APPROVED

Planning Board Meeting Minutes
December 3, 2015

Chair Carl Hanson called the meeting to order at 6:58 p.m. The meeting was held in the Jerry Whitney Memorial Conference Room of the Grantham Town Hall located at 300 Route 10 South in Grantham, NH.

Present: Chair Carl Hanson; Vice Chair Charlie McCarthy; Mary Hutchins; Selectman Warren Kimball; Peter Guillette.

Absent: Alternate Thain Allan.
Public Attendance: Linda Bohrer; Gary Bohrer; Philip Hastings; Aleene Hastings; Barry Schuster; Gene Barton; George H. Evarts; Edward Jenik; Karen Seamans; Andrew Edmond.

APPROVAL OF MINUTES:
Chair Hanson asked the Board members if there were any corrections to the November 5, 2015 minutes. Under Adjournment page ten, first paragraph, a correction from Chair Hanson to change "made" a motion to "asked for" a motion. Chair Hanson stated there being no further corrections a motion was made by Vice Chair C. McCarthy and seconded by M. Hutchins as amended.
Unanimously Approved

<u>New Business:</u>
Annexation Application # 12-2015
Lynelle Reney – Tax Map 234 Lots 002,003 & 004.

Edward Jenik, the father of property owner Lynelle Reney was there to represent

his daughter. The lots are located on Longwood Drive, and L. Reney would like to combine the three (3) lots at this time. A motion was made by C. McCarthy and seconded by M. Hutchins to approve the application.
Unanimously Approved

Site Plan Application
George H. Evarts /Stocker Brook Realty, LLC /Saw Mill
Tax Map 236 Lot 10 – 631 Route 114

Representing George H. Evarts is his lawyer Barry Schuster.
Chair Hanson asked Schuster to give a brief history about the April 2012 original application which was approved by the Board.

Schuster stated there was a dispute between the Town of Grantham and Stocker Brook Realty, LLC which is controlled by Evarts which lead the Town of Grantham to bring an action to the Superior Court of New Hampshire due to the terms on the Site Plan approval. Shuster said there was an objection to that which lead to mediation where they crafted/developed an application which was submitted on behalf of Stocker Brook to the board. The application is in their packet this evening which explains what happened when they went to court and that there was a good faith belief that what was presented is what has occurred. Schuster said that in 2012 there was an explanation about the mill and that it would run from 6am -6pm and until noon on Saturdays, as well as yard activity which was not clearly described or questioned and that Evarts had since run the shop as it was supposed to. Schuster continued that maybe over Labor Day or since that short time and last November 2015 they had received no complaints other than one (1) recently over a woodchip delivery for the boiler, that would be the same as getting an oil delivery to your home day or night he said.

Schuster said the rules do talk about a notice of decision by the Planning Board and they shall issue a written decision which includes any and all conditions which are part of the final approval decision, so Stocker Brook Realty, LLC continued to

operate the site as they had expected since they did not see anything in the decision letter specifically forbidding it. Schuster said that Included in their support statement are a number of items/activities that go with the site such as sawmill operations, equipment maintenance, log deliveries, scaling and sorting, locating logs on site, office hours and snow plowing. Schuster stated that the town does have a master plan and it does talk about this commercial district and that they (Stocker Brook) want to find a way that will make this business vibrant and successful; good for the community which is good for employment that is zoned for these types of activities. Schuster expressed to the board that he had hoped they had looked at this most recent submission from his colleague P. Hastings and felt it really puts some perimeters around Stocker Brook Realty, LLC and that going through these items there really weren't many points of conflict. (Schuster then referred to his colleague Philip Hastings who sent a letter to all concerned).

Schuster pointed out that the mill running is not what the complaint is about and on occasion there is someone that may come in on a Sunday afternoon. For the noise and equipment maintenance he felt there wouldn't be any issues. The office hours generally run during business hours no earlier than 6a.m. and out by 6p.m. nobody is coming in at midnight. He said that they are trying to figure out what activities are generating the noise and other than being markedly improved; this is still the same type of site as it was previously.

Schuster said that the business does wood chip distribution to a number of institutional users and businesses. Evarts said with the bulk of the deliveries, he has since spoken to the person that handles all the transportation for him and now it is a non-issue since they have shifted the schedule. Evarts continued that if something goes haywire and an emergency delivery is needed they are contractually obligated. If they get a late call (because we are going into heating season) and they have to grab a load it would only be after hours in an emergency situation, not all hours.

Schuster said the next issue is the delivery of logs, sorting, and relocating on site. Again he said that there had been no complaints in a year. Complaints generally come in January, February and March when logs are being harvested. The loggers must get their work done when the ground is frozen and to lose those three months would be a great challenge. Schuster stated there may be an occasion when they might get a delivery at 3:00a.m. That may happen in the winter due to the economics of the timber company. Their goal is to keep the deliveries in the 6:00a.m. – 6 00p.m. There will at times be some Sunday deliveries but not on a regular basis.

Evarts states anyone who runs a business should understand that our industry is changing rapidly due to regulatory pressures. Also the harvesting season is not done by months but by days and is shortened by rain fall. They are not allowed to start cutting trees down until December 15th per state regulations and then the ground has to be frozen. We try to work with our employees and tell them about the Town of Grantham and the issues we are having. We try to have them work with us, and I think they have. Since April 15, 2015 until now nothing has been going on at the site. Schuster interjects that since April of last year (2014) they have not had any complaints that he has been notified of except for this one delivery of fuel.

In conclusion, Schuster said they are really looking for an understanding that when the winter market is active and driven by economics, regulatory action, and the weather, there is a limitation. The business is in the business zone that is in Grantham's Master Plan. There is nothing specifically stated about the neighbors in one zone and business in another zone. Next Schuster referred to Woodbrowsers application, and how they mentioned that if they needed to help out on a Saturday then they would help, and the town saw nothing wrong with that.

Chair Hanson next asked if the Board had questions or the applicants.

Vice Chair McCarthy stated that looking back at the original site plan, when the time came to hours of operations, the Board gave what was asked for. The Board did not create those hours. McCarthy stated you didn't keep the hours you asked for.

Schuster pointed out that Irving Gas Station in Grantham and JC Penney in Lebanon and many local businesses are getting deliveries at all hours of the day whether they are open or not, and they have their delivery rules. Schuster continued that expectations get elevated and then get dropped. People had expectations that it would be completely silent after certain period of time. Schuster stated that what they are trying to do now is to decide what the hours of operation mean, and that is why he specifically outlined these activities in the application this evening. They would like to resolve this problem this evening without having to go back to court.

Selectmen's Representative Warren Kimball stated that he had attended all the previous meetings and he believed the hours that the mill was going to be in operation were the hours that had been requested. Kimball said that he would not have thought activities were going on during other hours that are or are not part of the operation. He was under the impression that when Cote & Reney was closed whether it was 5:00p.m. or 6:00pm they would put a cable across the opening and in the morning the cable would be opened and they would go about their business. When they closed in the evening the cable would go back up. Kimball stated that it sounded like this might be something that is grandfathered. He was asking if this was something that would be grandfathered. Schuster stated he didn't think so and Kimball informed him that he was just asking.

Chair Hanson spoke about how it does pertain to the description in the initial application and that the hours of operation/production of the mill have existed for over 60years. That then describes what the operation time limits are and unless you're going to change the application, which you have every right to do so, it almost becomes meaningless if you parcel out all the different parts of the operation.

Schuster said that is why they are here to clarify, confirm and seek the Boards understanding and agreement. They are trying to start fresh.

Chair Hanson asked if anyone else would like to speak on this matter.

Abutter Linda Bohrer stated that she and her husband live across the street from the saw mill and they no longer use the outside. They cannot open doors, or windows because of the loudness and rumbling noise that is constant. She said that this has changed the way they now live in their home. She also pointed out that the noise of the mill being present in her home affected latest value assessment for her property and lists "Noise from Saw Mill" on the property tax card.

There are lights that glare into the house all hours of the night along with the noise. Bohrer stated that she kept a log detailing daily experiences. (A copy is available in the application file) Chair Hanson asked Bohrer if she had generated this log herself. Bohrer said yes and that she had called the Grantham Police Department on multiple occasions with no response from them. Bohrer stated she stopped recording in the log after the court and police were put in place. Chair Hanson asked if lights were on all night and Bohrer stated yes and Hanson then asked her if she had discussed this at all with Stocker Brook Realty, LLC.

Schuster stated the mediation was August 8, 2015 and that logging stopped shortly after this date. Vice Chair McCarthy asked about where the house was located and Bohrer stated she is directly in front of the mill and no buffer in-between. Abutter Gene Barton stated that Evarts said they insulated the mill, but he would like to see it. He states he gets awakened every morning at 6:00a.m. from the noise and the lights beam into his home through to the dining room and living room where he sits and right into his eyes through the window. He said that he had asked them to put a deflector on the light and they did do something for awhile but then it went right back to the way it was. Barton said the lights are high intensity and felt that these lights are not the same ones that Cote & Reney had

when they were in business. Chair Hanson asked Barton if he had observed activity and been keeping track. Barton said that he was sick & tired of doing so. Barton continued that he felt that Stocker Brook Realty, LLC's word wasn't very good.

Next Chair Hanson recognized Philip Hastings; son of abutter Aleene Hastings. P. Hastings spoke of the letter he had earlier presented to the Board (a letter was presented and the original placed in the application file) and just as a preliminary matter he wanted to speak of the property being grandfathered. P. Hastings said that they had assumed from the original site plan process (back in 2012) this was a grandfathered use so that any changes as to how Cote & Reney had operated the mill for many years and any expansion of that was an expansion of a lawful non-conforming use and that under the towns zoning ordinance requires Department of Environmental Services (DES) approval/ variance process.

P. Hastings stated that they would like to come to some sort of resolution with the Board to take this under advisement. He did not want to jeopardize their rights to argue that anything the Board may or may not do lacks jurisdiction because this has to go to the Zoning Board first. Chair Hanson reiterated that to the extent the use is an expansion of what was there.

P. Hastings continued when Stocker Brook Realty, LLC came before the Board in 2012 they had planned to run Cote & Reney the same way as it had been years before with the hours of operation from Monday – Friday 6:00a.m. – 6:00p.m. Saturdays 7:00a.m. – 12:00p.m. and felt it was reasonable for the Board and all the neighbors to assume that was just what Evarts meant. P. Hastings said that clearly what was going on now is an expansion of what had been going on in the past and agreed with Kimball's recollection about the chains/gates across the driveway. P. Hastings went on to say that on a rare occasion when Cote & Reney had late deliveries one of them (Mr. Cote or Mr. Reney) would come and let the delivery driver in, so any additional deliveries over the hours of operation is a clear expansion of the grandfathered hours of operation and felt there is really no ambiguity.

P. Hastings stated that he had had a conversation with Schuster the day before and felt he was right, and that many of the items requested were not unreasonable. Other neighbors have different circumstance for different situations depending on the way the houses are situated. He felt the key issue for Stocker Brook Realty, LLC was the deliveries and that really affects the quality of life and are not limited to wintertime. It has been throughout the seasons, and the fact complaints have been limited since the enforcement action the town has done a good job of enforcement.

P. Hastings said that the neighbors are tired of recording the activity of the mill on a regular basis over the summer and that L. Bohrers record is probably accurate as to activity to some extent. He said that Evarts would have us believe these afterhours deliveries in the wintertime are critical to his success of the business and does not want to see his business fail. The business has been an important part of the town for a long time and we do not wish him any ill-will. We just want to see that the mill is operated in a compatible way with the neighborhood and the historic use and needs of the parties involved.

Abutter Aleene Hastings (P. Hastings mother) stated there are trucks driving by at 5:30a.m. and at night when she is going to bed it's very noisy. They are double and triple trailers in size, not like the single trailers that Cote & Reney use to have. She said that trucking activity has lessened and she did stop contacting the police about this. Chair Hanson asked A. Hastings if she observed times that were not during normal hours when this was going on and she stated yes and that she has stopped keeping track of this because it was taking too much time away from what was important to her.

Bohrer said she had taken a decibel measure during the hours of operation. Chair Hanson asked how she took these readings. Bohrer explained she used her tablet and measured the daily noise of the trucks. Chair Hanson reviewed the Decibel

reading log with the dates and times (copy placed in file). Bohrer stated she felt that the constant noise was affecting her and her family.

Barton mentioned how he was talking on the phone awhile back to Selectman Connie Jones and she could hear the noise in the background. After the conversation had ended Jones and Town Administrator Melissa White came and did their own observation.

At this time Chair Hanson stated he would allow applicants Schuster and Evarts to respond.

Schuster stated that his first observation would be the entire issue of the non-conforming use in the Business Light Industrial District. Listed in the Grantham Zoning Ordinance there are a number of permitted uses, one which makes the mill a permitted use. This is in a zone backed up against the interstate and clearly there is noise from the interstate and standing on your front porch with a noise meter, (he has worked with an acoustician in the past) and a car drives by, it naturally is going to spike up the meter.

Further conversation ensued with Schuster saying he felt it was unfortunate that there are some personal allegations, but what they really have is a difference of opinion. If they had known of other incidents that were reported they would have dealt with them. Schuster stated that is what the whole purpose of mediation.

Chair Hanson stated that he is seeing another issue which is the lighting. Schuster said that he will get together with Evarts about see what can be done to buffer it. Hanson asked if they can be turned down at night and Schuster said there are always lighting and safety issues.
Gene Barton stated that he is abutting the interstate and can't hear the interstate but he can still hear the mill and said there is a difference in the noises, like a steady hum that doesn't stop. Chair Hanson asked Barton if he could recall what the noise level was and he said he could not.

Bohrer was explaining that the noise has become more severe due to the volume of business now compared back to when Cote & Reney ran the mill. Chair Hanson asked Bohrer about the noise level and stated he just wanted to focus on any changes since Cote & Reney ran the mill. Bohrer stated that it isn't so much the sound of the saws running at the mill as it is the noise coming from the trucks.

Chair Hanson asks if there were any more questions.

Mary Hutchins pointed out to the Board referring to the third page of the letter written by Philip Hastings on May 30, 2014.

McCarthy asked Bohrer if the noise level was coming from the mill or the overall noise from the site and Bohrer stated the overall noise from the site and not from the interstate.

Chair Hanson referred to the suggestions from P. Hastings letter from May 30, 2014 starting with number three (3) the planting of trees or other vegetation between the site and residential properties. Hanson asked if that is something the applicant would agree too? Schuster stated that there is already a vegetative buffer to the northwest of the property, away from the road side, by Mr. Barton's property. Schuster said that the lighting for safety and security lighting is required, although there are always ways to direct that and those are things to be considered.

Chair Hanson continued that it is going to be up to the applicant to decide what he thinks is necessary and appropriate because the town can't force Stocker Brook Realty, LLC to do one thing or the other. We (the Board) are not lighting experts, but if you can tell us what sort of modifications you can come up with the Board can either approve or disapprove. Schuster said he needed to look through the plans from a few years ago as to what was submitted and see what had been proposed. Chair Hanson said he recalled that there had been a discussion about

lighting at the previous meeting. Bohrer reiterated that in the previous meeting that he (Evarts) stated he would not be changing the lighting.

Evarts stated that there were only two lights on the property and already there when he bought the place. Evarts continued to say that he would like the Board to go see how the lights are when its dark out, to see what he is talking about, that this town (Town of Grantham) doesn't have police or a fire department that is going to respond right away. Evarts said the lights are there for security. Chair Hanson suggested there ought to be some way of modifying the lighting whether with motion detectors or some other way to keep the light out of people's living spaces and that would be a reasonable thing to do.

Guillette suggested down lighting to be a better solution. The older lighting is very glaring. Barton and Bohrer agreed with a reflector or down lighting and Evarts stated consider it done. Gillette also suggested a wall like structure might be helpful. Evarts agrees that was an interesting idea.
Evarts said that he has been running a saw mill in Lebanon, NH for the past 20 years and has not had any problems. Evarts stated that he would like to try and find a way for everyone to work together on this, and suggested that it would be appropriate for the Board to come over for a site visit and see for themselves just how things work there.

Chair Hanson specified the site plan review is flexible; every piece of real estate is different and is either closer or further to people with that particular use, what may be acceptable in one area may not be so acceptable in another area of the Industrial Light District or their might be some requirement of buffering, some kind of action; steps taken to allow the neighbors closure. Evarts stated that he understood, but why didn't these items come up when this process first took place. Chair Hanson said that when this process was brought to the Board we were not given any information other than that there was going to be less noise rather than more noise, and no change in the lighting. Now we have people saying there have been changes in the lighting. Hanson continued that originally it was going to be a

daytime operation and as Mr. Langley explained it was strictly a day time operation. So that is the information the Board has been working with and there was another application for modifications, but that was withdrawn.

Bohrer stated that wetlands were also considered at the original meeting as well. Hanson informed Bohrer that wetlands were not in the Boards jurisdiction and needed to be brought to the attention of the state.

Barton said at the previous meeting that Langley had stated that at the original meeting back in 2012 virtually no noise would be heard. Hanson said he did recall it was stated that the building was going to be insulated and the noise situation would be improved from what it was.

Schuster readdressed the previous questions concerning the three items on the May 30, 2014 letter from P. Hastings. One being no outdoor operations Monday through Fridays from 6pm to 6am and no operations on Saturday afternoon or Sundays and did not include deliveries. We are now saying that during the winter months there needs to be some flexibility. This a time when logging exists and they are on a State Road and there are economic realities as to when product gets delivered.

Chair Hanson asked Schuster if he was clarifying that they (Stocker Brook Realty, LLC) would like the application to have a January through March period of time as an exception to the general hours from 6:00a.m. – 6:00p.m. expanded. Hanson said he was not sure what they were seeking in that regard, and he was having trouble with this on an emergency basis kind of a rule, and what their clarification really is after reading the request. The request by Schuster states that log deliveries could expand till 10:00p.m. during winter months and log scaling until 9:00p.m. These are the major changes through the end of March, but could be earlier depending on the season. Bohrer said that the hours that are at issues now are already taking place during the summer months and she did not like the idea of the longer hours they are requesting for the winter months.

Evarts stated that he would call Tasco Security and have a video security system installed at the saw mill so there will be no more he said, she said.
Hanson said that they had already seen video of the site; Schuster replied we have as well but didn't know what we were looking at. Schuster re addressed that they will put in a verification system so in case there are any accusations they would be able to trust and verify them. Also they will work on the lighting issues.

Chair Hanson at this time stated that he did not know how the Board felt but he was not ready to make a decision at this time. Selectmen Kimball agreed as well and suggested Evarts needed a better understanding of how to qualify the hours of operation that the saw mill would need. Schuster will have a plan in place in advance of the next meeting.

Chair Hanson stated that the Board would continue this January 7, 2016 with hopes of a more concise definition of the "out of ordinary hours of operations", and further information on other mitigations.

Bohrer made clear that she did agree with most of what was in the May 2014 letter from P. Hastings but not the entire context and Chair Hanson agreed that it was clear.

Conceptual:
Andrew Edmonds and Karen Seamans/Northwind Security Products, LLC
Grantham Greenway
Tax Map 226 Lot 020 – 151 Route 10 North

Chair Hanson stated that he understood they were here this evening to give their conceptual and introduce themselves.

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Andrew (Drew) Edmonds introduced himself and Karen Seamans who works for him and informed the Board they had recently purchased the Grantham Greenway, formerly owned by George & Ernest Collier.

Edmonds continued that he would like to discuss their ideas for what they would like to do for short/ long term that would be a good fit for the Greenway. Some ideas were a pharmacy, COOP food store, hardware store, coffee shop where the ice-cream shop is currently and a drycleaners to name a few. Edmonds had a Site engineer walk around and looked over the buildings and had planned on meeting with Eastman Community Associations since they have an easement on the property.

There would be three (3) or four (4) buildings on the location and some of the services would be well received. They would keep esthetics the same with minimal change. Hanson spoke of a special exception that is needed to have a Coffee Shop or restaurant go into the space. So he would have to go to zoning before going to Planning Board for the Site plan review for parking, hours, seating, lighting, and signage. Other thoughts were to individually meter the units as it is not code compliant. The building inspector would be the one to oversee these issues. Hanson explained the site plan application process and why it is needed each time you change tenants. Another renovation would be adding a vestibule to the entrance of Uncle Joe's as well as changing a wall inside would both need a site plan and building permit. There is an office upstairs and it needs a window and stairs which would all be able to be under same application.
Current tenants have a private office upstairs as well as Salty Dogs Fitness and Pearls Little Angels Day Care. In closing they will file all appropriate applications but no big timeline.

Adjournment:
Chair Hanson asked for a motion to adjourn the meeting. Motion by Vice Chair McCarthy and seconded by M. Hutchins to adjourn the meeting at 9 p.m.
Unanimously Approved

APPROVED

The deadline for the next Planning Board meeting is December 10, 2015.

The next Planning Board meeting will take place on January 7, 2016 in the Jerry Whitney Memorial Conference Room of the Grantham Town Hall at 7:00p.m.

Respectfully Submitted,

Jamielynn Garland/Planning Board Clerk
Martha Norris/Recording Secretary