

MINUTES
PEMBROKE ZONING BOARD OF ADJUSTMENT
July 26, 2010 Approved 8/3/10

MEMBERS PRESENT: William Bonney, Chair; Bruce Kudrick, Vice Chair; Dana Carlucci, Tom Hebert, Tom LoPizzo

ALTERNATES PRESENT: Mark Simard, Paul Paradis

EXCUSED: Mick Pinard

STAFF PRESENT: Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Chairman Bonney called the meeting to order at 7:05 p.m.

PUBLIC HEARING

Case #10-14-Z

Applicant: Duane and Paula Nelson
421 Deerpath Lane
Pembroke, NH 03275

Property Owner(s): Duane and Paula Nelson
421 Deerpath Lane
Pembroke, NH 03275

Property Address: 421 Deerpath Lane
Pembroke, NH 03275
Tax Map 565 Lot 173 located in the R1 Medium Density-Residential,
Zoning District

Variance from *Article I Section 143-21 (Table of Dimensional and Density Regulations)* of the Zoning Ordinance to construct a 24-foot by 24-foot 2-stall garage beside their existing residence. A Variance is required because the garage will be within 7 feet of the side property line, where a 15-foot side setback is required in the R-1 zoning district. The property is located at 421 Deerpath Lane.

Mr. Everett Hodge confirmed that all abutters were notified and that cards were received back from all abutters.

Chairman Bonney opened the public hearing at 7:05 p.m.

There were 5 regular members and 2 alternate members; therefore, there was a full five member board present for this hearing. Chairman Bonney explained the rules of the hearing.

Copies of assessment card, tax map, Plot Plan and Denial Notice dated 6/18/10 from Everett Hodge, Code Enforcement Officer, were included in the application packet.

The applicant is requesting permission to construct a 24-foot by 24 foot 2 stall garage beside their existing residence. The garage will have a 7-foot side setback where 15 feet is required.

Duane Nelson stated that he and his wife have lived in Pembroke more than 30 years. The lot is small, about 1/3 acre, and the unique topography is a runoff behind the house that comes down from the hill. The other side of the lot has the well for the house. In response to Board questions about how close the nearest house would be from the garage, Duane stated it would be 15 feet on the neighbor's side plus 7 feet on his side, so the nearest house would be 22 feet from the proposed garage. Duane Nelson clarified the location of a door onto a deck, then a walkway to the driveway that they use to access the house. In response to Board questions about whether they could get along with a one-stall garage, Duane stated that they actually have five vehicles and would prefer a 2-stall garage. A 2-stall garage is customary and adds more value to a home at this time. The garage could not be moved closer to the house because it would impinge on the deck and stairway. A letter dated 7-26-10 from Butch and Marie Ayles, 429 Deerpath Lane, who are fully in favor of the proposal, was read into the record.

Duane Nelson addressed the criteria necessary for a Variance as they applied:

Please describe how the requested variance would comply with the following criteria:

- 1) The variance would not be contrary to the public interest because *other houses in the area have garages.*
- 2) The spirit of the ordinance is observed *because the required 30% open space is maintained on the lot.*
- 3) Substantial justice is done *because this is a small lot and beside the house is the only place to put a garage.*
- 4) The values of surrounding properties are not diminished *because our property value will increase.*
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - (A) Owing to special conditions of the property that distinguishes it from other properties in the area:
 - i. No Fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: and
 - ii The proposed use is a reasonable one.
Due to the small size of the lot, this is the only area available on the lot to locate a garage.
 - (B) If the criteria in subparagraph (A) are not established, then, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.

Chairman Bonney summarized the case. The case is #10-14-Z. The applicants have lived in their home over thirty years, and wish to add a 24' x 24' two-stall garage. The garage would have a 7-foot side setback where 15 feet is required. It was stated that the garage would increase taxes and the property value. The applicant talked about moving the garage and the difficulty that would be encountered. A one-stall garage was considered but the applicant has not only 2 vehicles, but 5 vehicles.

There being no further input, Chairman Bonney closed the public hearing at 7:19 p.m.

Deliberations: Bruce Kudrick noted this is a case involving another 1960's housing development, where ranch houses were placed on very small lots. The other side of the house has a well. Similar homes in the area have two-stall garages. A safety issue would arise if the garage blocked access to the walkway and door

off the deck. Tom LoPizzo agreed that a 2-car garage makes a property more valuable. If the garage were placed in the back, it would be in the swale and the applicant would have to extend his driveway. The hardship is that the pre-zoning ordinance property does not meet current setbacks.

Chairman Bonney led the ZBA through a review of the criteria for a Variance. 1) The proposal would be in the public interest, because there was no testimony against it. 2) Substantial justice is done because the lot is small and pre-dates zoning, 30% open space remains on the lot. 3) Other locations were considered and the proposed location is the only area on the property where the garage could be located. 4) Property values would increase and 5) The proposed location is the only place the garage can be located.

Dana Carlucci noted that the development is a cluster subdivision without open space, similar to Sherwood Meadows.

Motion: Bruce Kudrick moved to grant a Variance to construct a 24' x 24' 2-stall garage at 421 Deerpath Lane where the garage will extend 7 feet into the 15-foot side setback at Map 565, Lot 173 in the R1 Zoning District with the following conditions:

- 1) Must follow all state and local regulations.
- 2) Will be built according to plans submitted with application to the ZBA on 7-26-10.

VOTE: TOM L- Y DANA - Y BRUCE- Y
 TOM H Y BILL - Y

MOTION TO GRANT A VARIANCE AT 421 DEERPATH LANE, MAP 565 LOT 173 TO ALLOW CONSTRUCTION OF A GARAGE IN THE SIDE SETBACK APPROVED WITH CONDITIONS ON A 5-0 VOTE

PUBLIC HEARING

Case #10-15-Z

Applicant: Continental Paving
 C/o Rick or Mark Charbonneau
 1 Continental Drive
 Londonderry NH 03053

Property Owner(s): Continental Paving
 C/o Rick or Mark Charbonneau
 1 Continental Drive
 Londonderry NH 03053

Agent: Nobis Engineering
 Attn: Brett Kay, E.I.T., Assistant Project Manager
 18 Chennell Drive
 Concord NH 03301

Property Address: 773-793 North Pembroke Road
 Pembroke, NH 03275
 Tax Map 559 Lot 6 located in the R3 Rural/Agricultural-Residential Zoning

District, and AC Aquifer Conservation Zoning District

Special Exception under *Article IV Use Regulations, Section 143-19 Table of Use Regulations*. The applicant, Continental Paving, c/o Rick or Mark Charbonneau, is requesting permission to construct an asphalt plant at 773 to 793 North Pembroke Road. A **Special Exception** is required for this use in the R-3 Zoning District. The property is located at Map 559 Lot 6 in the R3 Rural /Agricultural -Residential Zoning District, and the AC Aquifer Conservation Zoning District.

Mr. Everett Hodge confirmed that all abutters were notified and that cards were received back from all abutters.

Chairman Bonney opened the public hearing at 7:25 p.m. Tom LoPizzo recused himself from the Board because he is an abutter. Paul Paradis was designated to vote for Tom LoPizzo on Case #10-15-Z.

There were 4 regular members and 2 alternate members; therefore, there was a full five member board present for this hearing. Chairman Bonney explained the rules of the hearing. Chairman Bonney stated that the board’s decision is based on the facts presented by the applicant. If any of these facts are subsequently discovered to be different than as presented, the board reserves the right to reconsider its approval.

Copies of Conceptual Overview Plan dated July 2010 from Nobis Engineering, copy of a prior Notice of Decision #99-21-Z dated December 16, 1999 regarding a previous request to reestablish an asphalt plant on Ricker Road, Finding of Facts and Letter of Opinion in Support of Asphalt Plant from Nobis Engineering, both dated July 2, 2010 RE: FILE 82560.01 were included in the application packet.

The Recording Secretary read three letters into the record:

- 1) dated July 22 , 2010 from Concord Planning Board
- 2) dated July 23, 2010 from Carlos Baia, Deputy City Manager Development, City of Concord
- 3) dated July 23, 2010 from Nobis Engineering

The letters from the City of Concord expressed concern for impact on the Concord Wells abutting the property, as well as other concerns and requested that this case be deemed a public hearing concerning a Development of Regional Impact under RSA 36:56. Brett Kay, EIT, Assistant Project Manager, Nobis Engineering, stated that the applicant is not opposed to declaring this case a Development of Regional Impact and would like time to meet with the City of Concord.

Motion: Bruce Kudrick moved to declare application #10-15-Z from Continental Paving Inc. regarding Map 559, Lot 6 at 773-793 North Pembroke Road a Development of Regional Impact under NH RSA 36:56 and table the application to the next ZBA meeting on August 30, 2010 at 7:00 p.m. Dana Carlucci seconded.

Discussion: Bruce Kudrick noted that the proposal does affect City of Concord wells downstream from the property. This would give the applicant time to meet with the City of Concord and review correspondence.

VOTE: PAUL - Y DANA - Y BRUCE- Y
 TOM H - Y BILL - Y

MOTION TO DECLARE APPLICATION #10-15-Z FROM CONTINENTAL PAVING A DEVELOPMENT OF REGIONAL IMPACT UNDER NH RSA 36:56 PASSED ON A 5-0-VOTE. PEMBROKE ZBA APPLICATION #10-15-Z IS TABLED TO AUGUST 30, 2010 AT 7:00 PM.

All interested parties are invited to attend the August 30, 2010 ZBA meeting.

PUBLIC HEARING

Case #10-16-Z

Applicant: Project Launch 13
Mark Ballard, President
130 Pembroke Road, Suite 250
Concord, NH 03301

Property Owner(s): PPG Development LLC
Route 3 across from Route 106
Pembroke, NH 03275

Agent: James Doherty III
Director of Sustainability and Architectural Design
H L Turner Group
Concord NH 033012

Attorney Timothy Chevalier
J Miller and Associates
100 Hall Street
Concord NH 03301

Property Address: 612-644 Pembroke Street
Pembroke, NH 03275
Tax Map 634 Lot 47 located in the SR Soucook River Development District,
and the AC Aquifer Conservation Zoning Districts

Variance under Article IXA Soucook River Development SR District, Section 143- 72.6 (Permitted Uses) of the Zoning Ordinance to construct a 4-year, accredited Baptist College at 612 to 644 Pembroke Street, Route 3. The property is owned by PPG Development LLC. A Variance is required for this use in the Soucook River Development District.

Mr. Everett Hodge confirmed that all abutters were notified and that cards were received back from all abutters. In response to a question as to whether the Pembroke Board of Selectmen was noticed, Everett Hodge confirmed that Linda Williams signed the Certified Mail receipt.

Chairman Bonney opened the public hearing at 7:55 p.m.

There were 5 regular members and 2 alternate members; therefore, there was a full five member board present for this hearing. Chairman Bonney explained the rules of the hearing. Chairman Bonney stated that

the board's decision is based on the facts presented by the applicant. If any of these facts are subsequently discovered to be different than as presented, the board reserves the right to reconsider its approval.

Copies of assessment card, preliminary drawings for 612-644 Pembroke Street dated 6/2/10 prepared by H.L. Turner Group Inc, of Concord NH, topography map, and copy of Foreclosure Deed from Bank of New England to PPG Development LLC, as recorded at Merrimack County Registry of Deeds, Book 3148 Page 412 on August 5, 2009 were provided with the application packet. A letter dated June 28, 2010 from PPG Development LLC authorizes Mark Ballard to apply for a variance on the property located in Pembroke NH, consisting of 132.6 acres, also known as Map 634, Lot 47 with the understanding that a letter of intent will be filed no later than July 19, 2010.

The applicant desires to purchase this property to build a 4-year, accredited Baptist College on the site. The campus conceptual drawings are attached to the application, and show the following: chapel, library, education building, administration offices, male dorm, female dorm, student center, two 4-family homes (married students, faculty transition), guest house, and President's home.

Mark Ballard, President, Project Launch 13, gave an executive overview verbally and in a memo dated 7-26-10. Mark has been a Suncook area resident for over 12 years (Allenstown home and Pembroke office). He believes Pembroke's emphasis on quality of life, education and general atmosphere provide the perfect setting. The college will benefit the town by providing jobs, as well as educational and recreational opportunities. The location is convenient to Routes 3 and 106, the interstate and an airport. All of the utilities we need are here. We will not encroach on any neighborhood. The last attempt at development provided a traffic survey done by State of NH Department of Transportation, and shows that the road would support our use (less impact than prior plan). We will protect the environment in the back section. This is the best location we could find for our college and our proposal fits with the Pembroke Master Plan. We are here tonight seeking a Variance with the knowledge and consent of PPG Development LLC, the property owner. We want to build a New England style campus, have a positive and productive relationship with the town. We will build the campus off the road and it will enhance the surrounding property.

The unnecessary hardship is that we searched Pembroke and the Capital region for a property that fits our needs and has roads and utilities. We envision a campus where you are immediately impressed. Regarding criteria #5, the uniqueness of this piece of property is its location, and access to utilities.

Attorney Timothy Chevalier stated that the lot is bordered by Concord, bordered by a river, has one access point, and is very hilly. Prior projects proposed leveling the land. We would maintain the hills and establish conservation areas and trails. The power lines physically limit the developed area. It is best to have a unified, centralized development. The college would have a library, eating establishments, business offices, and classrooms. There would be ball fields and hiking trails. We would have water protection and conservation areas.

Selectman Larry Preston stated that the Town of Pembroke created a TIF District for commercial development. We would like to extend an invitation to locate a college on the right piece of property. The major difference is that a non-profit is not paying taxes. The town spent considerable money to bring water, sewer and other infrastructure to the area. Pembroke has recently lost acres to the National Guard.

Attorney Timothy Chevalier addressed the criteria necessary for a Variance as they applied:

- 1) Granting the variance would not be contrary to the public interest because *the land subject to this application is currently zoned as Commercial/Light Industrial (C1) and is part of the Soucook River Development District SRD. This application seeks to use part of the property for educational purposes. A variance is necessary because the C1/SRD Districts are not zoned for use as a college. While a college is not one of the listed uses, the applicant believes that a college on this land would be consistent with the town's master plan (Economic Development, Housing, and Natural Resources), the character of the surrounding area and the intent of the zoning regulations. Many of the regulations that apply to the SRD District would be applicable to this development.*
- 2) The spirit of the ordinance is observed: *The use of this property as a college would not pose a threat to public health, safety or welfare of abutters, and the neighborhood as such is a safe location for students.*
- 3) Granting the variance would do substantial justice: *By allowing this variance, the town would be permitting development of land that has not been developed under its current zoning requirements. The applicant has been told that the prior owners have been attempting to develop this land since at least 2003. These attempts failed, and the property was sold at foreclosure in June 2009. Allowing the property to be developed for the proposed use will enable undeveloped land to become a productive part of the town. The proposed use is consistent with the Town's goal of protecting the Soucook River. The burden on police and fire municipal services should be minimal. It is likely a majority of students would not have children, and therefore will not burden the school district. The largest drawback to the town in allowing this development is likely that, as a non-profit, it will be exempt from property taxes. In spite of this loss, the development should bring more customers to local businesses and will draw more people into town. This property is a prime location for this development. It is large enough for the entire campus, has good access to roads and utilities, and it has undeveloped areas for trails and recreation areas.*
- 4) The values of the surrounding properties will not be diminished: *The applicant is willing to cooperate with the town through the upcoming process to develop the property consistent with the requirements of the SRD District. The applicant has surveyed other properties properly zoned for this use, but they were not large enough for the intended development.*
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - (A) Owing to special conditions of the property that distinguishes it from other properties in the area: *Use of this property as a college is not substantially different from the allowed uses. A college will meet many of the purposes of the zoning ordinance, and the master plan.*
 - i. No Fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: and
 - ii The proposed use is a reasonable one.
The proposed use is reasonable because it is consistent with development in the area, will not hurt surrounding property values, and will allow development consistent with SRD District requirements. This property is a large lot in a prime location. In spite of that, previous development efforts have failed. The property was sold at foreclosure in 2009 for less than \$5,000 per acre. If no variance is granted, this proposed development cannot happen. Given the size of the lot and the topography, it is possible to develop in a way that will meet the unique needs of a college while still respecting the goals and requirements the town has for this land. The applicant has been unable to find a similar piece of real estate

large enough for the applicant's needs, while also having roads, utilities and other services needed for this project.

- (B) If the criteria in subparagraph (A) are not established, then, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.

The primary purpose of the TIF was to put infrastructure in place and generate new commercial business, and generate taxes. Pembroke is in favor of educational facilities and non-profits, but not in the middle of a commercial district. Residents have spent 20 years paying to bring sewer into this district. This proposal is totally against the spirit of the Soucook River Development District/TIF.

Mark Ballard stated in response, our intent is not to diminish taxes. Faculty and students will spend money. Tom LoPizzo asked about the size and scope of the college. Mark Ballard stated we plan to launch with 100 students and grow to 300-350 students. On the diagram, he pointed out the centrally located chapel, office and administration to the right, library and classrooms to the left. Male and female dorm facilities will house 40 of each gender initially. The student center will have a bookstore, workout gym, eating facilities etc. Two four-family buildings are planned for married students and transitioning faculty. The launch date is projected as August 2013. There would be 6 majors, with 2 faculty for each major, and a general faculty for math, English, science. Paulette Malo, Sewer Commissioner, stated that gallonage had been calculated at upwards of 35,000 gallons per day, and there is no capacity at this time.

Mark Ballard stated we met with the Water Department, Town Planner and Sewer Department. We were advised to go the ZBA next. We met with Police Chief Lane, and left information for the Fire Chief. We plan to use one quarter of the 132 acres initially, then expand to the rear and develop fields on the left. There are 80 acres behind the power lines, which leaves 50 acres in front of the power lines. We plan to use half of what is in front of the power lines for the launch. It was noted that a major, high-pressure gas line crosses the property on the right. Bruce Kudrick noted that the gas line cannot be tapped into or be disturbed. Dana Carlucci asked how long the road into the campus would be. James Doherty stated the proposed road would connect at the signalized intersection and loop to access the chapel. The road will be about 800 feet. Bruce Kudrick asked if you were to purchase the property, would you be willing to give an easement on the southwest corner to Associated Grocers for use in the future? Attorney Timothy Chevalier stated we would be willing to discuss the possibilities; that is an interesting suggestion. To clarify, this is a preliminary request for a variance on property we have not purchased yet. If approved, we will need to provide more details to the Planning Board.

Steve Murphy, CFO and Treasurer, Associated Grocers, stated that AG is highly concerned about the loop road. Our interpretation of the plans presented by the college is that it will do away with our ability to connect to Route 106. This is critically important and essential to our operations. AG built Cooperative Way to town standards at a cost of \$670,000. We considered this an investment in our future. Our sales have increased \$100 million dollars since 2004. We will be looking to expand our facilities. Our hope is that Cooperative Way will be connected with Route 106, as was the intent of the TIF District. This is the 18th recession since the 1800's and we will all come out of it again. AG has put over \$30 million dollars into its

Pembroke site and plans to expand in the not too distant future. We have a major objection to this proposal, in that it stops the loop road from ever happening.

Dwayne D'Agnese, 132 Portsmouth Street, Concord, owner of the lot abutting AG, stated he was involved with the town committee during the creation of the TIF. In the economic interest, the loop road was a very important component. A college is a self contained unit. Students will eat and play at school.

Dianne Schuett, 533 Pembroke Street, stated we currently have more than our share of non-profits in town. Pembroke citizens have invested in this area. Locating a non-profit college there is completely contrary to the will of the citizens.

Ms. Newell, 549 Pembroke Street, abutter across from AG stated that AG has contributed a lot to the Pembroke tax base. The town needs more commercial property development. This college will bring people and jobs into Pembroke, but students will be more likely to spend their money in Concord. I am a grad student. Will I be able to use the Baptist College Library? Would I be able to teach there? I ask that you deny the variance.

A resident of 549 Pembroke Street, another abutter across from AG, is concerned about tax issues, and agrees students will go to Concord. Pembroke needs to develop more businesses. Taxes are high in Pembroke, but I chose to live here. This proposal does not satisfy the spirit of the ordinance or favor the interests of Pembroke. This is for the interest of the college. With the loop road connection compromised, I strongly oppose this proposal.

Rebuttal by Mark Ballard. We would be willing to work with Associated Grocers on the road. We could change our road structure. Regarding teaching and working at the college, we will be training ministers and music specialists but you don't have to be Baptist to come to our school. Faculty jobs will be in line with Baptist faith and method. There are non-faculty jobs at a college. We knew coming in here the number one issue would be tax base. Nothing has developed on this property yet. We recognize the issue the community has.

Mark Ballard stated we want to be in Pembroke and this is the only location that meets our needs. Attorney Chevalier stated that the spirit and intent of the ordinance section 143-73.2 calls for innovative mixed use, and protection of natural resources. Our purpose is to D encourage an environmentally sound and aesthetically pleasing development. F and G, we will designate conservation areas. There is strength in the local tax base in the secondary effects that students and faculty will bring. There will be no sound, light or heat issues. A refuse facility is allowed in the SRD District but with odor issues. Every project has its disadvantages. We ask that you weigh them against the advantages. There will be little impact on schools and crime, and this is a mitigating factor. The topography, size and components of the college are similar uses allowed in the SRD district. The land sold for \$5,000 per acre last year at foreclosure and remains undeveloped.

Chairman Bonney advised Attorney Chevalier that the Zoning Board of Adjustment is deciding the case on the five criteria for a variance. The tax issue is not within our purview.

The Recording Secretary read a letter a letter into the record dated July 22, 2010 from Gordon Bult, an

abutter directly across from proposed college, in total support. A list of nine abutters present strongly opposed to the proposal was submitted for the file.

Dwayne D'Agnese stated that this proposal does not meet the spirit of the ordinance because the TIF District was put in place for commercial development. A major component was completion of the loop road. It is an economic tool the community put in place. This is valuable property. People do not have the money to invest right now, but they will someday. The town invested money in infrastructure to generate tax revenue. This proposal is contrary to the public interest.

Tom LoPizzo stated that UNH, every church and most non-profits agree to a payment in lieu of taxes to support the community in which they are located. Mark Ballard stated that as a start up operation, we would not be in a position to make up for the whole tax base. We did not know we would be asked this question tonight.

Mark Ballard stated that Project Launch 13 has not found another property that meets our requirements. Dana Carlucci asked which other specific Pembroke properties Project Launch 13 looked at. Mark Ballard stated that they used MLS listings. Mark distributed a copy of a memo dated 7/22/10 to PL13 Board and Staff outlining why the properties looked at on Center Road (lack of road access, adequate water supply concerns, sewer, wetlands and cell tower located on front of property, were not appropriate locations. Mark Ballard stated that land on Third Range Road was looked at, but they were not sure the town would allow development on the road and the expense of development would be prohibitive.

This property was chosen because of its unique access to urban areas, woods and farmland. The college will be New England style buildings. Trails and recreational space will be put in to protect environmental use of the land. The applicant believes the proposal is not contrary to the public interest and fits in with the Pembroke Master Plan. Section 72.6 has many elements of a college listed in it. The location is perfect, the site is near interstate transportation, has utilities. The land also has 45 acres under water, wetlands and hills. Many of the components of a college that we will implement are allowed in the SRD district. Several residents stated that the town cannot afford to give up taxable land to non-profits, due to the investment in infrastructure the town put in the TIF area.

Larry Preston, representing the Board of Selectmen, stated that this 132-acre parcel represents a large chunk of undeveloped land in the TIF that would be taxable based on the buyer. The town brought in infrastructure to the TIF area at a large expense, expecting a return on investment. It was stated faculty would not live on campus. The college would start in August 2013. The use would require 35,000 gallons of sewage capacity per day, and the town has a moratorium on sewer usage. About one quarter of the 132 acres would be built on initially. The proposed entranceway is directly across from Route 106. Associated Grocers would like to see the loop road connect to Route 106.

Mark Ballard stated that payment in lieu of taxes is not feasible for a start up college, but it may be possible to develop the property in a way that would allow for the Associated Grocers loop road to Route 106. Dwayne D'Agnese asked for clarification on whether the area under discussion is 20-30% of the remaining undeveloped land in town (yes) and the parcel is actually about 50% of the undeveloped TIF land. A traffic study dated 2-18-10 performed by the State of NH, Department of Transportation, summarized traffic from 2002-2009, which confirms that Route 3 could handle the additional college traffic.

Peter Bonanno, 37 Mason Avenue, Pastor of Grace Capital Church stated that Grace Capital abandoned their curb cut on Pembroke Street to benefit the town. Peter encouraged the Board of Selectmen, Economic Development Committee and maybe this group here tonight to be part of the development of the loop road. It would be a wonderful addition to the area. The Town residents have been taxed on sewer and water infrastructure in the area, with no return of taxable dollars.

Chairman Bonney summarized the case beginning at 9:00 P.M. The case is #10-16-Z regarding 612-644 Pembroke Street Soucook River Development District and AC Aquifer Conservation Zoning District . Variance under Article IXA *Soucook River Development SR District, Section 143- 72.6 (Permitted Uses)* of the Zoning Ordinance to construct a 4-year, accredited Baptist College at 612 to 644 Pembroke Street, Route 3. The property is owned by PPG Development LLC and the applicant is Project Launch 13. A Variance is required for this use in the Soucook River Development District. The applicant desires to purchase this property to build a 4-year, accredited Baptist College on the site. The campus conceptual drawings are attached to the application, and show the following: chapel, library, education building, administration offices, male dorm, female dorm, student center, two 4-family homes (married students, faculty transition), guest house, and President's home.

It was discussed that Associated Grocers has invested 30 million dollars into their facility, and plans to expand in the near future. The hope that Cooperative Way will be connected to Route 106 is critical to their planning. Dianne Schuett noted that the National Guard has taken some previously taxable land in Pembroke for non-profit use. We certainly encourage Associated Grocer growth in Pembroke.

It was stated that this proposal is contrary to the interest of the town to some extent. The college would be a 4-year bachelor program for ministers, church vocations and music specialists. The property sold at foreclosure last year for \$5,000 per acre. Other uses allowed in the SRD District, like refuse dumps, would not be as aesthetically pleasing. The Criteria for a variance was addressed. A variance is needed because the SRD District is not zoned for use as a college. 1) The variance would not be contrary to the public interest. The land subject to this application is currently zoned as Commercial/Light Industrial C1 and is part of the Soucook River Development District. Many of the components of a college are consistent in nature to currently allowed uses (kindergartens, restaurants and business offices). 2) Use of the property as a college would not pose a threat to public health, safety or welfare of abutters. 3) Substantial justice is done as there is no burden to school, police or fire even though the site would be exempt from property tax. 4) Values of surrounding properties are not diminished. If the loop road is not completed, many lots will lose value. 5) The use requested is "reasonable" because it will not hurt the value of surrounding properties, is the perfect location and size and has roads and utilities. However, the town has invested thousand of dollars in infrastructure so that a taxable business could utilize this location.

There being no further input, Chairman Bonney closed the public hearing at 9:20 p.m. The ZBA will approve, deny or continue this case to a public meeting.

Motion: Bruce Kudrick moved to continue Case 10-16-Z to a public meeting on August 3, 2010 at 7:00 p.m. Dana Carlucci seconded.

Approved 8/3/10

Discussion: Due to the late hour, as ZBA meetings conclude at 10:00 p.m. and in fairness to the applicant and the townspeople, Bruce is in favor of continuing the case to a public meeting. A lot of information was given to the ZBA for the first time at this meeting. All are welcome to attend the public meeting August 3, 2010 but cannot speak.

VOTE: TOM L- Y DANA - Y BRUCE- Y
TOM H Y BILL - Y

MOTION TO CONTINUE CASE 10-16-Z TO A PUBLIC MEETING ON AUGUST 3, 2010 AT 7:00 PM
APPROVED ON A 5-0 VOTE

Chairman Bonney directed Everett Hodge to provide the ZBA with information on the creation of the Soucook River Development District and the TIF (Tax Incremental Funding) for this area.

MINUTES OF PREVIOUS MEETINGS

Motion: Bruce Kudrick moved to approve the minutes of June 28, 2010 as amended. Tom Hebert seconded.

VOTE: BRUCE - Y TOM L - Y DANA -Y
TOM H - Y BILL - Y

MINUTES OF JUNE 28, 2010 APPROVED AS AMENDED ON A 5-0 VOTE.

Changes to ZBA Rules of Procedures -

Motion: Tom Hebert moved to approve the ZBA Rules of Procedures originally adopted 12/18/06 as revised 7/19/10. Bruce Kudrick seconded.

VOTE: BRUCE - Y TOM L - Y DANA -Y
TOM H - Y BILL - Y

REVISED ZBA RULES OF PROCEDURES APPROVED AS REVISED 7/19/10 ON A 5-0 VOTE.

OTHER

Date of next ZBA meeting – A ZBA public meeting will be held on Tuesday August 3, 2010 at 7:00 P.M. The next public hearing will be on Monday, August 30, 2010 at 7:00 P.M.

Decisions 7-26-10 meeting - Everett Hodge noted that he is required to send tonight's decision on the designation of the asphalt plant application as a Development of Regional Impact to Concord, Loudon and Chichester, along with plans and copies of the minutes by Friday by certified mail. The Recording Secretary will send draft minutes to the Chair by Thursday July 29, 2010.

ADJOURN **Motion:** Tom Hebert moved to adjourn. Tom LoPizzo seconded. Vote was unanimous in favor of motion. Meeting adjourned at 9:42 p.m.

Respectfully submitted,

Susan P. Gifford
Recording Secretary