

**CALL TO ORDER**

Mr. O'Leary called the meeting to order at 7:32 p.m. 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, Cutler, Luthman, Leuthe, Van Sickle, Aikens, Allison, O'Leary.

**Members Excused:** Taylor.

**Members Absent:** Corcoran.

**Also Present:** Richard Stein, Esq.  
Nevitt Duveneck, PE

**COMPLETENESS / HEARINGS / CONCEPT:**

1.) Fusco, Edward    B:18 L:12.02 VAR14-1 (Deemed Incomplete 8/28/14)

The Board did not receive any new information.

2.) Sheep Thrills    B:8 L:2            MNRSP14-2 VAR14-3 (Deemed Complete 3/27/14)  
(Carried to September Meeting)

Ms. Debra Nicholson, Esq. was representing the applicant. Mr. Jason Dunn, PP was sworn in by Mr. Stein. The Board accepted his qualifications.

Ms. Nicholson said her client has gone before the Township Committee as requested by the Board on the matter of the municipal parking lot. She said that if the Board approves the application she will work out the easement agreement with the Township Attorney. Ms. Nicholson said the Township Committee deferred the matter of parking lot striping to the Board. She said that if the parking lot were to be striped, the town would lose a parking space.

Mr. Stein went over the variances needed for the Board to consider. Ms. Nicholson said there are pre-existing non-conformances that need to be added to the application so they can be considered for approval with the application.

Mr. Jason Dunn, PP went over the concept plan with the Board. He said he spoke to the D.O.T. about the application because it is in their right-of-way. Mr. Dunn presented a color version of the conceptual parking plan with a date of June 2, 2014 which was marked and entered as exhibit A-1. He explained the parking lot to the Board. He explained the ADA compliant space location and the number of spaces to the Board. He explained that the two spaces on the south side of the building will require the magnolia tree to be removed.

Mr. Dunn presented the Board with 8 photos of the surrounding area and a Google map of the area which was marked and entered as exhibit A-2. He explained the photos to the Board. He said they are proposing the wheelchair ramp on the existing porch. Mr. Dunn explained the backyard to the Board. He said it cannot be developed because it is in the flood zone and the septic is located there. Mr. Dunn explained the riparian buffer zone and that no fill within the flood hazard line can be added. He said they need a Permit-By-Rule from the D.E.P. which would put the agency on notice and explains what the applicant is doing.

Mr. Dunn presented a photo of the existing guiderail post which was marked and entered as exhibit A-3.

Mr. Dunn said they will change the sidewalks and a set of steps on the side of the building. Mr. Dunn explained the ADA parking space and the access ramp into the building. He said the ADA space will need to be striped and designated with a sign. Mr. Duveneck asked if the ramp would be constructed of concrete or wood. Mr. Dunn said he did not know at this time; however it would be ADA compliant. He explained the difference in the number of cars that would fit if the parking lot was striped verses it not being striped.

Mr. Duveneck noted that the Board was given a concept plan and that they would need a full set of plans submitted. He requested a lighting and grading plan.

Mr. Duveneck asked Mr. Dunn for his professional opinion on the striping of the parking lot. Mr. Dunn said in his professional opinion the striping of the parking lot would help align the cars. Mr. Duveneck asked that the turning radius be added to the plans for the parking lot. Mr. Duveneck asked about the grading on the side of the building. There was a discussion on how the grading will be handled.

Mr. Luthman asked if the existing concrete walk is to remain. Mr. Dunn said a portion of it will be removed. Mr. Luthman requested that it remain so that if in the future there are sidewalks it would become an access to the parking lot.

Mr. Hughes asked if the parking spaces to the south of the building would be striped to which Mr. Dunn said yes.

Mrs. Aikens noted that the testimony at the prior meeting was that only the two owners would be the employees. She asked if the other two parking spaces to the south of the building would be for additional employees or for customers. Ms. Didyk said they will not have more than two employees at any one time.

Mr. O'Leary opened the meeting to the public. Mr. Bill Macko asked if this hearing was just for the parking issues. Mr. O'Leary explained the parking requirements of the ordinance. Mr. Macko said it is the only overnight parking in town and will the applicant allow overnight parking next to their building. Mr. Stein said that the hours of operation will not be past 5:00pm. He said that anyone has the right to park in the lot. If the lot is full when customers arrive, then it is full. Mr. Stein said the spaces on the south side of the building are private property. Mr. Stein said the Township Committee would have to address the easement language to address where the public can park.

Mr. Leuthe asked if the parking lot will have designated signage for Sheep Thrills. Mr. Stein said the testimony was for a sign for the ADA space only.

With nobody else coming forward, Mr. O'Leary closed the meeting to the public.

Mr. Luthman asked if the applicant was proposing any signs for the business. Mr. Stein said that the applicant testified at the last meeting that they would have two signs mounted on the building.

Ms. Nicholson said the site plan will have the same things on it as does the submitted concept plan and ask the Board to approve the application based on the concept plan. The applicant will then submit full site plans with construction details to the Board Engineer for his technical approval. Mr. Duveneck felt the Board would want to see the full set of plans. He said it may become necessary to grant design waivers and felt there were many unfinished items at be addressed. Ms. Nicholson asked for the Board Attorney to write up a resolution of approval for the next meeting and the applicant will submit a full set of site plans with construction details.

Mr. Hughes suggested the Board vote on the variances so that if they are not approved then the applicant does not have to spend money on the site plan work. Mr. Stein summarized the variances that were being sought. He suggested two votes; one on the parking and loading zones variances and one on the pre-existing non-conforming variances. He also suggested a third vote on the Board Attorney preparing a resolution of approval to be ready for the next meeting date. The Board agreed to hold off on the vote for the pre-existing variances until they get all of the construction details and site plan.

Ms. Nicholson gave a summary of the project and the application.

Mr. Luthman said that the neighbors were noticed and nobody came forward and there were no objections from the neighbors and he wanted that on the record.

A motion to grant the two variances; one for the number of parking spaces; five spaces supplied where nine are required and a variance for the absence of a loading zone was made by Mr.

Hughes. It was seconded by Mr. Leuthe and passed with a roll call vote. Ayes: Hughes, Cutler, Luthman, Leuthe, Van Sickle, Aikens, O'Leary.

There was a discussion on the striping of the municipal parking lot. Mr. Duveneck felt the parking lot should be striped. Mr. O'Leary asked if the Board can make the applicant incur an expense for work being done on Township property. Mr. Stein felt in this situation it could be required by the Township. Ms. Nicholson felt the Board should not burden the applicant with any further expenses for work on municipal property. The Board took an informal vote on the striping of the municipal parking lot so that a recommendation could be made to the Township Committee. The Board did not feel the lot needs to be striped.

A motion to approve the Board Attorney to draft a resolution of approval with the understanding that all plans and documentation will be submitted prior to the next meeting was made by Mr. Hughes. It was seconded by Mr. Cutler and passed with a roll call vote. Ayes: Hughes, Cutler, Luthman, Leuthe, Van Sickle, Aikens, O'Leary.

3.) 56 Sunset Inn Road, LLC B: 9 L:18.03 PSP14-4 ( Completeness only)

Mr. O'Leary noted that there were two reports from the Board Engineer regarding this project. The first one was dated 9/16/14 and the other was dated 9/18/14. Mr. Duveneck went over his reports with the Board. Since this project was in the R-5 zone and the Gateway Overlay zone, he felt the more restrictive underlying zone takes precedence and therefore would require a use variance. Mr. Duveneck recommended the application be amended to include the use variance.

Mr. Hughes stepped down from the Board since the Board was unsure if a use variance would be needed.

Ms. Debra Nicholson, Esq. was representing the applicant. She said she had just received the engineer's report dated 9/18/14 and did not have time to look it over however she felt the Right To Farm Act and the rules of the overlay zone would entitle the applicant to the use without a variance. She felt it was a farm related activity. She asked Mr. Duveneck why he felt the application did not fit the underlying zone. Mr. Duveneck said he did not feel a 50 seat restaurant qualified as anything that would be allowed in the R-5 zone. He said he did see the farm-retail component however this was more than a farm stand. Ms. Nicholson felt this type of activity is what is evolving from farms. Mr. Duveneck expressed a concern about the traffic and the neighboring homes. He said the underlying zone is there to help control what goes into the zone. He felt the application does not fall within the guidelines of a farming operation.

Mr. Stein said he felt it is a use variance and he did consider the Right To Farm Act. Ms. Nicholson said they may have to go to the County to get their determination as to if the application is a farming activity.

A motion to deem the application incomplete was made by Mr. Leuthe. It was seconded by Mr. Allison and passed with a roll call vote. Ayes: Cutler, Luthman, Leuthe, Van Sickle, Aikens, Allison, O'Leary.

Mr. Hughes rejoined the Board. Ms. Didyk joined the Board.

**AUDIENCE:**

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

**OLD BUSINESS:**

1.) Sidewalks and Parking Lot

Mr. Duveneck had looked into the possibility of a municipal parking lot use on the lot on Route 15 with the burnt foundation on it. He concluded the lot is on a slope and in the flood plain and would not be suitable.

**NEW BUSINESS:**

1.) Clarification of 13-8.1b Agricultural Uses in the Residential Zone

Mr. O'Leary said there has been some confusion with the number of large animals that are permitted in the residential zone. There was a lengthy discussion on this matter. The Board agreed the ordinance allows for one large animal for every half acre of property.

**RESOLUTIONS:**1.) Beaver Run Solar Farm B: 25 L: 2 & 4.01 SP11-3

A motion to approve the resolution as presented was made by Mr. Leuthe. It was seconded by Mr. Hughes and passed with a roll call vote. Ayes: Luthman, Didyk, Hughes, Leuthe, Van Sickle, Aikens, O'Leary.

**ORDINANCES:** None.

**ZONING REPORT:**

Mr. Cutler advised the Board that the State vs. Oriolo case was dismissed without prejudice. The case has been going on for many years. The Township can go back to court if Mr. Oriolo does not move forward with the required D.E.P. approvals.

Mr. Cutler said he denied a clothing bin application because it was within 100 yards of a fuel source. Mr. Cutler suggested the clothing bin ordinance have a time limit added to it for the amount of time the bin can stay in place.

**BILLS:** List #9

Mr. Leuthe went over the bills with the Board.

A motion to approve the bills as presented was made by Mr. Luthman. It was seconded by Mr. Cutler and passed with a roll call vote. Ayes: Hughes, Cutler, Luthman, Leuthe, Van Sickle, Aikens, Allison, O'Leary.

**CORRESPONDENCE:**

## 1.) From: Capital Telecom

Re: Set up escrow account for TRC with Dave Banisch

Mr. O'Leary said he spoke to Mr. Banisch regarding this matter. He asked if any other Board members would be interested in attending the TRC. Mr. Leuthe said he might be able to attend if it is in Morristown.

**ADJOURNMENT:**

With no further business to come before the Board, a motion to adjourn was made by Mr. Cutler. It was seconded by Ms. Van Sickle and passed with everyone saying aye.

Respectfully submitted

Stephanie Pizzulo  
Secretary