Socha stated that it was a standard easement. They were of the understanding that there was nothing in it that would prevent them from subdividing and that was why they signed it. Mrs. Zamoida added that if it meant that they could not use it then it would mean that they invested in a lot that was null and void and who would do that. Mr. Poltak agreed. Mrs. Zamoida does not understand the point of EJS Trust that they have that driveway and that we are allowed two (2) driveways which one is to the main house (the easement) and one to the proposed lot.

Mrs. Marzloff asked Mr. Blaisdell asked about a book and page that was listed on the plan and asked if it pertained to the easement. Mr. Blaisdell stated that the book and page describes the easement and it probably says exclusive. Mr. Côté did not believe that exclusive meant that they were excluding themselves from using the driveway to their own parcel and give up their rights. At this time, Ms. Woods reined everyone in as the discussion was getting out of hand. Mr. Côté explained that regardless of what it said for an exclusive easement because nobody grants over all their rights to a piece of property so that they no longer have access to a piece of property and did not see anything here tonight and is ready to grant this. Mrs. Marzloff suggested that they continue it until the attorneys can represent the parties. The Board all agreed, except for Mrs. Marzloff that they did not have a problem with granting the approval. Mr. Poltak agreed with Mr. Côté that the usage of a driveway had nothing to do with the Planning Board because it had everything to do with the subdivision and explained that they had Planning Board meeting minutes of December 13, 2006 when they voluntarily merged their property and that they could move forward with the subdivision request. Mr. Poltak pointed out that the boundary discussion will be taken up by the appropriate utilization of their money and their attorneys and not mine.

Mr. Poltak asked if anyone else wanted to speak again. No comments were noted. With this in mind, Mr. Poltak stated that he would entertain a motion relative to approval of subdivision.

***Mr. Côté made a motion to approve the subdivision for Tax Map 4, Lots 11-2-2 & 11-2-3 subject to a bound certification being provided to us and a recordable Mylar being submitted to the Town of Auburn within 60 days (expiring on October 20, 2014). Mr. Grillo seconded the motion. All were in favor, with Mrs. Marzloff opposed, the motion passed by a vote of 4 to 1.***

Mr. Poltak informed everyone that the motion passed and the discussion ended. Mr. Blaisdell asked the Board members how many copies of the plan was required. Ms. Royce informed Mr. Blaisdell that the requirements are as follows: one Mylar for recording, one paper copy for the Planning Board file and however many copies they would require with the Chairman's signature. Mr. Blaisdell stated that he would deliver the Mylar and copies as requested.

**First Assembly of God  
45 Myles Drive, Tax Map 9, Lot 15  
Minor Site Plan Review (add a 60ft x16ft addition  
To existing building to be used for storage only)**

Doug MacGuire presented on behalf of the applicant. Mr. MacGuire began the presentation by

saying that, what the church is trying to do is to do a very minor building addition onto the existing property. The applicant was before the Planning Board a few months ago and they were asked to do a more formalized plan which they have put together for the Board. What they would like to do is put a 16 foot by 60 foot addition to the southern portion of the existing building. The area right now is all grass and will not impact any of the parking or grading. They put together a quick drainage memorandum that was submitted to the town which shows the minor increase associated with that addition. A copy of which is included in the file. Mr. MacGuire informed the Board members that the space would strictly be used for storage/warehouse space. Mr. MacGuire ended his presentation and asked the Board members if they had any questions. Mr. Côté did not believe that the additional 950 square feet would make them go over lot coverage. Mr. MacGuire said no. Mr. Grillo asked what the proposed storage would be. Mr. Poltak explained to Mr. Grillo that at the previous meeting they indicated that the storage would include chairs, carts and tables and the like.

***Mr. Côté made a motion to accept the application for minor site plan for First Assembly of God, 45 Myles Drive, Tax Map 9, Lot 15. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously.***

Mrs. Marzloff asked for a signature block for the owner to sign. Mr. MacGuire said he would get that put on the Mylar. Mr. Poltak asked if there were any further questions. None were noted.

***Mr. Côté made a motion to approve the minor site plan for First Assembly of God for Tax Map 9, Lot 15 subject to the owner's signature block being put on and a recordable plat being submitted to the town within 60 days (October 20, 2014). Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously.***

## **OTHER BUSINESS**

Mr. Poltak brought up the request for Boxwood Estates to release the escrow in the amount of \$5,894.30. Discussion ensued regarding releasing the escrow. It was noted that the money belonged to Mr. Sargeant and would be used to complete Boxwood Drive.

***Mr. Côté made a motion to release the escrow in the amount of \$5,894.30 for Boxwood Estates, Tax Map 2, Lot 44. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously.***

Mr. Poltak wanted to discuss the Tenn's property and stated that he would be talking to Mrs. Rouleau-Côté and that one of them would call Mr. Tenn to set up a date for discussion of re-zoning the property off of Harvard Avenue.

Mr. Villeneuve and the Board members discussed open space development and possibly making the wetland setback the boundary line. Mr. Villeneuve further added that the Conservation Commission and the Planning Board should conduct a workshop to discuss zoning ordinance changes so that they are on the same page. The discussion will include wetlands, setbacks and cluster subdivisions. It was decided that the discussion would be held at the next Planning Board meeting scheduled for Wednesday, September 3<sup>rd</sup> at 7:00 p.m. at town hall.

## **ADJOURN**

***Mr. Côté moved to adjourn the Hearing. Ms. Woods seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:16 p.m.***

***The next Planning Board meeting will take place on Wednesday, September 3, 2014 and will be held at the Town Hall, 47 Chester Road.***