

**BOARD OF ADJUSTMENT**

**OCTOBER 20, 2009**

**MEMORIAL BUILDING**

**7:00 P.M.**

*The following are to be considered draft minutes only until approved by the Board at their next meeting.*

Present: Chairman Cynthia Hayes, Barbara Dunlap, Kathy Richardson, and Gene Hayes.  
Absent: Bill Sullivan, and Kevin Waite.

Cynthia called the meeting to order at 7:00 p.m.

Minutes of October 6, 2009; Barb noted a correction on page 3, last paragraph "*Prior to the decline in the economy he had 28 employees.*" Corrected to read "Prior to the decline in the economy he had 28 employees on site in Springfield." Cynthia noted page 1 "*Dan Dash*" should be corrected to "Dan Nash". Barb moved to accept the minutes as corrected, seconded by Kathy. Barb, Kathy and Cynthia voted in favor. Gene abstained as he had not finished reviewing the minutes.

G.H. Evarts – Deliberation for application for Special Exception as specified in Article III, Section B.2. Present: George Evarts. Also Brooks Weathers, Steve Berkeley, and John Trachy.

Cynthia opened the deliberations and explained the Board is to decide if the request should be granted or denied for the addition of a sawmill at the present lumber processing facility. Cynthia advised if the Board thinks the Special Exception should be granted, they may add conditions, if the Board thinks it should be denied there needs to be reasons stated why based on the Ordinance.

Barb stated that she does not believe that the use is substantially different. She sees sawing logs, the same as milling and sawing lumber which has always been the scope of the lumber production that exists on that site. Cynthia questioned where this then takes her. Barb stated this takes her to the Special Exception where this is a pre-existing non-conforming use. Cynthia stated if it is a pre-existing non-conforming use then she still needs to decide if this fits in this instance. Barb stated she felt this still needs a Special Exception because this is changing the scope of the business.

Cynthia read the definition of Article VIII. Cynthia stated they are adding a new structure; they are not taking an existing non-conforming structure and making it more non-conforming. They are adding a new structure and adding a log landing so she feels that the Board has to look at all the other standards of the ordinance. Barb stated she does not see that the use is substantially different but she does, however, have issues with the amount of impact the log yard is going to have on the wetlands buffer

Kathy stated she interprets Article VIII as referring to structures that existed before the ordinance was put into effect. She would not have the same concerns if the proposal was being made in the area of the existing structures. It is her opinion that under Article IV 4.14 under permitted uses,

the sawmill itself is not in question because it is not in the wetlands buffer zone. The buffer zone is what she is looking strongly at. The sawmill requires a log storage yard that is being proposed within the wetlands buffer zone. Under 4.14 the ordinance states permitted uses will not alter the natural surface configuration by the addition of fill or dredging. Her concern is the log storage area does alter the natural configuration of the land. Kathy stated also the attorney had pointed out that Article 4.14 (H) talks about alterations and configuration of the land within the buffer zone. There is nothing existing there other than forested area, so it is her opinion that (H) does not apply. Article 4.14 also refers back to Article VIII. Article VIII refers to what was all ready there before zoning. Her concern is with the buffer zone. The buffer area is there for a reason. The Board needs to consider that very carefully, and she does not see that 4.14 H is a loop hole around that.

Barb stated she is concerned with Article VIII “all other standards of this Ordinance are met”, she believes the wetlands become involved under this article. Cynthia and Gene agreed they have issues with the wetlands as well.

Gene stated that this proposal is not talking about an existing structure. They are talking about adding a structure. In regard to the issue raised by Attorney Schuster, RSA 672:1 3C, this statute speaks to harvesting and transportation of timber, this does not speak to a lumber operation. Also, there is the argument about noise and its frequency, it is not about volume. It is the increased amount of noise being proposed and he feels this would have a definite impact on property values in the area.

Cynthia stated that it makes business sense to have the operation all in one place. Because the present business all ready impacts the quality of life of people in the area, and as brought up that it lowers home values, the Board needs to look at this carefully. However, the noise is a more nebulous area. The major area of concern is the wetlands. She indicated that Mr. Nash’s buffer line did not depict the wet area A & C as jurisdictional wetlands. Mr. Spear said they were jurisdictional wetlands. To minimize impact the log landing area has been moved back away from the wetlands, but in moving it back it almost allows no buffer along Route 4A which then could influence any noise that takes place. Getting away from one problem causes another problem. Based on the definition of the wetlands and the buffer, she believes the Board would be ignoring the strength of the Ordinance if they allowed a log yard there. She read the conditions of Article 4.12. She stated she does not feel the site is appropriate for what is being asked because of the wetlands. She felt that there were not a lot a options on the whole property due to the conditions of the land.

Barb stated she is also concerned with the culverts draining into the wetlands, versus draining through the buffer area as they do now.

Kathy stated that Mr. Spear indicated the culvert drainage would not have a large impact on the wetlands. Barb questioned if there is evidence that the proposed culvert drains would offer the same protection as exits with them draining through the buffer. Kathy stated her concern is with

animal life, aquatic life, vernal pools and the potential for a lot of life that exists there to be disturbed. The Wetlands Conservation District was put in place to offer protection.

The Board agreed that the noise issues are an important concern of the abutters, but without a stronger ordinance, it makes this a gray area. Cynthia felt if the wetlands weren't an issue, there would be ways to put conditions to help lessen the impact of any impending noise the new operation may generate.

Cynthia questioned if the Board was ready to move a decision. She stated if the application was granted, the Board could place conditions on the approval, if it was denied, the Board needed to state their reasons why.

A motion was made by Gene to deny the application as filed based on the facts that were gathered in regard to the impact on wetlands, and potential degradation of property values in the area from an expansion of this sort in that neighborhood. The motion was second by Kathy. In discussion, Kathy asked if the Board should also state that the application did not fall within The terms of Articles 4.14 and 4.16.

Following discussion, Kathy moved to amend Gene's motion to include the proposal does not fall under the terms of the Ordinance Permitted Uses 4.14 and Permitted Uses by Special Exception 4.16.

The Board discussed whether something should be added relative to the conditions of Article VIII. The Board agreed not to include that. Kathy's motion for the amendment was seconded by Gene. Cynthia polled all those in favor of the amendment. Kathy, Barb, Gene and Cynthia voted in favor of the amendment to the motion.

Gene, Barb, Kathy and Cynthia all voted in favor of the original motion to deny the application.

Cynthia explained to Mr. Evarts that the application has been denied due to the wetlands issue. She explained the appeal procedure to him.

Cynthia thanked Mr. Evarts and the Board for the time and effort put into this application.

Packets for a Special Exception Application for the November 3 meeting were distributed to those members present.

The Board voted to adjourn at 7:40 p.m.

Respectfully Submitted,

Janet Roberts,  
Recording Secretary