

ATKINSON PLANNING BOARD

Atkinson, New Hampshire

Public Hearing/ Workshop Meeting

Wednesday, March 4, 2009

Present: Sue Killam, Chairman; Paul DiMaggio, Vice-Chairman; Timothy Dziechowski; Michael Fletcher, Ted Stewart, Joe Guisnard-

Alternate: Harold Morse

Chairman Killam called the meeting to order at 7:45 p.m. and read the correspondence into the minutes.

Correspondence

Incoming

Budget Printout dated 2/28/09.

Robert Repetto received 2/25/09 re: P.J. Murphy Sound levels at property border.

Robert Repetto received 2/25/09 re: Engineering questions. Forwarded to Town Engineer, 2/25/09.

Haverhill Legal Notices for meetings of 3/10, 3/11, 3/31/09.

E-mail from Patricia Goodridge, 3/3/09 re: New NH State Water Plan Article.

Ray Cavanagh dated 3/2/09 re: Opposition notice for PJ Murphy proposed trucking terminal.

Chief Consentino memo dated 3/3/09 re: Dunkin Donuts Plan review.

Chief Murphy memo dated 3/2/09 re: Dunkin Donuts Plan review.

E-Mail from Jennifer Gilbert dated 3/4/09 re: National Flood Insurance Program – Atkinson Approved.

Outgoing

Department Heads dated 2/19/09 re: Request for Dunkin Donuts Plan review.

Legal Notice for Public Hearing dated 3/18/09.

Public Hearings: Continued from February 18, 2009

SFC Engineering Partnership, David Jordan for Antonio Quadros continued review of an Application for Consideration and Approval of a Commercial Site Plan for a 5,087 sq. ft. two story building for Dunkin Donuts plus retail space on property owned by Southern NH Commons, LLC, located on Rte. #111, Map 21, Lot 4-2, CI Zone. Taken under Jurisdiction 21, 2009.

Chairman Killam read the memo from Chief Consentino, Atkinson Police Department into the minutes. Chairman Killam read the memo dated 3/2/09 from Chief Murphy, Atkinson Fire Department, into the minutes.

Chief Murphy reviewed the radius at the drive way and the drive thru and concluded that it was sufficient to allow emergency vehicles to enter and exit. Mr. Aaron LaChance concurred with Chief Murphy's findings. Chief Murphy suggested that signage be added to avoid accidents.

Chairman Killam invited David Jordan, SFC Engineering to speak. Mr. Jordan reviewed changes to the site plan recommended by the Board at the February 18, 2008 hearing. He stated that the fire department issues mentioned in

Chief Murphy's memo of 3/3/09 had been taken care of. Mr. LaChance stated that the letter from the Department of Transportation (DOT) stated that the design needed to be reviewed.

Mr. Jordan went on to say that the Department of Transportation had informed him that the intersection of West Road, Island Pond Road and Kip Cam will be signalized and that he wanted to coordinate the Dunkin Donuts plan with the Department of Transportation plan. He also stated that the septic had been approved and that outside engineering had been approved. Mr. Jordan requested conditional approval of the site plan until the applicant received approval from DOT, which could take several months.

Mr. Aaron LaChance, Stantec Engineering, informed the Board that Mr. Jordan's statement that DOT would signalize the above intersection was misleading; DOT had stated that there would be improvements to the intersection and they were looking at the analysis by Mr. Steve Pernaw, the traffic consultant for the applicant. Mr. LaChance went on to say that the DOT would forward the plans to the Planning Board and Mr. Bob Talon would like to meet with the Town in April regarding possible improvements to the intersection in 2010. Vice Chairman Paul DiMaggio asked why the State was looking at the intersection at present and Mr. LaChance responded that the review was due to the proposed site plan and to the traffic study done by Mr. Steve Pernaw.

Mr. LaChance then read his memo regarding the site plan and needed improvements into the minutes. The main points of his memo were as follows;

The crest of the vertical curve between the above intersection and the site could cause accidents because it is too close.

Open drainage creates a hole which could be a safety hazard. The open drainage could be enclosed or a guard rail could be put up.

The unofficial right turn lane constructed by Freshwater Farms should be formalized with line striping.

Speed limits should be reduced.

Vice Chairman DiMaggio asked Mr. LaChance if he had stated that the western side of the Island Pond Road Intersection with Rte 111 needed to be widened and if the right turn lane at the intersection was too narrow or too short. Mr. LaChance responded in the affirmative and informed Mr. DiMaggio that the State would make improvements to the right turn lane as part of the planned improvements to the intersection in early April.

Chairman Killam recommended that the Board not give approval until they had a decision from DOT regarding the intersection.

Vice Chairman DiMaggio recommended that the Board give conditional approval of the site plan until they had a decision from DOT. Ted Stewart agreed.

Chairman Killam questioned if the Board wanted to have approval if DOT did not make enough improvements to the intersection for it to be safe with the additional traffic generated by the site.

Vice Chairman DiMaggio stated that it would be the same thing. Mr. Ted Stewart stated that the biggest improvement to the intersection was the engineering plan and traffic study submitted by the applicant.

Mr. Harold Morse asked Mr. Jordan when construction would start. Mr. Jordan replied that they planned to start as soon as they had the necessary approvals. Harold Morse stated that the State and the Board should expedite the plan because it would get people working.

Chairman Killam asked if there were any questions from the audience and there were none. She then asked for a vote from the Board. With 6 regular members present alternate Member Harold Morse did not vote. Chairman Killam asked again if there were more discussion or questions. Mr. Tim Dziechowski asked if the abutter in the Town of Hampstead had been noticed. Mr. Morse replied that he had spoken to the aforesaid abutter and he was looking forward to it.

Ted Stewart asked if the only outstanding issue was approval from DOT. Chairman Killam replied, yes that was the only outstanding issue. Member Ted Stewart then made a motion to conditionally approve the site plan dependent upon DOT approval of the driveway permit. Member Tim Dziechowski seconded the Motion.

Chairman Killam asked if there were any discussion before a vote. Vice Chairman DiMaggio replied that the biggest problem was the intersection and made a Motion to amend with an additional condition that the Planning Board concurs that the DOT improvements are adequate and suitable for more traffic. Chairman Killam asked for a second. There was no second. Chairman Killam commented that the Board could not make such a condition because the Board does not have any say regarding DOT decisions with respect to state highways. Member Ted Stewart agreed that the Board should not second guess DOT. Vice Chairman DiMaggio stated that the Board could only approve or disapprove and that it would be better to wait for a decision from DOT before the Board voted on the site plan. Chairman Killam asked if anyone else had comments.

Chairman Killam then stated that the Board would vote on the Motion by Member Ted Stewart to conditionally approve the site plan dependent upon DOT approval of the driveway permit. Members Tim Dziechowski, Chairman Killam, Joe Guisnard, Ted Stewart and Mike Fletcher voted in favor of the Motion. Vice Chairman DiMaggio was opposed and Member Harold Morse was not voting.

MHF Design Consultants, Inc., Mark Gross for Applicant P.J. Murphy Transportation, Inc. continued review of an Amended Site Plan as a Truck Transportation Facility for property located at 16 Industrial Way, Map 16, Lot 59, CI Zone. Taken under jurisdiction 11/5/08- Extended Jurisdiction 30 days

Chairman Killam opened the hearing on the above at 8:25 p.m. and read the list of abutters. An updated report from AcenTech, Inc. to Mr. Aaron LaChance was then added to the record.

Mr. Mark Gross then took the floor to review changes to the site plan since the last hearing of February 18, 2009. Mr. Gross stated that the new plan from the applicant shows an 8 foot earth berm and there had been correspondence with AcenTech. Mr. Gross stated that the applicant proposed to construct an 8" berm at the easterly corner of the site. The berm would have a 5 foot high fence at the top to provide additional sound attenuation.

Mr. Peter Guldberg of Tech Environmental then gave his report on the sound levels at the site with the addition of the berm and fence. He stated that he had modeled the noise levels of six trucks idling together in two configurations, the first with the cabs facing toward the berm and the second facing away. Chairman Killam asked if the 8 foot berm with a 5 foot fence was a new addition to the site plan and Mr. Guldberg replied that it was new and that a 13 foot high barrier would effectively lower the sound level to 35-36 decibels, 20 decibels less than the maximum allowed the Town Ordinances.

Mr. Guldberg then stated that he had met with AcenTech and they approved his analysis but stated that the sound level should be higher. Tech Environmental took measurements in February and the levels at the proposed site in Atkinson were within 20 decibels of levels at other sites but the TmN model, or a truck going at a speed of 5-10 mph should have been used. The sound level for this model is about 10 db higher than the model used by Tech Environmental. If the TmN model were used then the sound level at the site would be about 45-46 db because of the barrier. Instantaneous peak noise or a truck driving onto the site, decelerating and braking can't be regulated by the Town because it is regulated by the Federal Government. Tech Environmental tested the instantaneous peak noise level even though it is regulated by the Federal Government and it was 42 decibels at the residences in Salem. Tech Environmental also did models of the sound at the nearest commercial/industrial site, Semi Conductor Circuits and the maximum sound was 69 decibels. No one is at Semi Conductor Circuits at the time the applicant is planning to operate. A decibel level as high as 80 db is very common for trucks entering and leaving a site, but if the Town attempted to regulate trucks entering and leaving, there would be no truck deliveries.

Mr. Guldberg then asked if the Board had any questions.

Member Tim Dziechowski asked if the berm cleared jurisdictional wetlands in the back corner. Mr. Gross replied that the berm was beyond the 100 foot setback based on delineated wetlands by Gove Environmental.

Chairman Killam asked Mr. Aaron LaChance to give the report from AcenTech to the Board. Chairman Killam gave the audience some highlights from memo.

Ted Stewart asked about decibel levels. Mr. Guldberg replied that the decibel level drops by 6 decibels for every 500 feet of distance. Ted Stewart responded that the residences in Atkinson were approximately 2,000 feet away. Mr. Guldberg stated that the decibel level was approximately 40 db lower or in the range of upper 30's at the closest houses in Atkinson.

Vice Chairman DiMaggio asked if the barrier reflected or absorbed sound. Mr. Guldberg replied that the berm absorbed sound while the fence on top would reflect sound up and away. Vice Chairman DiMaggio asked if the barrier would reflect sound back to homes in Atkinson. Mr. Guldberg stated that the maximum amount of sound reflection would be 1 decibel and if the fence were a polished mirror and a home was exactly perpendicular then the maximum sound level from reflection would be 3 db. Mr. Dziechowski remarked that it would be the noise of an empty theater.

Chairman Killam asked if anyone on the Board had comments regarding the AcenTech letter and noise levels. Mr. Guldberg responded that the test with three trucks was taken in November with a sound power level of approximately 95 db. Other data was within 2.5 db the same. Three to six trucks were modeled. Three trucks were used and the model doubled the energy for six trucks. The numbers in Table 5 of the Tech Environmental report reflect 6 idling trucks as stated.

Regarding Mr. Berens report of the TNM model and his concerns of trucks moving past a microphone on a Federal highway, the closest measurements for trucks moving at approximately 5-10 mph to idling trucks, assuming 6 trucks the noise level would be higher by 10 db or 45-46 db.

Mr. Dziechowski stated that Mr. Murphy's application called for 14 trucks. Mr. Murphy responded that he had 6 cabs or power unit and 14 trailers and a dump body.

Mr. LaChance stated that the disparity in levels of sound in Mr. Beren's report and the field report by Tech Environmental was due to the fact that Mr. Beren's general field experience was different. The Board should not discredit the report by Tech Environmental because of the disclaimer in the report by Bob Berens.

Vice Chairman Paul DiMaggio asked about drainage calculations. Aaron LaChance stated that the parking area was hard-packed gravel, while the drainage analysis assumed pavement, the gravel was so hard packed, it wouldn't make much difference in the calculations. Vice Chairman DiMaggio any changes due to the berm. Mr. LaChance stated that the berm would not change anything regarding drainage from the site because it would be built perpendicular to the contour lines.

Mr. DiMaggio stated that the original plan had more pavement. Mr. Mark Gross stated that that was correct; the original Loren Realty Trust plan had more pavement. Mr. DiMaggio asked if that were in 1996 or 1997 and Mr. Gross replied that it was in 1997. Mr. DiMaggio stated that according to Town zoning regulations the parking area should be bituminous concrete and that the applicant needed to pave the area where the trucks would be parked. Mr. Murphy's operation would call for trucks with from 5 to 500 gallons of petroleum product and that the original plan required paving. Vice Chairman DiMaggio further stated that the Town had waived paving for other applicants in the past, but due to the nature of this operation, the parking area should be paved. Mr. Gross pointed out that the Loren plan had been amended to remove some pavement in May of 2008.

Mr. Joe Guisnard and Mr. Mike Fletcher both stated that the continuation was only for the sound issue. Chairman Killam stated that Vice Chairman DiMaggio had other concerns as well. Vice Chairman DiMaggio stated that Chairman Killam was correct, he had other concerns that needed to be addressed and that the site needed to be paved, citing SP 9 §670:5. Chairman Killam asked Mr. Gross to show the Board where the trucks would be parked. Mr. Gross stated that any place for parking employee vehicles will be paved. Chairman Killam asked where the trucks would be parked. Mr. Gross responded that the trucks would be parked behind the building. Member Ted Stewart asked if this

was a pre-existing site plan. Mr. Gross stated that this brings the proposed site plan to compliance with the approved amended site plan of May of 2008. Mr. Gross stated that the earlier site plan presented by Loren Realty had heavy construction equipment and that the Planning Board never required pavement for the parking area under the amended site plan. Member Ted Stewart stated that the present applicant was planning on parking oil tankers on the site and if he would have the courtesy of parking the oil trailers on the pavement. Mr. Murphy stated that the existing paved area would be used for employee and handicapped parking. Mr. Gross stated that the spaces on the concrete pad were required by your ordinance.

Vice Chairman Paul DiMaggio stated that the Town Ordinances 670:5 requires pavement for other vehicles as well. Vice Chairman DiMaggio further stated that the trucks require paving at a minimum and he would require nothing less than a pavement with a sloped drain into a catch basin. Ted Stewart stated that Difeo and Palmer Gas have a stock pile of petroleum products while this application has empty trucks and that there is a big difference between an operation with thousands of gallons of petroleum product on the site and one with empty trailers. Mr. DiMaggio stated that Mr. Murphy had informed the Board that if something goes wrong with one of the trailers it could be towed back to the site for repairs.

Member Tim Dziechowski stated that the requirements for above ground tanks and cargo trucks by DES according to DMV WM1404 is periodic inspection and vehicle recovery. He also stated that the EPA granted a waiver for spill prevention recovery for parked trailers and that the EPA only requires spill trays for leaking hoses. If the trailer is inside, then paving would be required. Mr. Dziechowski also stated that even though the EPA did not require pavement, he would greatly prefer that the applicant agree to pave the site. Vice Chairman DiMaggio again stated that Town regulations require paving, even though it had been waived in the past. Mr. Gross stated that that was incorrect, only off street parking. Mr. DiMaggio argued that historically the Town has always required paving unless specifically waived. Member Tim Dziechowski stated that paving had been waived many times in the past. Mr. DiMaggio replied that waiving the the requirement for pavement, it would increase the danger of oil from leaks and spills of getting into the Town water supply. Member Ted Stewart responded that the answer as to who will pay in the case of oil spills or a lost tanker is not Atkinson but the superfund. Mr. Stewart further stated that paving was not required by regulation and that the applicant had done more than anyone else in the Commercial Industrial Zone and he would like to see it moved to a vote.

Mr. DiMaggio then inquired about landscaping in view of the 1998 landscaping requirements. Mr. LaChance responded that he was not sure, that he only looked at drainage. Mr. Gross stated that landscaping was reviewed by Jill Robinson and that she stated that the landscaping requirements were met. Mr. DiMaggio then stated that there was no issue regarding landscaping that the berm would satisfy the noise issue and that the only issue he had remaining was paving for the parking area. Mr. Dziechowski asked if the applicant would extend the existing pad so that is would be big enough for the trucks. The applicant asked if he was talking about 6 trucks leaking oil. Mr. DiMaggio reiterated that Town Ordinance 670:5 required pavement. Mr. Harold Morse stated that 680:2d required paving only for trucks loading and unloading. Mr. Ted Stewart stated that the parking areas for Freshwater Farms, Cogswell Farm and the Community Center were all gravel. Chairman Killam agreed with Mr. Morse that the Town Ordinances only required pavement for areas where trucks would be loading and unloading. Mr. DiMaggio asked the applicant to think about it. The applicant stated that he was planning to pave the parking area in the future.

Chairman Killam asked if there were any questions from the audience. Mr. Keith Wolters stated that there were many people watching the Planning Board meeting from home by television and that he had several concerns: Regarding the letter from AcenTech, the first part sounds as if he agrees with the report by Tech Environmental but in the summation it disagrees. Mr. Wolters then read the summary of the letter from AcenTech into the minutes.

Mr. Wolters then stated that Sunday at 5:00 a.m. a truck pulled into 12 Industrial Way, he was sound asleep and the truck woke up him and his wife. The truck sat there idling, he called Atkinson police that a truck was parked illegally idling and that the dispatcher informed him that there were no regulations regarding idling trucks. He stated that setting up the site plan requires compliance. He also asked if the Town would limit the number of tractors to six. He stated that the dispatcher eventually sent an officer who escorted the truck out.

Chairman Killam stated that callers at 5:00 a.m. are getting the Plaistow dispatcher and it would be interesting to see if

the same would occur if he called Atkinson police. Mr. Mark Gross stated that the Atkinson police chief was aware of the ordinance and would enforce.

Mr. Wolters responded that the Atkinson police chief does not answer the phone at 5:00 a.m., that the Plaistow dispatcher is not aware of the regulations and that there is an enforcement issue; there is no enforcement by the Town. He said the Code Enforcement Officer informed him that he cannot help and he said the Code Enforcement Officer complained that the Planning Board will not enforce the regulations.

Mr. Brian Abraham, 3 Deer Run Road, Atkinson stated that the sound modeling was flawed and he was concerned about spikes in sound levels when vehicles are revving their engines and that the model was not valid. Mr. Peter Guldberg, Tech Environmental, responded that his firm modeled two situations: 1) 6 idling trucks and 2) trucks revving their engines. The peak sound level at the residences was 42 db, safely in compliance with Town Regulations. Mr. Ed Tomasi of Atkinson inquired about Atkinson residences. and Mr. Guldberg responded that the sound level near the Atkinson residences would be within 3 db of the sound level at the Salem residences.

Mr. Ed Tomasi then stated his concerns to the Board:

1) The parking lot and people going in and out.

2) the Town can regulate concentration of activity, for example what if the current applicant sells and it turns into a Fed Ex site; the Town needs to regulate how many trucks could be used at the site.

Mrs. Repetto stated that the applicant needs to abide by the rules and that other agencies will monitor activities. She also stated that P. J. Murphy has a history of violations; and the City of Boston has cited drivers for the firm many times. One driver was arrested for hit and run while driving a tanker. She stated that the Department of Transportation ranks drivers on the seriousness of the offense and 17 moving violations were too many. She stated that it was better to prevent these types of occurrences in Atkinson.

Mr. Murphy objected stating that all the violations in the City of Boston were thrown out of Court by the Magistrate. He stated that 397.67 was a Department of Transportation rule restricting trucks on congested streets and that the Magistrate throws every case out of Court. He also stated that bringing up the drunk driver was a low blow. That he was a good man who was having trouble at home. Regarding the insurance lapses cited by DOT, every time there is a change of insurance company there is a lapse. He stated that his firm has no record of violations with DOT safety regulations.

Ms. Laurie Thibeault stated that she could hear the truck at 12 Industrial Way at more than 1500 feet. Six or more trucks with back up beepers, hitches and engines would create a lot of noise.

Mr. Frank McShane expressed concern about full trucks and the rare cases a truck would break down and the assumption that there would not be 10,000 gallons of fuel near home wells. Mr. McShane also stated that the Board did not have to approve this application just because it had approved other trucking companies. He also stated that he agreed with Mr. Keith Wolters comments regarding establishing the number of trucks and empty trucks.

Chairman Killam asked if there was more discussion. Member Mike Fletcher made a Motion to approve the application. Chairman Killam stated that there were six voting members and stated that she would abstain so that there would not be a split vote like there was at the last meeting. Chairman Killam asked Member Mike Fletcher to clarify his motion. Mr. Fletcher made a Motion to approve the truck facility at 16 Industrial Way, P. J. Murphy Transportation Company with the provisions that it meets all site requirements. Member Joe Guisnard seconded the motion. Chairman Killam asked for discussion

Vice Chairman Paul DiMaggio stated that he would move to amend the Motion by Mr. Mike Fletcher to add footnote 23 on the site plan stating that the site would be limited to 14 trailers and 7 tractors at any one time and add Footnote 24 stating that no tankers with more than 100 gallons of fuel of fuel oil or hydrocarbons other than required for propellant fuel for the unit. He stated that the foot notes have to be on the page to be recorded with the Registry. Mr. Gross stated a point of clarification; the plans were amended on February 26, 2009 with the addition of the berm and

barrier. Mr. Gross further stated that the restrictions of footnote 24 would not allow heating oil deliveries. Vice Chairman DiMaggio stated that note 24 should be changed to add fuel oil delivered to the site.

The amendment by Paul DiMaggio to the Motion by Mike Fletcher was seconded by Member Tim Dziechowski.

Member Ted Stewart stated that the amendment would be limiting growth before it starts. Chairman Killam stated that the change would be an amendment to the site plan. Member Ted Stewart stated that the site was in an industrial area and that the Board had just amended the site plan for Palmer Gas to accommodate growth. Mr. Stewart inquired as to the comfort level of the applicant. Mr. Murphy responded that he was very uncomfortable with the proposed amendment to the Motion to Approve. Ted Stewart remarked that the applicant should not have to go through a site plan change if he wishes to add another cab. Vice Chairman DiMaggio responded that the site plan already states that the applicant would have 7 cabs and 14 trailers. Mr. DiMaggio stated that the Board should have a sound study with seven tractors running.

Chairman Killam requested a vote on the amendment by Vice Chairman DiMaggio to the Motion to Approve. Two members, Vice Chairman Paul DiMaggio and Tim Dziechowski voted in favor of the amendment to the motion to approve, with Ted Stewart, Joe Guischar and Mike Fletcher voting against and Chairman Killam abstaining. The amendment failed

Vice Chairman DiMaggio made another motion for a second amendment to the motion to approve that it be notified in Note 23 that no trucks would be on the site with more than 100 gallons of hydrocarbons excluding fuel for the trucks and for trucks delivering fuel to the building and that the motion would be to approve the plan dated February 26, 2009 with the berm and barrier. The motion by Vice Chairman DiMaggio was seconded by Member Joe Guischar. Chairman Killam requested a vote.

Mr. Tim Dziechowski stated that this second amendment to the motion to approve would exclude repairs of trucks with more than 100 gallons of fuel in the tanks. Mr. DiMaggio stated no, but there was no spill prevention so it was a good idea. Mr. Mike Fletcher stated that the normal practice was to send a tractor to pick up the trailer and haul it to where it was going if the cab broke down. Mr. Paul DiMaggio asked how the applicant felt and Mr. Murphy stated that it was unacceptable, he would not even be able to fix a flat.

Chairman Killam requested a vote on the second motion to amend the motion to approve. The Board voted two in favor, Vice chairman DiMaggio and Member Joe Guischar and three opposed, Members Mike Fletcher, Ted Stewart and Harold Morse. The amendment failed.

Vice Chairman DiMaggio made another motion to amend the site plan so that the developer would pave a 60 x 120 square foot area. Member Ted Stewart stated that it would cost around 15-20 thousand dollars. Mr. Paul DiMaggio asked if the developer would approve. Mr. Murphy stated that he would probably pave the parking area in the future but the cost would be closer to \$50 thousand. Mr. DiMaggio withdrew the motion because he could not force the developer to pave the parking area under current Town ordinances.

Chairman Killam stated that the Board was back to the original motion by Member Mike Fletcher to approve the plan provided it meets all site requirements. Mr. Tim Dziechowski moved to amend the motion to specify the plan date of February 26, 2009 including a berm and barrier referenced by the applicant on a Note to the plan. Mr. Paul DiMaggio seconded the motion and the Board voted unanimously to approve the amendment to the motion to approve the plan.

Vice Chairman Paul DiMaggio again gave the Board his email of February 28, 2009 citing the following:

- 1) the Commercial Industrial Area is for Atkinson home businesses to move out of residential areas;
- 2) a trucking transportation terminal is not listed in the Ordinances as a permitted use – it is not allowed in Town;
- 3) according to Z400:2, heavy trucking activities near a residential area are obnoxious and not permitted;
- 4) Site Plan Ordinance 310:2 – the comfort and welfare of existing residences;

- 5) Site Plan Ordinance 320:1b – lighting;
- 6) Site Plan Ordinance 520 – it is an obnoxious use;
- 7) Site Plan Ordinance 610:2 – Planning Board may require applicant to alter plan in interest of safety and health
- 8) 6180:1a contradicts 6180:2 regarding decibel level and Town Ordinance 74:16 states the stricter shall apply if there is a contradiction.
- 9) 670:5 require the parking areas to be paved.

Chairman Killam requested a vote on the Motion by Member Mike Fletcher to approve the amended site plan of February 26, 2009 with a berm and barrier and seconded by Member Joe Guischar. The Board voted 3 in favor, Members Mike Fletcher, Joe Guischar and Ted Stewart with 2 opposed, Vice Chairman Paul DiMaggio and Member Tim Dziechowski. Chairman Killam abstained.

The Planning Board meeting continued with a workshop discussion regarding violations to the zoning board ordinances by industrial condominium owners and renters and whether a change of use needed to be approved by the Town if the owner sells part of the site or rents it and the tenant uses it in a way other than on the original site plan. Mr. Paul DiMaggio stated that changes of use could be caught during annual fire inspection and that tenants and condominium owners should request a permit for change of use. Ted Stewart stated that the issue needed clarification. Mr. Tim Dziechowski stated that he wanted to know more. Chairman Killam recommended that the Board start with the Rockingham Planning Commission. Mr. Tim Dziechowski stated that he would ask around to other communities.

Mr. Tim Dziechowski then announced that the Prime Wetlands Report was on the Town web page and that maps designating proposed prime wetlands would be available in the planning office. Chairman Killam stated that of the prime wetlands on the ballot, portions of the named bodies of water have been designated by the consultants who conducted the prime wetlands study. Designated areas shown on the maps have a blue line around them. Chairman Killam recommended that anyone who thinks that they have property near a prime wetland should go to the planning office to check on the map.

Member Tim Dziechowski reiterated that what constitutes prime wetlands is outlined on the available maps by a blue line. The Prime Wetlands do not include streams and other bodies going into or out of the areas designated by the blue lines. Chairman Killam stated that experts evaluated ten to twelve criteria to designate prime wetlands. Mr. Tim Dziechowski stated that one wetland on Hall Farm Road is smaller than the usual criteria because it can be used for school kids because it is so easy to get to. Member Harold Morse stated that the example cited did not need to be designated as prime wetlands because of the buffer zone. Mr. Morse also stated that the Town needed to look at the State designations and regulations as far as streams and other bodies, as well.

Member Tim Dziechowski stated that only the Planning Board can put Wetlands on the Ballot, that 150 feet buffer zone is unrealistic. The State requires a 100 foot buffer zone and that the Town of Salem requires 100 feet.

Vice Chairman DiMaggio stated that he thought the buffer zone in Atkinson had always been 150 feet. Chairman Killam responded no.

Mr. Mike Fletcher made a motion to adjourn. The motion was seconded by Mr. Ted Stewart and the Board voted unanimously to adjourn the meeting. Chairman Killam adjourned the meeting at 10:28 p.m.

Minutes prepared from Notes and DVD. Respectfully Submitted,

Karen Wemmelmann

APPROVED _____ 4/1/09 _____

Amendments to March 4, 2009 minutes are as follows:

Page 4, Height of berm should be 8'.

Page 5, 5th paragraph, correct spelling word 'fenc' to 'fence'.

Page 10, second paragraph, replace name 'Harold Morse' to 'Tim Dziechowski'.

Motion to approve the minutes of March 4, 2009 was made seconded and approved.