

**UNAPPROVED MINUTES
Town of Auburn
Planning Board
PUBLIC HEARING
April 6, 2016**

Present: Paula Marzloff, Vice Chairman & Michael Rolfe, Member. Alan Côté, Alternate. Minutes recorded by Denise Royce.

Absent: Ron Poltak, Chairman; Steve Grillo, Member. Dale Phillips, Selectmen's Representative.

Mrs. Marzloff called the meeting to order at 7:00 p.m. and introduced the Board members to everyone present tonight.

ANNOUNCEMENTS/CORRESPONDENCE

➤ None were reviewed at this time.

GENERAL BUSINESS

**Informal – Gregg Collins
On Behalf of Carol Peterson
Dusty's Transport
5 Priscilla Lane, Tax Map 1, Lot 36-24
Discuss Change of Use (Towing & Recovery)**

Mr. Collins explained that they have acquired a partnership with a wrecker outfit and he would like to add parking of the wreckers on the property and the use of one of the offices with 5 or 6 spaces for impound vehicles for towing off state highways in the fenced in area. Mr. Collins stated that it was just adding trucks to a pre-existing truck lot. Mrs. Marzloff asked if he would be using both of the parking areas. Mr. Collins indicated that he would only be using one at this time. Mrs. Marzloff noted that there was stuff stored there now. Mr. Collins stated that he was just trying to help out Gemini because he was in the process of reorganizing some stuff across the street. Basically he was just helping out the neighbor.

Mrs. Marzloff asked Mr. Côté if he had anything to add. Mr. Côté stated that it was going to be a modification of the existing site plan and would have to file an application to come back before the Planning Board with a formal revision to the site plan. Mr. Côté explained to Mr. Collins that he was changing the use of the property and that he would also have to indicate the hours of operation and where he would be storing these vehicles and how long the vehicles would be stored. Basically show on the plan what

spaces would be for Dusty's Transport and what spaces would be used for the towing & recovery business. Discussion ensued with regard to having vehicles stored overnight. Mr. Côté added that by doing this it protects him and the business. Mrs. Marzloff asked if there would be any employees in the building. Mr. Collins said yes only one girl in the office. Mrs. Marzloff informed Mr. Collins to go into town hall and see Ms. Royce and that she could assist him and give him an application for him and further informed Mr. Collins that the deadline for the application was April 25th.

Informal – Brandon Swisher
Alliance Landscaping
140 Rockingham Road, Tax Map 9, Lot 9
Discuss Seasonal Hours of Operation & permitted Uses

Mr. Swisher began his presentation by saying that he was before the Board tonight to review his hours of operation that are on his site plan. Mr. Swisher stated that there have been some complaints with regard to his hours of operation and wanted to clarify what they are doing. Mr. Swisher wanted to discuss with the Board members to decide whether or not he should revise his hours of operation or not. Mr. Swisher pointed out that the hours of operation were put in place in 2014 and went through the hours of operation for each. Mr. Swisher stated that the hours of operation for the office was 7:00am until 5:00pm (Monday through Saturday) and Sales Office was 7:00am until 5:00pm (Monday through Friday) and 8:00am until 2:00pm on Saturday. The site crew is (Monday through Friday) departing at 7:00am and returning back by 5:00pm with an occasional return to the shop for repairs and supplies. Mr. Swisher talked about the composting operation being (Monday through Friday) 8:00am until 5:00pm. Mr. Swisher further talked about snow removal where they typically take the trucks away and may have periodic trips back to load salt or for repairs. There was also a note on the plan stating Saturday work as needed spring and fall where the crews typically leave by 7:00am and return around 3:00pm. Mr. Swisher talked about his crew arriving before 7:00am and loading their trucks for the day and that they typically come back around 5:00pm or sooner but there are occasions where they're stuck in traffic or a job takes a little longer where they return a little later. Mr. Swisher apologized for a few employees took the trucks home and came back after 5:00pm and stated that it would not happen again and that they would be having an orientation with regard to hours of operation. Mr. Swisher talked about bringing sticks and brush back and chipping it onsite. Mr. Côté explained that it would be considered processing materials if he were to do that and that he could not do that. Mr. Swisher spoke about screening the compost and stated that he had talked about this from the beginning and apologized again as he did not want to upset the neighbors. Mr. Swisher talked about the changes at the Fire Department and that he would be obtaining a Permit for burning any brush in the future as he has spoken with the new Fire Chief, Ed Gannon and was informed to get a permit prior to burning. Mr. Côté again reiterated to Mr. Swisher that he should not be bringing any brush onto the site and then burning it onsite. Mr. Swisher was looking for input from the Board on whether or not he should amend his site plan for the 5 or 10 times a year that a truck would return back to the property later than 5:00pm but truly did not

believe this was necessary. Basically, at what point would the Board recommend a site plan amendment.

Mr. Swisher went on to talk about shutting off his back up alarms but then one of his trucks was pulled over and failed a DOT inspection and also could be considered an OSHA violation if someone were to be killed and stated that he understood the beeping is annoying but he is trying and that he's not working at 7:00pm or 8:00pm. Mr. Côté suggested that Mr. Swisher possibly contact M & R where they take in brush and woody debris. A brief discussion ensued with regard to a brush pile. Mr. Côté suggested that if Mr. Swisher were to ask for an amendment to his site plan for hours of operation that he should ask for an amendment to allow for the processing for one week a year. Mr. Côté talked about having a trommel screen and the fact that they make a lot of noise and that if he were to do it, once a year, like in April or early May as opposed to July when people's windows were open would be helpful. Mr. Swisher explained that a lot of that was done last year when they were just arriving at the site and would not occur this year. Further discussion ensued with regard to possibly amending the site plan and Mr. Côté understood that in the construction business that there were times that you're not going to get back in time for 5:00pm because you're stuck in traffic or some other reason and that there needs to be some give. Mr. Swisher stated that they were not doing it intentionally or maliciously by no means. Discussion ensued with regard to only changing the notes on the plan and Mr. Côté suggested something like "each spring during the month of April that they would trommel screen for a week or two (2) weeks". Mr. Swisher understood what Mr. Côté was saying. Again, Mr. Swisher apologized for the infraction they have had and they are working on it. Mr. Swisher asked if he should consider amending his hours to say that there would be infrequent times because he did not want every one of his crew to work until 7:00pm. Mr. Côté suggested to Mr. Swisher to say that his hours of operation would be 7:00am until 5:00pm, however, you are asking for permission to access the site at 6:45am until 5:30pm given extenuating circumstances at times. That way he's not having someone with a stopwatch saying its 5:15pm and they're coming back after hours and this would give them a buffer. Mr. Côté also pointed out that he would be opposed to Mr. Swisher burning brush from another site onto the property because he's not allowed to do that and would become a DES issue. Mr. Côté suggested to Mr. Swisher to speak to someone at M & R because they would come and take it away and process it into mulch.

Mr. Côté further pointed out that Mr. Swisher's business is located within a Commercial Two zone and was allowed in the zone. Mr. Swisher wished that the abutters were happy and understood that the beeping of the trucks backing up were an issue and is working on it and talked about possibly building a berm to make a sound buffer for the abutters. A brief discussion regarding drainage issues and runoff when and if Mr. Swisher were to build a berm as a sound barrier. Mr. Swisher also stated that he would not think about turning the compost pile on a hot day after a rain because it would cause a smell.

Mrs. Marzloff asked the Board members if they had any further questions. None were noted. Mrs. Marzloff asked if any of the abutters had any questions. Mr. Sutcliffe of

Miner Road stated that Mr. Swisher's property is directly behind his property. At this time, Mr. Sutcliffe passed out copies of a letter listing details of activity going on at the property that Alliance Landscaping owns. Mr. Sutcliffe understood that Alliance Landscaping was located in a Commercial Two zone but also wanted to point out that it also abuts a Residential One zone and believed there had to be some balance between the two. Mr. Sutcliffe stated that he starts at 7:00am and when you try to have a cup of coffee on your deck or open your windows in the summer that this is what you hear. (Mr. Sutcliffe played a video of the noise heard and how loud it is). Mr. Sutcliffe believed that Mr. Swisher was in violation of his site plan because he has been working until 6:30pm during a week day and until 5:30pm on a Saturday and during snow removal. Mrs. Marzloff pointed out to Mr. Sutcliffe that he has permission to do that during snow removal. Mr. Sutcliffe believed that the times were unreasonable and understood that he had the right to use his property but when it damages the reasonable use of his property it becomes an issue. Discussion ensued with regard to Mr. Swisher amending his site plan. Mr. Sutcliffe pointed out that he wants to amend it for longer hours. Mrs. Marzloff indicated that Mr. Swisher cannot work at a job site and return by 5:00pm to have everything noise free. Mr. Sutcliffe stated that it was not his problem because what will prevent Mr. Swisher from returning at 5:30pm, 6:00pm or 7:00pm and when this is happening not only on an occasional basis but every day. Mrs. Marzloff explained that when Mr. Swisher comes back to amend his site plan that it would be a public hearing and that all the abutters would be notified and that the Board would then have this conversation at that time. Mr. Côté and Mrs. Marzloff both further explained to Mr. Sutcliffe that Mr. Swisher could just say that he will adhere to the current site plan that he has but then he would have to adhere to the hours of operation. Mr. Swisher asked for clarification with regard to the hours of operation. Mr. Côté pointed out to Mr. Swisher that with the hours of operation being 7:00am to 5:00pm that at 5:00pm the trucks are supposed to be parked and not rolling in after 5:00pm. Mrs. Marzloff asked Mr. Swisher if he could adhere to the current terms of his site plan and building a berm then we may have a solution without the need for additional meetings but it would mean that he would have to adhere to those terms. Mr. Swisher stated that his intent was not to change his hours of operation until later because he did not want to do that but sometimes a truck or two ends up coming back later which was very infrequent. Mrs. Marzloff wanted to summarize the choices for Mr. Swisher which was, Plan "A" would be to keep the hours of operation that he has and make it work and, Plan "B" would be to come before the Board for a modified site plan. Mr. Swisher further talked about setting some dates for screening if that would seem reasonable to everyone. Mr. Sutcliffe did not mind working with Mr. Swisher but said that there has to be some reasonable balance between the noise of that business and the quietness of our residential neighborhood. Mrs. Marzloff wanted to remind everyone that this was not a public hearing and that if that were to occur then the rest of the Board would be present for that hearing. Discussion ensued with regard to hours of operation of which would be taken care of during a public hearing. The Board is unable to make any changes to the site plan without a formal public hearing. Mrs. Marzloff wanted to remind everyone that Shea's Purchase was built in a Commercial Two zone and that everyone should have been aware that there was residential in a commercial zone and that Mr. Swisher was well underway before the rezoning of Shea's Purchase took place. Mr.

Sutcliffe believed that if a business goes in next to a residential neighborhood that there should be some thought that goes into it. Mrs. Marzloff pointed out that the business is a permit use in the zone and that the Board cannot pick and choose what business is allowed. A brief discussion ensued with regard to commercial next to a residential neighborhood.

In conclusion, Mrs. Marzloff suggested to Mr. Swisher that he think about what he wanted to do and to get in touch with Ms. Royce to set up a meeting if that was the way he wanted to go. Mr. Côté added that possibly putting up an earthen berm may help and maybe some vegetation as suggested by Mr. Sutcliffe but that vegetation takes a while to grow up. Mr. Swisher understood and thought if they screened for a two (2) week period may help as well and the berm may help quite a bit too. It has been noted that Mr. Swisher has indicated that he would be a lot stricter on his timeframe. Mr. Swisher indicated that he would work on correcting the issue and would either get in touch with Ms. Royce to set something up for a Public Hearing if he decided to amend his site plan but thought that he may try the berm first to see if that helps the matter and believed that it may be his first step that he'll take.

At this time, Mr. Swisher thanked the Board members and Mr. Sutcliffe for their time and exited the meeting.

Informal – Joseph Nusbaum
181 Pingree Hill Road, Tax Map 5, Lot 42
Discuss Subdividing Lot Into 2 Lots

Mr. Nusbaum began by saying that what he was trying to do was to subdivide his lot so that he could build a house for his parents. Mr. Nusbaum indicated that he had a plan that was provided to him by Ms. Royce. Mrs. Marzloff stated that she had the file and in the file was a plan which showed the drainage easement on the property that the town did. Mr. Nusbaum stated that what his property was zoned for was three (3) acres and 300 feet of road frontage because he was in the Rural zone. Mr. Nusbaum talked about the cluster areas and what he would like to subdivide a lot off for his parents. Mr. Côté informed Mr. Nusbaum that he would first have to go to the Zoning Board of Adjustment because the Planning Board cannot approve a lot that is non-conforming because you cannot get a two (2) acre lot in the Rural zone without going to the Zoning Board. Mr. Côté then stated that the second thing that Mr. Nusbaum would have to do because he had a lot of wetlands on the property which showed a Level One wetland at the back of the lot which meant that he would have to be 125 feet from a Level One wetland and in the Rural zone you have to be 50 feet from the road for the setback. Mr. Côté suggested that he figure out where the 125 feet from the wetland would be and measure 50 feet from the stonewall in the front to see if he would even have a buildable area. Discussion ensued with regard to the wetlands and the setbacks on the property. Mr. Côté informed Mr. Nusbaum that it would have to have a wetland scientist flag it out for him. Mr. Côté believed that he would need a variance from the Zoning Board for the wetland setback as well as the acreage and further believed that he would have a hard

time to prove hardship to get two (2) acre lots in a rural zone. Mr. Côté also explained to Mr. Nusbaum about the cluster subdivision and the acreage requirements and that Mr. Nusbaum did not have the acreage requirements for a cluster subdivision.

The Board members suggested that he talk to a surveyor first before he spends a lot of money on something that may not be able to happen. At this time, Mrs. Marzloff asked if anyone else had any questions. Mrs. Willett asked where the house would go because it was right next door to their property. Mrs. Marzloff and Mr. Côté did not believe that he would be able to fit a house in there. Mrs. Marzloff informed Mr. Nusbaum to get his application into Ms. Royce if he wanted to go before the Zoning Board of Adjustment because there were deadlines in order to be scheduled for a hearing.

MINUTES

Mrs. Marzloff asked if the Board if they wanted to approve the minutes of March 16, 2016 or if they wanted to wait until the rest of the Board members were available. The Board agreed to wait until the next meeting which is scheduled for Wednesday, April 20, 2016.

At this time, Mrs. Marzloff elevated Mr. Côté to a full voting member for tonight's hearing in the absence of several Board members.

OTHER

Mrs. Marzloff informed the Board members that they have received an application from Jeff Porter to be an alternate on the Planning Board.

Mr. Côté made a motion to appoint Jeff Porter as an Alternate position, Mr. Rolfe seconded the motion. A vote was taken; all were in favor, the motion passed.

Mr. Côté explained that the Planning Board may have up to five (5) alternate members on the Board and it was a good idea because if he was not available tonight that the Board would not have had a quorum.

ADJOURN

Mr. Côté moved to adjourn the Hearing. Mr. Rolfe seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:05 p.m.

The next Planning Board meeting will be held on Wednesday, April 20, 2016 at 7:00pm at the Town Hall, 47 Chester Road unless otherwise noted.