

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD SEPTEMBER 12, 2013

Present: Chairman Barry Chase, Shaun DeWolf, Rick Reynolds, Geoffrey Aleva, Jon Morse, Anne Whitten, Lawrence Huntley, CEO

Absent: Mark Cahoon

Also Present: Lee Jay Feldman, Jodi Wick, Donald Royal, Sonja Royal, Shirley Barto, Charles Barto, Rick Stambaugh, Betty Hall, Harley Regonini, Rachel Dagan, Israel Gray, Victoria MacKenzie, EvanMacKenzie, Robert Pease, Laurienne Missud Martin, Bill McKenney

1. Call to Order:

Chairman Barry Chase opened the Planning Board meeting at 6:32 pm.

Chairman Chase moved Jon Morse up to full voting status.

2. Review of Previous Minutes:

Rick Reynolds motioned to accept the minutes from August 22, 2013.

Shaun DeWolf seconded the motion.

VOTE: 5-0

3. Current Business:

Chairman Chase stated that the first item on the Agenda is Harley Regonini. The applicant proposes a welding shop at 60 Somersworth Road (map 20, lot 6) for a home occupation.

Mr. Regonini stepped forward and stating that he would like to open a welding shop at his home. He would be welding small architectural items such as gates for fences. He would also like to repair trailers.

Lawrence Huntley stated that the Board should probably review page 515 Article 5.2.3 regarding Home Occupations.

Larry stated that he would be buying raw materials and making something else and not buying products and reselling them.

Chairman Chase asked Mr. Regonini if he would be having any employees and Mr. Regonini stated that he did not have any intention at this time but if he became extremely busy he may have to hire someone. Geoffrey Aleva asked if the area behind the barn was already fenced in and Mr. Regonini stated that it was not at this time. He states that he

was leaving that up to the public and the Board as to whether a fence would need to be added or not. He said that, if a fence were needed, he would probably install a solid fence instead of a stockade fence. Rick Reynolds asked if the applicant lived on the property and he answered that he did. Rick stated that a Home Occupation is only for people who live in the dwelling so it would probably be an issue if he hired someone else. However, Geoffrey Aleva stated that they could have 3 or more employees.

Larry stated that the main thing that he sees is that with a home occupation, everything has to be done within the structure and not outside. Shaun DeWolf asked if he could store his supplies outside and Larry said that he could. Jon Morse asked if the structure that was there now was going to be the building that he would use for his work. Mr. Regonini stated that it would be. Mr. Morse asked if it was a wooden building and again the answer was yes. Mr. Morse asked if there was any concern with welding in a wooden building. Mr. Regonini stated that he would be taking all the necessary precautions.

Geoffrey Aleva asked if he had enough place in the building to work on a trailer and Mr. Regonini stated that he probably did not have enough space. Mr. Aleva asked about what percentage of his business would be this type of work. Mr. Regonini said it would probably be about 12%. He would rather be focusing on making small items. Mr. Aleva asked if the shed behind the barn was going to be used for storage and Mr. Regonini stated that it would.

Geoffrey Aleva asked Larry Huntley about the comment that is listed on the drawing of the sign. It states that it is not allowed per zoning. Larry stated that our zoning ordinance does not allow that size of a sign for home occupation. Larry said it should be 6 square feet total.

Chairman Chase stated that under Home Occupation, it states: A home occupation shall be carried on wholly within the principal or accessory structure. So this means that the applicant could not do anything outside. Geoffrey Aleva stated that he could back in the trailer that he is working on into the building to work on it.

Chairman Chase opened the hearing to public comment at 6:46 pm.

Bob Pease wanted to know what type things he would be making. Mr. Regonini stated that he was going to forge legs for coffee tables, gates for stonewalls and other small items. Mr. Pease asked the Board if he would be able to just extend with something like a carport if he needed to work on something bigger. Larry stated that a carport was considered a permanent structure. Mr. Regonini asked if a thin gauge round 2 tarps with twist anchors in the ground would be temporary or permanent. Larry stated it would be temporary.

Chairman Chase closed the hearing to public comment at 6:49 pm.

Rick Reynolds asked if he was going to be putting in any artificial lighting outside. Mr. Regonini stated that he would put in something like what you would see over a garage door and something to illuminate the rear door of the barn.

Jon Morse motioned to grant the conditional use permit for a welding shop to be located at 61 Somersworth Road (map 20, lot 6).

Shaun DeWolf seconded the motion.

VOTE: 4-1

Chairman Chase stated that the next item on the agenda was the continuation of the Public Hearing for Hannaford Supermarkets. Chairman Chase asked Mr. Bill McKenney, the representative from Hannaford, if he had any comments to make before opening up the meeting to public comment. Mr. McKenney stated that at the last Public Hearing they had reviewed their plan and heard all the suggestions and comments that were made. At this time, he is deferring to the Board for the next steps. He stated that Lee Jay Feldman had pulled together a memo and that this can probably be looked at this evening in regards to continuing with the project.

Chairman Chase opened the meeting to public comment at 6:52 pm.

Rick Stambaugh asked if there had been an updated submittal. Lee Jay Feldman stated that the plans had been revised based on Underwood Engineering's comments regarding engineering designs, but not anything with site design. He states that if you look at the plan you will not really notice any difference because it is mostly a lot of technical engineering changes. The plans have also been updated to reflect changes in storm water, changes in water line issues, sewer line, septic and sewer issues. The memo that the Board has tonight, which is numbered 14, is the updated memo, which reflects Underwood's most recent review and comments on the issues. A number of the issues that state "No further comment" are the issues that have been addressed. He states that the engineering issues have been addressed from a technical standpoint. The issues relevant to the site design, such as landscaping, berming, lighting and traffic circulation has not been addressed yet. Mr. Feldman states that in the memo are suggestions that he is recommending and it is now up to the Board to decide on them.

Charles Barto requested that Mr. McKenney present to the Board and the public what they are proposed to do so the public can have some idea of what they can rebut or make comments on. He feels like they are in the dark right now with not seeing updated plans. Chairman Chase stated that it is pretty much the same thing they have been working through. He stated that once the Board closes the Public Hearing, then the Board members can deliberate and figure out what they want to do. Chairman Chase stated that they had Mr. Stambaugh's letters and all the suggestions and comments that everyone has brought forth at all the meetings. He stated that when they close the Public Hearing, it would start the time clock running for Hannaford to get the issues done. He said that it

would eventually come back before the Board to discuss this stuff. Mr. Barto asked where the Board stands right now and Chairman Chase stated that it was still to be determined. Mr. Barto asked where the Board was at right now in the process. Chairman Chase said that Underwood Engineering has gone through the plan from Hannaford and made their recommendations. Some of these things have been worked out already between the Town engineer and Hannaford's engineers without the Board. Now the Board will go through the list that Lee Jay Feldman has in his memo. As the Board goes through these issues, they will discuss whether or not it is something they feel is needed or not needed.

Evan McKenzie asked, "What about the things that are important to us as well?" Chairman Chase stated that that is what they were here for tonight. Mr. McKenzie stated that he would like to hear Hannaford's proposal and then be given the opportunity to comment. Chairman Chase stated that they have been making their proposal at each meeting. Mr. McKenzie stated that since the initial proposal they have since lied to us several times. Mr. McKenney stated that he has met with the Planning Board on many occasions where the public was invited to attend. He states that the Board has been very good about making the concessions of what the public wants known to Hannaford.

Laurienne Missud Martin also stated that she was not clear that any concessions that have been made by the public have been addressed. She said that all she has heard Mr. McKenney say is that strictly engineering has been taken into account and nothing that has to do with the public's concerns. Mr. McKenney stated that he and Lee Jay Feldman discussed the technical issues. They did not feel that they needed to put the Planning Board in the middle of that. Such things as storm water issues and utilities because that is really the engineer's job to work out. He states that they have gone through the process and he would be happy to speak about some of the changes. He states that they did improve the architecture of the building, added landscaping buffering around the property to consider the neighbors and taken into account adding a sidewalk.

Mr. Barto asked if they could see a picture of what they have done architecturally and with the buffering so they could have an idea of what has been done. Mr. McKenney stated that he did not have the architectural design with him tonight but he had it at other meetings and it hasn't changed since then. He stated that initially they had clapboard siding only in the front of the store and nice gable form and windows and around the side it would have been block. The Board requested that all four sides of the building look the same and they have done so. Shirley Barto asked if the Board had seen the new change and Chairman Chase stated that it is not a new change. She stated that she only saw one gable and Chairman Chase said that it only had the one.

Anne Whitten stated that she agreed with the public. She was under the impression that they would be coming back to this meeting and showing updated plans which would show what the back of the store would like and what the containers in the back are

supposed to look like. She stated that she did not think that the Board had come to any real decisions on what the buffering was going to be like. She stated that she was also under the impression that Hannaford was going to come and show us what they had done and what they had changed from what we had talked about. Mr. McKenney stated that at the third Planning Board meeting, he had handed out four elevations. He stated that the Board wanted the four elevations, the four sides of the building and all the materials wrapped around the building. He said that he also brought copies on 11x17 full architectural renderings, which showed the four sides of the building. Anne stated that she remembered that. Mr. McKenney stated that she just said that they hadn't done that but Anne clarified that she meant the back of the building like where the storage containers are. She stated that we do not accept storage containers and that Mr. McKenney had stated that he would bring in pictures of what the containers would be like. Mr. McKenney stated that this was a new program so he does not have any pictures to show. He said that he is willing to discuss the storage containers with the Board but he doesn't have any new information to provide for consideration at this time. He feels that they are adequately buffered but that it is up to the Board to decide.

Lee Jay Feldman stated that he believes the best way to attack this is to go through each of the issues from his memo because some of the things being brought up now are reflected in his memo. That way the public would hear all the issues and the Board could then take the time to deliberate on each one. Geoffrey Aleva asked if the Board would be allowing the applicant respond to each of the issues. Chairman Chase stated that he would have Mr. Feldman go down through them and then they would discuss. Bill McKenney stated that he would be happy to go through the same presentation from the last meeting for anyone that was not present.

Laurienne Missud Martin stated that she thought that Mr. McKenney needed some time to prepare before this meeting. In her mind, this meant that he would prepare a presentation for the public to comment on and to see that our concerns have been taken into account. She said that if he hadn't done anything different since the last meeting, why are we so much further down the road. She asked what happened to the comments that were made at the last meeting. If nothing has changed since the last meeting, why are we even here? Mr. McKenney stated that at the last meeting they had just received the comments. Since the last meeting, they have just gone over all the technical issues and updated the plans to make sure they meet all of the technical issues. Laurienne stated that she does not feel like he is working with us.

Bob Pease asked the Board if the plans were on the Town website. Chairman Chase stated that he did not know. Anne Whitten stated that she has everything on there that people send her

Charles Barto stated that Mr. McKenney said they had taken care of the technical things. He said that he agreed and disagreed with this statement. If all of the technical things had

been taken care of then it would show the berm that we asked for. Adding a berm would change runoff and things like that. He asked Mr. McKenney if this had been addressed. Mr. McKenney stated that the technical issues addressed were what the engineers said needed to be done. Chairman Chase stated that if it had not been reviewed by the Board then it was not going to be on the design plan. Lee Jay Feldman stated that once the Planning Board can get through all the conditions of the approval, one of the conditions that he has in his memo is that all of the plans have to be revised to reflect all of the changes before the Board signs them.

Jon Morse stated that maybe we should hear what the public has to say, and then go through the list. He stated that the Board does not know if their issues are even on the list. Evan MacKenzie stated that he appreciated this comment. He said that he was hoping the public comment session would not be closed down so their concerns could be heard. Chairman Chase stated that they were not going to go through each one of these items and have input on each and every one of them. He stated that if at the next meeting, there is a comment session, they will take more comments on things that we have done. He stated that if anyone had any comments that they wanted to have considered they could do so now.

Rick Stambaugh stated that he would like to hear what Lee Jay recommended so he could see if any of the comments that he wants to bring up have already been resolved.

Geoffrey Aleva asked the Chairman if they could have the applicant go through the site plan quickly and discuss the technical issues that came up during the peer review and the changes to the plan that were negotiated between peer review and the applicant. He states that some of the items on the conditions of approval are technical in nature. He would rather have a minimum number of conditions for approval. He stated that they could have a discussion after this is done. Chairman Chase asked if this should be done before the public hearing is closed or after. Mr. Aleva said he would like to do it before they close the hearing to public comment.

Mr. McKenney started to review the comments from Mr. Feldman's memo from what Underwood was requesting.

2. Sanitary Sewer Appurtenance Schedule: They wanted Hannaford to add an Appurtenance Schedule to the Sanitary Sewer Utilities Plan, which is a technical specification. It shows that they meet all the requirements for the sewer district. Whenever they put utilities in, they need to make sure that it meets the town's standards. This has been done.

3. Existing Sewer Connection: He believes that they wanted it capped for the infiltration of the system. This has been done.

4. Snow Storage: He stated that this is one that Lee Jay had flagged that Underwood had commented on. It stated that Underwood Engineering takes no exception to the Applicants description for snow storage removal. The Planning Board should consider the merits of requiring the snow storage areas to be delineated on the Site Plan for potential enforcement purposes. Mr. McKenney stated that there were some questions about snow storage on the updated plan. What they are doing is the snow will get deposited around all the edges of the property. If, in heavy snow winters, we need to do snow removal off site they will do that. They don't think there will be a need for this in North Berwick. He stated that they did not show delineation of the snow storage on the site plan because it would be hard to read. He thinks that the narrative should take care of this but if the Board would like it added they could do this.

5. Utility Conflicts: The Applicant states that insulation is not expected for this project. Underwood Engineering notes that as designed, the waterline will be within the typical frost zone at the sewer crossing, leaving only 3' +/- of cover. The waterline may be susceptible to freezing and/or breaking at the crossing, which could impact available fire suppression flows. We note that the water system design must be approved by the North Berwick Water Department. He stated that whenever you have storm drains or sewer, you always want pipes to be straight and gravity flow. Water pipes can go up and down because they are under pressure, so their detail shows that they are either going up and over a storm drain. Underwood just wanted to ensure that they don't go up and over a storm drain if it reduces cover to less than 5 feet. He states that they would not do that anyway because they do not want their pipes to freeze.

6. Existing Hydrant (Route 4): On our site plan, where the driveway comes out on Route 4, there is an existing fire hydrant in the way. He was hoping to be able to have the driveway where they wouldn't have to move the hydrant but unfortunately, that is not the case. They will move it at their expense.

7. Driveway Transitions: He states that they did not have detail on the plan that showed how their new pavement transitioned to the existing pavement along the road. What they need to do is not just pave right up against it, but they need to saw or cut out a part of the road so you can maintain the thickness of the pavement. He states that if this had not been addressed at Peer Review, then it would have been addressed at time of construction.

Number 8 for Pavement Repairs, 9 for Edge of Pavement and 10 Access Roadway, see number 7.

11 Retaining Wall: The Planning Board should consider submission of a shop drawing for the retaining wall design approved by the Engineer of Record as a condition of approval. Mr. McKenney stated that on the loading dock in the back of the store, they need to get tractor trailers in. When they back the tractor trailer in, it needs to be 4 feet

below a finished floor so that the bed of the truck lines up with the floor so they can use pallets to get in and out of the truck. This creates a well. There will be a retaining wall, which is an extension of their foundation wall in the building. When they design their building, the retaining wall will be designed by structural engineers and be stamped. This information is forthcoming. When they submit the plans for the building permit, this will be provided so this is still an open item at this time.

12. Storm Drain Appurtenance Schedule: He states that this is similar to the comment earlier about Utilities. It is very technical data and specifications associated with the materials used for the storm drain system. They have not included that. They typically do this with their construction plans because when it goes out to bid, they want to make sure that the contractor knows exactly how to build it. In this case, the Town's engineers asked for it so they added it.

13. Wet Pond: This is the detention pond where the storm water will be detained. Mr. McKenney states that there is a discussion with the Planning Board as to whether we should have a safety bench or a fence around the pond. This is still an open item. They feel that a fence does not look as good and that a safety bench makes sense so they added it to the plan. If someone fell into the pond, there is a shallow safety bench so they can easily get out. It does not have steep slopes. They will do whatever the Board recommends.

14. Wet Pond Outlet Structure: Same as #13.

15. Stabilized Construction Entrance: Mr. McKenney states that whenever they build something like this, there tends to be mud dragged into the roads. Underwood asked them to provide details on the plan that showed stabilized construction entrance. Basically this is just crushed stone, so when trucks leave the sight, it is a place where some of that mud comes off the trucks.

16. Cross culvert: This is a culvert that runs under the driveway that we are extending out to Route 4 which we had not initially included on the plan. This has now been added.

18. Guardrail: Mr. McKenney stated that this could be an open item because they have not really talked about this. The entrance that is coming in off of Route 4 is considered a driveway not a road. According to National Standards, a guardrail would be required if this was a road. Hannaford doesn't feel that one is needed but if the Board required it they would put one in,

19. Rip Rap Outlet: They added a detail for rip rap outlet on storm drains to help avoid erosion.

20. Pavement Section: The Peer Review asked for pavement section along the driveway heading out to Route 4 so they have added this detail.

21. Stormwater Debris Separator: Peer Review asked for this to be added to enhance the ability of stormwater system to separate other debris.

22. Wet Pond Details: Mr. McKenney stated that added additional detail regarding storm water.

23. Water Quality Calculations: Mr. McKenney stated that there is one additional item regarding this. Underwood Engineering concurs with the Applicant's explanation regarding Water Quality Calculations and Impervious Areas. However, per the Applicant's explanation, it appears the value for "Total Impervious Area" for "Area 11" shown in the Water Quality Calculations (Attachment "B") should be 20,301sf (not 6,805sf as shown). Mr. McKenney stated that he spoke with Underwood directly regarding this. They have superimposed pre-development/post development calculations, so Mr. McKenney states that their plan is correct.

Anne Whitten asked to go back for a minute. She read from the notes from the last meeting. It stated: "Once they have reviewed and responded to the comments, we can see where everyone stands and negotiate from there. There are still other issues to look at also such as the traffic study, etc. Shaun DeWolf also stated that he needed to wait for the updated plans before deciding on anything. Mr. McKenney stated that he does need to go over everything and they definitely need to get an updated set of plans. Lee Jay Feldman also stated that they need the revised plans. Shaun DeWolf asked the Hannaford representatives to consider an earth berm instead of a fence. Mr. McKenney stated that it would take some time now to go through everything and get a revised plan. He also wants get answers on some of the issues such as the sidewalks. Geoffrey Aleva motioned to continue the Public Hearing regarding Hannaford Supermarket to the 8/22/13 meeting to allow them to have enough time to review all information and develop a revised plan." Mr. McKenney stated that they have presented updated plans with all the technical issues that have been taken care of. Anne Whitten stated that she had not seen these. Chairman Chase handed her a copy of the updated plans.

Chairman Chase asked the public if anyone had questions or comments regarding the issues that Mr. McKenney just read through.

Bob Pease asked if the storm drainage was connected to the sewer. Mr. McKenney stated that it goes into the storm drainage system. He said that there is a catch basin at the bottom and it will go to the detention pond.

Mr. Pease stated that the speeding limit before Wick's on Route 9 was 45 mph and 35 mph on Route 4. He asked if these were going to change. Chairman Chase stated that this was a DOT issue.

Chairman Chase stated that they would now listen to Lee Jay's recommendations, have the public make any comments on them and then he would close the Public Hearing so the Board can deliberate on these issues.

Lee Jay stated that on the first condition, we could skip it because it was included in the eighth recommendation.

Lee Jay then read each recommendation as follows:

2. The landscaping buffer be increased along the Easterly property line which abuts the homes on Route 4, that includes placing a berm in the area of the proposed tree buffer as shown on the plans along with the addition of a cluster of 4-5 more trees in the vicinity of the Royal and Boston properties as noted on the plans. The applicant shall also revise the landscaping plan to add additional trees White Pine trees at the Elm Street Route 4 entrance without jeopardizing the site distances at the intersection. The applicants add an additional 100 feet of buffer to the south on the west side of the site in order to further screen the propane tanks from the abutters.

3. The lights in the parking areas must be shut off 1 hour after the time of closing the store to retail sales.

4. All lights throughout the site be LED.

5. All delivery trucks leave the site by exiting onto Somersworth Road Route 9.

6. The applicant provide the town with a copy of the Maine Department of Environmental Protection Storm water 500 permit, Wetland Alterations permit and the Maine Department of Transportation Traffic Movement Permit prior to any local permits being granted for construction on the site.

7. The applicant construct a sidewalk from the intersection of Route 4 & 9 to the site. As part of this work all required infrastructure updates also be put in place to upgrade the intersection itself including but not limited to handicapped tip downs and all pedestrian lighting for the intersection.

8. The applicant install a 12" water main or one of acceptable size to the water superintendent from the intersection of Somersworth Road (Route 9) and Elm Street (Route 4) along Somersworth Road (Route 9) to a point beyond the front of the Store to loop back to Elm Street (Route 4).

9. A 4" Storz fitting be placed on the left front corner of the building for the sprinkler hookup.
10. The fire alarm panel be placed in the sprinkler rooms so that in case of an activation.
11. A Knox Box key system be mounted on the building for access by Fire Department personnel.
12. An interior ladder access to the roof in the vicinity or in the sprinkler room for access to roof mounted accessories (i.e. Compressors). The ladder should be a vertical ladder at an angle of not less than 70 degrees vertical.
13. The applicant revise Note 1 pertaining to groundwater elevation which conflicts with the information summarized in the Test Pit schedule below the notes.
14. The trash compactor at the rear of the building have a roof and wall enclosure built over it to screen the actual mechanicals from being seen.
15. A wall be installed to screen the loading dock area.
16. A false mansard roof be placed around the entire building to hide all roof top mechanicals from being seen .
17. The applicant provide a bond or letter of credit to the town equal to the amount of the landscaping proposed around the perimeter of the site which will be released 1 year from the date of the plantings.
18. All of the plans be revised to reflect all of the conditions of approval prior to the Planning Board signing the mylar set.
19. Plan approval is conditioned upon compliance by the applicant with the plans and specifications that have been received by the planning board in conjunction with the development proposal as well as any oral statements made by the applicant in the course of the deliberations.

Chairman Chase asked the public for any comments at this time.

Rick Stambaugh asked Lee Jay if anything had changed from the previous email he submitted in July. Lee Jay stated that the only thing that had changed was the landscaping. He added berm to the east side of the property and adding more trees along the Royal and Boston properties. Mr. Stambaugh also asked about the three permits from external agencies that need to be provided. He asked if these were needed before the

conditional use permit could be granted. Mr. Feldman stated that they needed to be provided before a building permit could be granted. He stated that if the Board approved a Conditional Use permit tonight and came in the next day to try and get a building permit from Larry, he would not be able to obtain one until all permits had been submitted to the town.

Evan Mackenzie asked Mr. Feldman if one of the spots that he was requesting a berm be added was in the back along the Old County Road. Mr. Feldman stated that he did not add a berm there but he did request that they add an additional 100 foot of trees. Mr. Mackenzie asked if adding a berm back there could be requested and Mr. Feldman stated that this was a decision to be made by the Planning Board. Chairman Chase stated they would consider it.

Shirley Barto asked the Board if anyone had spoken with a forester to find out what the best trees or shrubs would be to use to get the most coverage. Lee Jay stated that he had not spoken with anyone. Chairman Chase stated that they just leave it up to the people that are doing these projects to provide the best buffering. Mrs. Barto was curious because some people were concerned about using white pines. Mr. Feldman stated that this is why in his recommendations he suggested that Hannaford provide a bond. This would be in place for a year so from the time they plant the trees. If a tree dies within the year, they would be responsible for replacing it. Jodi Wick stated that she would like to see another type of tree planted also. Charles Barto also commented that when the white pines grow, the coverage is not as good. Lee Jay stated that he would be more than happy to research this further and get other options. Mr. McKenney stated that the only reason the white pines were chosen for the plan is because it was mentioned early on by someone in town.

Laurienne Missud Martin wanted to know about where the trucks would be entering and exiting from to get to the store. She thought that we were going to require all trucks to both enter and exit from Route 9 and not use the Route 4 entrance at all. She said she remembered that there was a discussion in a previous meeting regarding this issue. Mr. Feldman stated that he did not specifically remember this but he would defer to the Board for deliberation. Chairman Chase stated that they would be considering it during their deliberation.

Rick Stambaugh stated that he would like to discuss prioritizing and compliance with Performance Standards. From the minutes of the 7/25 session of this hearing: "Mr. Reynolds stated that they need to take care of the need to have versus the nice to have." At that meeting some board members nodded agreement but there was no further discussion of this point. I fully agree with Mr. Reynolds. The "need to have" are any performance standards that can affect safety or be detrimental to the community or abutters. Performance Standards for Noise, Glare, Water run-off, Screening, and Traffic

and delivery vehicles are “need to haves”, i.e.important factors that can degrade safety or the quality of life of abutters. Here is a summary of attributes to ensure performance standards are met for the “need to haves”.

The first issue is safety.

1. The sidewalk falls under this category. The Planning Board is right to insist that a sidewalk be provided because some people will walk to the store and there is no sidewalk, so pedestrian safety is an issue that must be addressed.
2. Left turning traffic on Rte 4 is a safety issue. It should be prohibited like it is at the Standish store.

The next issue relates to detriments to community or abutters.

1. Noise – Restrict hours of noisy operations including deliveries, trash/recycle removal, and snow removal operations. Require a 6’ berm topped with dense evergreen screening, similar to that at the Kennebunk store, at all lot lines abutting residential uses and districts. Consider restricting store operating hours to 7:00 AM to 8:00 PM because the proposed bottle redemption center is noisy. Would you like to hear bottles clinking in a bag or cart through the parking lot at 9:00 PM if you lived next door? Lest you think I’m exaggerating, Mr. McKenny can confirm that the recycle centers are called CLYYNK at their stores.

2. Glare – Keep the lights low and baffled. Require a 6’ berm topped with dense evergreen screening. Require delivery and service trucks to enter and exit from Rte 9. Prohibit left turning exit traffic on Rte 4. Prohibit overnight parking. Restrict delivery hours.

3. Water Run-off – All surface water run-off must be retained on-site. Underwood Engineering has identified many errors and inadequacies in the initial submission including snow removal pile location and melt run-off control. Given the magnitude of the issues, a performance guarantee should be required to address any water run-off issues.

4. Screening- A 6’ berm topped with 2-3 dense rows of evergreens are required on all lot lines abutting residential uses and districts, i.e. the east, south, west and part of the north lot lines.

5. Traffic and delivery vehicles – No left turns onto Rte 4. Delivery vehicles restricted to 7 AM to 8 PM and only to/from Rte 9. No overnight parking.

In summary, the important performance standards must be met with attributes such as those I’ve listed to ensure this supermarket is safe for the community and compatible with abutters and the community.

Now I’m going to discuss compliance with the Ordinance. As you are aware, I’ve repeatedly emphasized the need to ensure that our Ordinance Performance Standards are

not only met, but also to ensure that they will continue to be met and enforced. Compatibility of a supermarket with abutting long established homes mandates compliance with our performance standards. Mr. Feldman has stated that he will issue findings of fact addressing the compliance with each performance standard. However, I'm still concerned because I see that one performance standard is already not being met, and Mr. Feldman's initial findings didn't adequately address this.

Article 5.2.6.b.4 (pg 5-24) states: "No commercial use...may display more than 60 square feet of signs in total." Mr. Feldman's memo of 25 July addresses this standard with: "The Code Enforcement Officer has determined that the applicant has 3 businesses on the site." Note that Mr. Feldman has not found that the Performance Standard has been met. It has not been met. Our performance standard does not allow the proposed signage. If the Planning Board does determine that there can be over 60 square feet of signs, as there are 3 businesses on the site, then there are unintended consequences, which is usually the case when one tries to get around requirements.

Article 3.2, pg 3-19, defines: "Shopping Center: any concentration of retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor space and at least 65 parking spaces."

Thus, this application isn't for a supermarket, it is for a shopping center: 1. a concentration of retail stores or service establishments (it is 3 businesses under one roof), 2. under one ownership (one owner, Del Haize, a Belgian Co.), 3. containing 15,000 square feet or more of gross floor space (it has over 30,000 sq ft) and 4. at least 65 parking spaces (it has over 70 parking spaces). From my visits to Hannaford supermarket and drug stores, I believe this is a shopping center. In addition to meeting our Ordinance definition, it has other characteristics of a shopping center. Only one entrance, the drug stores and CLYNK redemption centers are walled off from the market, and each has it's own set of cash registers/transaction stations, just like every shopping center I've gone to.

The Land Uses Table (pg 4-11C) shows that shopping centers are not allowed in the new Commercial II district. If this application is for 3 businesses, then it is not allowed by our ordinance and must be disapproved immediately.

So, why did I bring up this shopping center vs. supermarket issue? 1. Optimistically, I'm hoping you'll disapprove the application as not being allowed. But, 2. realistically, I'm hoping you'll better understand why it is imperative to ensure that each Performance Standard is met as written without wordsmithing or accommodations. You cannot go wrong by complying with our Ordinance in letter and in spirit. Per our performance standards you can approve a supermarket that includes a Deli, a Bakery, a Pharmacy, etc. with 60 sq ft total signs, or you can disapprove the 3 business shopping center. Which will it be? Mr. Stambaugh stated that he would now like to hear the Board's thoughts.

Shirley Barto would like to just emphasize the fact that the Board has the authority to impose any and all conditions that the Ordinance allows and that you deem fitting and necessary. She would also like to remind the Board that when the vote was taken last April, 40% of the voters were against this. In light of that fact I would strongly urge you to impose stringent restrictions on this project heavily weighted by the issues and concerns by the people that will be most affected by this project such as noise, lights, screenings and hours. The hours should reflect that this is a small rural town and not many people shop at 9:00. She states that she knows the Planning Board has their best interests of our town at heart. She would like that the concerns of our citizens are taken into consideration without regard to feasible or cost effective concerns of theirs. In her opinion, they should consider this being part of doing business in our town. Since this is going to be a big change for North Berwick, she would appreciate it if they made it the least disruptive as possible.

Jodi Wick stated that she fully trust the Board to do the right thing. She states that she in favor of Hannaford coming to town.

Charles Barto would like to ask for consideration on what the hours will be. He indicated what the some other stores have for hours: South Portland, 8 am to 6 pm, Freeport, 6:30 am to 8 pm, Naples, 7 am to 8 pm with extended hours until 9 on the weekend. He stated to the Board that the have the power to set the conditions for the hours and that they do not have to cater to what Hannaford wants. He also wants to make sure that the people that live around the store are not going to be impacted by not being able to sleep, noise and headlights.

Laurienne Missud Martin stated that she is asking the Board to remember that they serve the people of this town. She also stated that she goes to the meetings and remembers something being resolved but yet it is not reflected in the minutes. She states that she knows the members are volunteers and that they put in a lot of hours, but it is a service position.

Shirley Barto stated that in the first letter that Lee Jay sent out, it reads like the can redemption is going to be separate from the building. Lee Jay stated that it is not part of the building at all. Mr. McKenney showed Mrs. Barto on his site plan where it would be located. Jodi Wick questioned how the CLYNK program worked. Mr. McKenney stated that customers take a green bag home with to fill up. It has a drawstring and you get a tag to put on it with your information and then you just drop off the bag in the container. A truck comes and picks up the bags and takes them to their facility where they sort and crush them. They will then credit your account.

Mr. McKenney stated that they are in the process of getting permits with the DOT because the roads are state owned. He stated that they do not have to put in actual turn lanes because they are not warranted but there are slip lanes.

Bob Pease asked if they have any provisions made for bicycles. Geoffrey Aleva stated that they have a bike rack in the front.

Chairman Chase closed the meeting to public comment at 8:05 pm.

Anne Whitten asked Larry Huntley his opinion about the shopping center issue. Larry stated that he wanted to think about it before making a final comment.

Chairman Chase stated that they would now go through the list of recommendations. Mr. McKenney stated that he is prepared at this time to go through the list and let them know what they can and cannot do. He thinks that it would be better to go through them all tonight and getting them resolved instead of having a bunch of conditions to still consider. Then he can work on updating the plan with all the considerations. He stated that Lee Jay said something about oral representations. He also stated that he has never been more uncomfortable at a planning board meeting with accusations stating that he has lied. He said that he has done this for 20 years and has never been accused of misrepresentations. He feels that he is being misinterpreted. He stated that whatever they will agree to will be updated on the plan. Mr. Barto started to make a comment and Chairman Chase indicated that the time for public comment was over. Mr. Barto stated that it was also over for Mr. McKenney. Chairman Chase stated that he is the applicant so the Board is talking to him now.

Chairman Chase agreed with Mr. McKenney about having everything being on the plan. Anne Whitten asked if we should be voting on it and Chairman Chase stated that they would. Geoffrey Aleva suggested that they vote on it now.

Geoffrey Aleva stated that the item of discussion was number 19 which states, "Plan approval is conditioned upon compliance by the applicant with the plans and specifications that have been received by the planning board in conjunction with the development proposal as well as any oral statements made by the applicant in the course of the deliberations."

Geoffrey Aleva made a motion to eliminate this recommendation of approval on the fact that they are going to be going through these plans, we are going to talk about outstanding items and issues, and anything that needs to be on those plans will be on those plans. We are not going to rely on any hearsay or anything that hasn't been discussed or misinterpreted. We discuss the condition and if it gets approved, that's the condition. That's it.

Shaun seconded the motion.

VOTE: 5-0

Chairman Chase stated that they are now on #2 regarding the landscaping buffer. Anne Whitten stated that the more buffering the better. Shaun DeWolf feels that the additional 100 feet of buffer to further screen the propane tanks is a little much. He stated that they already extended it 50 feet down around the corner. He also thought that down by the

propane tanks they were going to curl it back up. Mr. McKenney reviewed using the site plan where the screening will be. He stated that they are proposing no berm because the addition of the extra trees should suffice. Lee Jay asked if it meant that he was willing to agree to everything except for berming and the extension of the 100 foot of additional trees. Mr. McKenney stated that was correct.

Geoffrey Aleva stated that his concerns are for the buffers to cover the entry on Elm Street that they protect the abutters on that side. Also he would like a denser buffer along the eastern line. He stated that he would rather have the resources from the additional 100 feet be applied to the eastern side instead. Anne Whitten asked why can't they have it on both sides and Shaun DeWolf stated that he didn't feel that the extra buffering was needed on the west side.

Chairman Chase asked Mr. Aleva what he felt they should use for the trees. Mr. Aleva stated that they should have the applicant talk to their landscape architect to see what the best buffering tree would be. He did state that he would rather see a lower denser buffer like bushes and trees about 8-10 feet.

Chairman Chase stated that the Board agrees that there will be an increased buffer along the easterly property line, add the trees by the Elm Street entrance, not require the additional 100 feet more on the south side of the west of the property and would like to have buffering trees between 10-12 feet.

Chairman Chase moved on to #3 regarding the lights in the parking areas shutting off 1 hour after store closes. Mr. McKenney stated that they have lowered the light poles by the entrances. The main parking lots still have the longer poles. He also stated that it was very likely that the lights would shut off 1 hour after closing. Hannaford would still reserve the right to change this if it becomes a safety issue. He doesn't see where they would have any problems in North Berwick that would require the lights to be on for longer. Shaun DeWolf stated that it should be shut off other for safety issues. He stated that they could just put a note on the plan stating that they would be shut off unless there is a security issue.

Jon Morse asked if Hannaford was responsible for the lighting at the entrances or did DOT get involved. Mr. McKenney stated that the lights at the entrances do need to meet DOT standards for illumination. Mr. McKenney stated that they own the lights but have to follow their standards.

Chairman Chase stated that the next issue was #4 concerning all lights being LED. Mr. McKenney stated these are too expensive. It is a new technology and it doesn't save as much money as people may think. He states that with an LED light, you will see an amazing level of uniformity. Chairman Chase asked where this recommendation had originated from and Lee Jay stated that it is a new technology and many companies are requiring these on their projects. This was a recommendation that he was requesting. Chairman Chase asked the Board how they felt. The Board all agreed that they did not

think that it made a difference. Shaun DeWolf did suggest that they use flat glass and not sag glass on the fixtures. Mr. McKenney did state that they are using flat glass in their cutoff fixtures.

Chairman Chase stated that they would remove this recommendation.

Chairman Chase went on to #5 regarding delivery trucks exiting using the Route 9 entrance. Mr. McKenney stated that they did not have a problem with the trucks exiting from the Route 9 entrance only. He also stated that it would be hard to enforce this with the smaller box trucks that deliver from various vendors. The tractor trailer trucks that are from Hannaford would be told to exit from that entrance only. Geoffrey Aleva stated that he felt it was a good condition to have trucks come in and go out that way. The store managers can push the delivery truck drivers to use that entrance. Chairman Chase stated that they could also put up a sign stating "Delivery trucks exit". Chairman Chase feels that is a safety issue as well.

Chairman Chase moved on to #6 regarding the applicant providing a copy of the permits from external sources. Mr. McKenney stated before they submit plans for the building permit, they need to submit permits to the Town for review.

Chairman Chase moved on to #7 regarding the sidewalks. He stated that the Board is pretty set on wanting a sidewalk. Mr. McKenney stated that they have talked to DOT about it. There is a fund that has \$35,000 in it that goes to the state DOT and the state appears to be okay with that money being earmarked for this project. He stated that it would probably cost about \$68,000 so their proposal is that they use the \$35,000 earmarked from DOT and doing some cost sharing with the town for the remaining balance. They would then build it as long as there were no issues with the abutters that would come up. Chairman Chase stated that he would have to have a conversation with Dwayne regarding this because it is not up to the Planning Board. He did state that the Board definitely wants the sidewalk.

Chairman Chase moved on to #8 regarding the installation of a 12" water main. Mr. McKenney stated that it would be very expensive to add an additional whole main. He stated that the loop idea is a good idea but it doesn't apply in this situation. Lee Jay stated that this is really a technical issue and you should probably deal with the Water district. Mr. McKenney stated that they couldn't conduct a flow test to see if the existing main was adequate until the District allowed us, which they did last week. They have received the results back and it did show that the existing main isn't adequate for pressure, but if they expand it to an 8" line, it will meet the pressure.

Chairman Chase moved on to #9 regarding that a 4" Storz fitting be placed on the left front corner of the building for the sprinkler hookup. Mr. McKenney stated that they would add this. Geoffrey Aleva asked if they had to add a fire hydrant. Mr. McKenney stated that the fire chief asked for a second hydrant which will they will do.

Chairman Chase moved on to #10 regarding a fire alarm panel be placed in the sprinkler room. Mr. McKenney stated that the best place is by the Knox Box entry but the Fire Chief wants it in the sprinkler room. He states that if it is something they want, they can try an enunciator panel to duplicate all those readings so that if he is in the sprinkler room he can see them there also.

Chairman Chase moved on to #11 regarding a Knox Box key system be mounted on the building for access by the Fire Department. Mr. McKenney stated that they do not typically do this but they will.

Chairman Chase moved on to #12 regarding an interior ladder access to the roof in the vicinity or in the sprinkler room. Mr. McKenney stated that this should be fine.

Chairman Chase moved on to #13 regarding the applicant revising Note 1 pertaining to groundwater elevation which conflicts with the information summarized in the Test Pit schedule below the notes. Mr. McKenney stated that he was not sure what this was but he would check into it.

Chairman Chase moved on to #14 regarding the trash compactor at the rear of the building have a roof and wall enclosure built over it to screen the actual mechanicals from being seen. Mr. McKenney stated that he feels there is adequate screening and buffering so that people from Old County Road will not see it. Anne Whitten stated that a lot of stores have the wall enclosure and it seems to help with the sound buffering. Chairman Chase stated that #15 in regards to a wall be installed to screen the loading dock area. Shaun DeWolf stated that he is not as worried about the wall for the loading dock area but thinks they should screen the compactor and the storage containers. He doesn't think that they need to a roof over them though. The Board had some further discussion on storage container vs a shipping container. Mr. McKenney stated that they are storage containers. They sit on slabs. Chairman Chase showed a picture from his cell phone of some containers from the Hannaford store in Bridgton. Chairman Chase stated that to him, they looked like shipping containers so these would not be allowed here. Mr. McKenney stated that in Bridgton, this is a very high summer volume store so they bring those shipping containers in because they can't keep the store stocked without them. They are temporary for the 2-3 months. He stated that the ones that they will have here would be used for recyclables. There was further discussion amongst all the Board members regarding the containers. Chairman Chase told Mr. McKenney that he would have to show the Board what they looked like and Mr. McKenney said he would see what he could do.

Geoffrey Aleva stated that he would like to see a wall screen at the trash compactor. Shaun DeWolf, Anne Whitten, Rick Reynolds also would like to see this. Jon Morse felt the tree buffering would be adequate and Chairman Chase stated that he could go either way.

Most of the Board does not feel that a screen is not needed for the loading dock area.

Chairman Chase moved on to #16 regarding a false mansard roof be placed around the entire building to hide all roof top mechanicals from being seen. Mr. McKenney stated that this was an issue because it is expensive. Chairman Chase stated that his concern is for when you are coming down the hill, you really don't want to be looking at a rooftop of mechanicals. Geoffrey Aleva stated that he reviewed his notes from the previous meetings and he doesn't think that it will be bad. He states that they will see the sign and structure before they see the rooftop. Mr. Aleva does not feel it is necessary to add a false mansard roof. The rest of the Board agreed that it was not needed so this recommendation can be taken off the list.

Chairman Chase moved on to #17 regarding the applicant providing a bond or letter of credit to the town. Mr. McKenney stated that on their construction jobs, the contractor would be responsible for a year. He stated that it doesn't matter if it is 1 year or 10 years, if it is on the plan, they will replace it. Anne Whitten stated that she would like to have this indicated on the plan. Geoffrey Aleva stated that the maintenance of the landscaping is part of the approval of the site plan. The Board states that no bond is needed.

Geoffrey Aleva stated that one of the things that they should come to an agreement on is whether or not they want a berm or a shelf in the wet pond. Anne Whitten asked if it could state that if something happens and someone gets hurt with a shelf only, could they then ask for a fence. Geoffrey stated that it all comes back to code enforcement. Larry stated that if someone got hurt it would go back to Hannaford because it is their liability because it is their property.

Larry Huntley asked if there was any thing they would be willing to do to prevent the lights from hitting the houses across the street when cars are exiting from the Route 4 entrance. Mr. McKenney stated that he did not want it to be part of the Board's approval. He has no problem with doing something to help the neighbor out with this situation. He is willing to meet with the neighbors and work something out.

Larry asked if they had given any consideration to no left turn and Mr. McKenney stated that they do want to allow the customers to turn left if they choose to do so. He does not feel that it is a safety concern. Shaun DeWolf asked if they had considered just having a modified left and right lane instead. By changing this, they could probably move the entrance a little bit to get those headlights off the houses across the street. Mr. DeWolf suggested that he checks with their traffic guy and see if it would make a difference.

Geoffrey Aleva asked if the next set of plans include the concept for the sidewalks. Mr. McKenney stated that it would if he can work out the numbers.

Chairman Chase asked Mr. McKenney when he planned on coming back. Mr. McKenney stated that he wants to meet with the Fire Chief, Town Manager, talk to DOT and update the plans before he comes back. Larry asked if October 10th would be okay and he said it should be.

Geoffrey Aleva asked how the DEP process was going and Mr. McKenney stated that it was going good.

Shaun DeWolf made a motion that he steps down from being Vice-Chair but still be on the Board. Geoffrey Aleva seconded the motion. VOTE: 5-0

Shaun DeWolf made a motion to nominate Geoffrey Aleva to be the Vice-Chair. Rick Reynolds seconded the motion. VOTE: 5-0

Jon Morse motioned to adjourn the meeting at 9:28 pm. Shaun DeWolf seconded the motion. VOTE: 5-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively Submitted,
Susan Niehoff, Stenographer

Chairman Barry Chase

Shaun DeWolf

Rick Reynolds

Mark Cahoon

Geoffrey Aleva

Jon Morse

Anne Whitten