

---

**CALL TO ORDER:**

Mr. O'Leary called the meeting to order at 7:30pm and stated it was open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

**FLAG SALUTE:**

**ROLL CALL:           Members Present:** Hughes, O'Connor, Luthman, Randazzo, Corcoran, Hahn, Didyk, Straub, Leuthe, Taylor, O'Leary.

**Members Absent:** None.

**Also Present:** Nancy Reading, Esq.  
Nevitt Duveneck, Eng.

**HEARINGS:**

1.) AES Property Holdings   SP05-14    B:17 L:2.05

Mr. George Sweeny was present on behalf of the applicant. He said he had requested an extension of the original resolution dated January 22, 2006 on this application. He has since learned there was a May resolution talking to the matter of COAH. He said their engineer, Mr. Gloede of G. Gloede and Associates Engineering reached out to the Land Use Engineer to discuss the matter and Mr. Sweeny has not heard from his engineer yet. He said they are not ready to proceed with the matter. He said he will wait until the resolution is memorialized and then they will reappear at a later date.

2.) Nouvelle Associates     SP05-12, MJR05-13   B:9 L:6,7,17,21.01

Mr. John Philips, Esq. stated he was present on behalf of the applicant. He said he has reviewed the draft resolution dated February 25, 2009 and the engineer's memo. Mr. Philips said he concurs with the engineering report dated February 19, 2009 and has no objections to any of those comments. He said they do have six issues with the resolution.

Mr. Duveneck said so long as the H2M memos along with his report were incorporated into the resolution he would have no problem with it. Mr. Duveneck said he gave a copy of a worksheet he had gone through with Mr. Ken Dykstra, engineer for the project to him and Mr. Dykstra agreed to the report prepared by Mr. Duveneck. There was a discussion on the landscaping design. Mr. Philips had an issue with the landscaping along the back of the property where the future residential development will be since they will be landscaping vacant land. He said they will take care of it in the future and will note that on the map. Mr. Duveneck said there are two residential properties existing that would be subject to headlight flash. Mr. Philips said he has no objection to landscaping that. There was a discussion on the engineering report.

Mr. Philips said in regards to the architectural issue where the Board is requesting the applicant to come back with architectural drawings it was there position that drawings were part of the hearing on December 13, 2005 and it was part of the site plan application and that is the one that is binding on the Board. He said when they come back for final approval they will be happy to discuss the issues but they do not want a situation where they are told to redesign the building. He felt that was part of the Judges ruling on this matter. He said reasonable conditions do not mean they have to redesign the building. Mr. O'Leary noted that right before the vote on December 18, 2005 the building changed from supermarket to retail. He felt some of the architecture would change because there may be huge loading docks for a supermarket that may not be needed for retail. Mr. Philips said that is the type of change they would be willing to discuss with the Board.

Mr. Hughes noted the H2M report required the architecture of the building be compatible with the buildings in the surrounding area. Mr. Philips said they are not willing to do that. He said that is not what the Judge approved. Mr. Hughes said that is not what the Board had approved either. He said there are approved applications within that area that fit the architecture of the area and is appropriate for the resolution to reference and be consistent with what has been approved. Mr. Philips disagreed. There was a discussion on the trash enclosure.

Mr. Philips asked if the Board wanted the road to be a public road or a private road. He had a concern that if the road was extended to Route 94 it would become a cut through. He said if the town wanted it to stay as a private road then the owner would need to close it once a year to keep it private. Mr. O'Leary felt this was an issue for the Township Committee. Mr. Philips asked the Board to allow them to put into the easement a provision that says in the event this connection shall not be public the applicant shall have the right to close it one day a year to make sure it stays a private road and to limit access to service the development and any project connected to the development.

Mr. Duveneck said this is a policy decision for the Board and Township Committee. He said the road could be constructed so it could become a public road in the future and make it a condition of approval. He did agree it would become a cut through to Route 15. He said it may be better to limit the access or it may be better to route the traffic around the Route 15, Sunset Inn Road intersection. Mr. Hughes said what was presented to the Board was a two lot subdivision and the access road is only serving those properties. He said they could only look at what is being presented. Mr. Philips said the Board did ask the applicant to grant an easement across the remainder property out to Route 94 for a future road. He said in the easement document they want the right to close the road if it remains private. Mr. Luthman expressed a concern that if the roadway is not built to standards the municipality wants, we are going to have a mess. He said it should be a public road. Mr. Philips said it will be built to public road standards so that if the town wanted to take it over they could. He said the Board does not have to make that decision now. He said they want the option of restricting the access if it is private. Mr. Luthman felt the tenants will not be happy if the road is closed down one day a year. There was a lengthy discussion on this matter.

Mr. Philips said they will give 15 to 20 foot easements for the connection to the Paulinskill Trail however they will not pave it. The Board agreed with this.

Mr. Philips noted there was a provision in the conditions requiring the applicant to buffer the area between the commercial and residential zones. He said his client has no objection to this however they did not want to complete this buffering until the residential zone was under construction. Mr. Philips said they will buffer the houses on the Route 15 side. Mr. Luthman felt the condition should stand as it was written because it is in the current ordinance. Mr. Philips said the buffering can be recorded in the resolution and the deeds. Mr. O'Leary said the applicant is asking for a variance at this point and he did not recall any testimony on this issue. The condition will stand as written.

Mr. Philips objected to the requirement of ground water modeling details and calibration information to the Board prior to final site plan and subdivision review. He said they agreed to supply copies of anything they submit to the appropriate authorities. He said he did not want this condition to be interpreted as the Board has jurisdiction, which it might otherwise not have. Mr. Randazzo said he recalls there was testimony from the applicant's professional that the Board would be given a copy of the information. Mr. Philips said the Board will get a copy of everything they submit but they will not come back to the Board for approval of the modeling.

Mr. Philips was not opposed to the condition the applicant will supply a full revised site plan and subdivision plat to the Board Engineer prior to the issuance of any building permits however he was opposed to the part that required the applicant to supply a build out plan at the time for the remainder of the property. He said concepts were presented however none of them comply fully with the zoning ordinances. He said there are no present plans to develop the area. Mr. Luthman said the applicant did submit concept plans during their informal meetings and he felt the applicant is not acting in good faith. He said the development of the back property is something the Board has requested from the beginning. Mr. Philips said the Board is not entitled to it. He said if that is a condition they will go back to the Judge.

The Board went through the resolution with some noted changes.

Mr. O'Leary felt the Judge was unaware of all of the details of the testimony with regards to the water issue. Mr. Corcoran felt the applicant had not demonstrated that water can

come from the site. Mr. Philips said there is nothing in the ordinance that says they must demonstrate that. Mr. O'Leary disagreed with this. He felt the Board was supplied with an improper permit and no testing on site to show there is sufficient water on site. There was a lengthy discussion on the proposed water from Sparta Township.

Mr. Philips noted he objected to condition number 18.

Mr. Hughes felt the applicant should comply with the design standards in the Gateway Zone the same as Quick Chek and Kimber Petroleum has done in their recently approved applications.

A motion to memorialize the resolution including the revision made to it at this meeting was made by Mr. Hughes. It was seconded by Mrs. Straub and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary. Mr. Luthman read a statement summarizing his view of the history of the progression of the application and why he voted the way he did.

3.) Barsumyan MNR08-16 B:14 L:15.07

The applicant asked to be carried

4.) Peck, Harold MNR09-1, VAR09-2 B:14 L:11.01

The application is incomplete.

**OLD BUSINESS:**

There was a discussion on the public zone and the possible need to rezone some of the area that is currently in the public zone. Mr. Luthman produced an ordinance to amend the zoning ordinance referencing the zoning map dated November 8, 1991.

The Board checked it against the current zoning map. The Board felt the Waste Management site should be in the Light Industrial zone.

Mr. Luthman asked about the Casagrande application. Mr. O'Leary noted some of the equipment is only one foot off the road. Mr. Luthman felt they were operating illegally and the Zoning Officer should send a letter to advise them to return to the Board for site plan approval. Ms. Reading suggested she send the letter out to the applicant's attorney.

**NEW BUSINESS:**

Mr. Duveneck asked the Board how they wanted him to handle the paving of the Waste Management site now that it was determined it is in the Light Industrial zone. The Board agreed Waste Management should submit a site plan to the Board. Mr. Duveneck will contact Waste Management to advise they will need to submit a site plan.

**RESOLUTIONS:**

1.) Contract for Engineering Services

A motion to approve the resolutions with the noted corrections was made by Mr. Corcoran. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary.

2.) Everswick, Brian VAR08-3 B:6 L:10.02

A motion to approve the resolution was made by Mr. Randazzo. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, Randazzo, Corcoran, Hahn, Didyk, Straub, Leuthe.

3.) AES Property Holdings SP05-14 B:17 L:2.05

A motion to approve the resolution was made by Mr. Luthman. It was seconded by Mr. Corcoran and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary.

4.) Annual Report of 2008

A motion to approve the resolution with the noted revisions was made by Mr. Corcoran. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary.

---

5.) Lafayette Holdings SP08-17, FSP08-19, VAR08-19 B:4 L:1.01

A motion to approve the amended resolution was made by Mr. Hughes. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, O'Connor, Randazzo, Corcoran, Didyk, Taylor, O'Leary.

**ORDINANCES:** None.

**ZONING REPORT:** None.

**BILLS LIST #2:**

A motion to pay the bills as presented was made by Mr. Luthman. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary.

**EXECUTIVE SESSION:**

A motion to go into executive session to discuss personnel was made by Mr. Corcoran. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary.

A motion to come out of executive session was made by Mrs. Straub. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, O'Connor, Luthman, Randazzo, Corcoran, Didyk, Straub, Hahn, O'Leary.

**CORRESPONDENCE:** None.

**ADJOURNMENT:**

A motion to adjourn was made by Mr. Hahn. It was seconded by Mr. Randazzo and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo  
Land Use Board Secretary