

Zoning Board of Adjustment

Approved Minutes

May 21, 2008

Members Present: Doreen Connor, Vice-Chairperson; Kris Blomback; Joan Oliveira; Jeff Connor, Alternate; Gigi Laberge, Alternate

Members Excused: Bob Stamps; Rick Patenaude, Alternate

Others Present: Laura Scott, Planning Consultant; Jennifer Astholz, Recording Secretary

Audience Members Sign-In Sheet: Kathleen Hatt; Julia Houk; Jennifer McCourt; Michael French; I Spalding; J. Englander; Leon Parker; Ron & Dolly Hess; Andy & Shawna Mitchell; Josh Brown; Jor Tristaino; Bonnie Conway; Bob & Joyce Gosse; Ron Lajoie; Phil Emma; Bob Larkin; Alyssa Janelle; Louis Bravakis; Janet Ward; Sue Allen; Barbara Bernstein; Stuart Bernstein; Sabrina Patenaude; David Currier; Jennifer Parker; Mark Denham; Peter & Jan Hale; Cheryl Morse; Paul Mulcahey; Joyce Blythe; Ruth Zax; Richard Kennedy; Holly Green; Richard Conde; Janet Krzyzaniak; Katherine M. Guilmette; Deborah Dow; Angela Robinson; Robert French, Jr.; Tim & Mary Green; Karen Irwin; Curt Richmond; Rick French; Stephany Marchut Lavallee; Kathleen LoFaro; Katherine Mitchell; F. Colby; Jeff French; Liga Lauris; Scott Osgood; Ray Kusche; Tom Inzinga; Monica Denham; John Nee; Brian Nee; Linda Nee

It is noted that even though Laura Scott, Planning Consultant, requested that all guests sign in, it is clear that there were some in attendance who did not.

Laura Scott stated that she and Cindy Marsland verified the abutter's notices for each of tonight's hearings.

Doreen Connor, Vice Chairperson, called the meeting to order at 7:10 pm.

On behalf of the board, Ms. Connor acknowledged Leon Parker with a gift and a word of appreciation for his many years of service to the ZBA as he moves into his role on the Board of Selectmen.

Public Hearings

Case 2008-106. A request has been made for a Special Exception, per §133-29. The applicant, Mary Green, on behalf of Joshua Ford and Angela Fortier, is proposing to convert an existing building to a pet boarding and grooming facility (kennel). The Zoning Ordinance (§133-29) requires a Special Exception for Kennels to operate in the CH Zone. The property is located at 1062 Old Concord Road (Map 1 Lot 549 D2) in the Heavy Commercial (CH) District.

Tim and Mary Green, applicants, read from a prepared statement which outlined their plans for opening the “Precious Pet Resort.” They described the services they will provide for dogs, cats and exotic birds. They stated that they are seeking accreditation from professional pet-care facility agencies to acknowledge the high-level of care and commitment they intend to execute in their business.

Mr. and Mrs. Green stated that they are proposing primarily interior renovations to an existing structure. Exterior renovations include replacing a garage door and some additional lighting and fixing outdoor play areas for the animals. They will install a fence with a second fence for added privacy and protection. They stated that the current parking is adequate, and traffic patterns will not be altered. (Mr. Green offered to provide copies of the written statement to the board.)

Mr. Green stated that they will contract someone for snow removal, and a small dumpster will be on the property.

The applicant stated that they are planning to hire four full-time employees, a groomer, a bather/assistant and two part-time employees. Hours of operation will be Monday-Fridays, 6am – 6pm; Saturdays 7am – 5pm; Sundays and off-hours by appointment. They stated that they will be available by voice-mail to handle any emergencies. They plan to install solar panels and a small pool for “doggy dips on hot summer days.” The applicants distributed pictures for the Board to see their conceptual ideas.

Ms. Connor called on any audience member who wished to speak in favor or against the proposal. Hearing no comments from the audience, she called on the board for questions.

Gigi Laberge asked for description of the business and how many animals they plan to care for. The applicants stated that the resort will include doggie day care, boarding, and grooming services for the boarded animals. They plan to include a small retail space in the front of the building. Mrs. Green stated that plan to allow a maximum of 49 dogs for boarding at one time. She will allow 10 – 15 dogs per day for day care. The number allowed depends on the size of the dogs in care. The property is about 1.15 acres. Ms. Scott stated that the tax card and tax map are available for review. Ms. Green stated that this capacity is much smaller than what is allowed in commercial kennels. She stated that it is not uncommon for 100 dogs to be allowed in a facility of this size.

The septic system was discussed, and the applicants made reference to blueprints which showed the location.

Mr. Green stated that this is not a “hose-down” facility. He stated that waste will be placed in biodegradable bags and put in the dumpster for removal. All cleaning will be done with cleaning agents proven to be safe for the animals.

Kris Blomback asked how close the nearest neighbors are. Mr. Green stated that a logging company is behind them. The nearest neighbor is 300-400 feet away.

Ms. Connor asked about plans for buffering noise. Ms. Green stated that there will be dog runs, a 4-foot walkway and a stockade fence which will absorb noise. She stated that part of their business plan and philosophy is to reduce the stress for the dogs, thereby reducing excessive barking.

Mr. Blomback asked if they will be selling any pets. The said they are not selling animals. He asked if there are any State requirements that kennels have to meet. Ms. Green stated that kennels are governed by Town authority.

Ms. Green stated that she will care for not more than 15 cats a one time.

Ms. Laberge asked how the dogs will be placed inside and outside. Ms. Green stated that dogs greater than 50 pounds will be walked outside. Smaller dogs will have accommodations to move more independently from the inside to the outside. Ms. Green stated that she expects the peak use of the facility to be during the summer while people take vacations.

Hearing no more questions from the Board, Ms. Connor closed the public hearing at 7:29 pm.

The Board made comments and voted on the six criteria used for granting a Special Exception.

1. The specific site is an appropriate location for the requested use or structure.

Ms. Laberge stated that she is not sure about the number of dogs allowed on one acre. Jeff Connor stated that the kennels he has seen are not very spread out. Joan Oliveira stated that the kennels she has used in the past don't have as much room as they are proposing.

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: Yes

Passed 5-0

2. The requested use will be compatible with neighboring land uses.

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: No

Passed 4-1

3. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Connor stated that the road traffic will not be an issue as clients will not be coming at the same time.

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: Yes

Passed 5-0

4. Granting this permit will be in the public interest.

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: Yes

Passed 5-0

5. *The proposed use would not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.*

Ms. Laberge stated that she does not think that this use is in character with the neighborhood.

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: No

Passed 4-1

6. *The proposed use would not constitute a nuisance because of offensive noise, vibration, smoke, dust, odor, heat, glare or unsightliness.*

Ms. Laberge stated that this could become a nuisance.

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: No

Passed 4-1

Joan Oliveira **MOVED** to approve the Special Exception requested by Mrs. Green to convert an existing facility into a pet boarding facility. Kris Blomback **SECONDED** the motion. Motion **PASSED, 4-1.**

Jeff: Yes Kris: Yes Doreen: Yes
Joan: Yes Gigi: No

Case 2008-107: A request has been made for a Use Variance under §133-69. The applicant, Robert T. French Jr., is proposing to construct an in-ground swimming pool and enclosed structure as an accessory use to the existing campground. A Use Variance is request to allow the expansion (construction of an in-ground swimming pool and enclosed structure) of a pre-existing, non-conforming, grandfathered use (campground). The property is located at 78 East Side Drive (Map 1 Lot 318P) in the Rural Residential (RR) District.

Mr. Robert French, Jr., presented an application for a Use Variance in order to construct an in-ground swimming pool and enclosed structure as an accessory use to the existing campground (a pre-existing, non-conforming, grandfathered use).

Mr. French stated that the deteriorating water quality of French's Pond has prompted this request. He stated that the State has mandated no swimming in the pond for the past two years. Mr. French stated that this will not create a big change in business. Adding the pool allows him to offer this amenity to the customers and stay competitive. He stated that the proposed pool is 20'x40'x5' (3' at the shallow end). The enclosed structure would sit on the concrete around the pool with a 10' walkway around the pool. The building would be for year-round use. He stated that the campground has both winter (snowmobilers) and summer seasonal customers, but no one uses it year-round.

Ms. Connor called for any member of the public to speak in favor of the proposal.

Dr. Echternach stated that he is in favor of Mr. French's proposal as it will be a nice addition to the campground. He stated that the pool probably adds a layer of safety for the campers instead of using the pond.

Mike French also spoke in favor of the request. He stated that the water quality of the pond has decreased over the past few years and the State has declared no swimming to be done in the pond. A campground must have swimming available, and this would fulfill the business's need.

Kathy Gilchrist stated that she thinks it is a great idea.

Ms. Connor asked for anyone who wished to speak against the proposal.

A member of the public asked about chlorine runoff from the pool. Mr. French responded by saying that the pool will use a chlorine generator which is supposed to decrease the output of chlorine into the groundwater. He stated that most of the chlorine is supposed to be very low in the backwash.

Mr. Gilchrist asked about hours of operation. Mr. French stated that quiet hours are until 10:00 pm. The pool will not be intended for nighttime use.

Mr. French stated that a fence company has already been contacted about installation. He stated that the pool will only be accessible through the main building by a type of key pass available to ensure safety.

Hearing no more questions from the board, Ms. Connor called for a vote on the determining criteria. She explained that a grandfathered, nonconforming use requires a Use Variance.

1. *Granting the variance would not be contrary to the public interest.*

Jeff: No Kris: No Doreen: No

Joan: No Gigi: No

Passed, 5-0

2A. Does the Zoning Ordinance interfere with your ability to reasonably use your property:

Jeff: Yes Kris: Yes

Doreen: No. She stated that while it is a reasonable thing to do, the purpose of the grandfathered use is that it will ultimately be eliminated.

Joan: No

Gigi: She asked Ms. Connor to restate her comments for clarification. Ms. Connor stated that this campground exists where zoning currently states that it would not be allowed. The pool, in her opinion, enlarges the use of the business.

Mr. Blomback stated that the State mandated that they cannot use French Pond anymore, so the pool makes up for that loss.

Mr. Connor stated that adding the pool only changes the swimming area from the pond to the pool but does not enlarge the business.

Mr. Blomback stated that the business was there long before zoning, and now they cannot use the pond. The proposed pool is a reasonable need for the campground.

Gigi: Yes.

Passed, 3-2

2B. Please state why there is no far and substantial relationship between the general purpose of the ordinance and the specific restriction to your property.

Jeff: The restriction would be fine if they could use the pond.

Gigi: The general purpose of the ordinance does restrict the property.

Joan stated that the general purpose of the ordinance is not to restrict the pool. It is not fair and just to this request. (Doreen and Kris concurred with this explanation.)

Passed, 5-0

2C. Will granting this variance not hurt the public or private rights of others?

Jeff: No

Kris: No

Doreen: No

Joan: No

Gigi: No

Passed, 5-0

3. Is the variance consistent with the spirit of the ordinance?

Jeff: Yes

Kris: Yes

Doreen: No

Joan: Yes

Gigi: Yes

Passed, 4-1

4. Would granting the variance ensure that substantial justice is done?

Jeff: Yes

Kris: Yes

Doreen: Yes

Joan: Yes

Gigi: Yes

Passed, 5-0

5. Granting the variance will not diminish surrounding property values.

Jeff: Yes

Kris: Yes

Doreen: Yes

Joan: Yes

Gigi: Yes

Passed, 5-0

Kris Blomback **MOVED** to approve the Use Variance requested in Case 2008-107 submitted by Robert French, Jr., for construction of an in-ground pool and enclosed structure. Gigi Laberge **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.

Case 2008-104: A request has been made for a Use Variance under §133-29. The applicant, Michael Bartoszek of Laidlaw Energy Group, on behalf of Granite State Forest Products, is proposing to construct a 20 MW renewable energy plant (clean biomass woodchips). A Use Variance is request to allow a renewable energy plant to operate as a "Commercial/manufacturing" permitted use. The property is located at 1192 Old

Concord Road (Map 1 Lot 549 F2) in the Heavy Commercial (CH) District. This application is being noticed as a Development of Regional Impact, per NH RSA 36:54-36:57.

The Board's first order of business was to decide if this application qualifies as a "Development of Regional Impact (DRI)." The definition and RSA 672:70 were reviewed. Ms. Connor spoke in favor of a DRI designation since the statute states that any doubt should be resolved in favor of designating the project as a Development of Regional Impact. The controversy over the proposal from the abutting town and its close geographical location to that town supports the DRI. Ms. Laberge stated that it should be considered a DRI due to its proximity to the river. Mr. Blomback, Ms. Oliveira and Mr. Connor voiced agreement with these comments. The Board **voted 5-0** in favor of considering this application as a Development of Regional Impact.

Ms. Scott stated that the hearing had been noticed as such. They have received comments back from the CNHRPC but have not received any comments from the Town of Hopkinton.

Prior to hearing the Use Variance case, the Board discussed whether this is a permitted use under the definition of manufacturing.

Ms. Scott stated that when the applicant approached the Town, as the Planning Consultant she had to determine whether this was an allowed use or not. The applicant stated that they considered this to be a manufacturing plant. Ms. Scott stated that the ZBA can decide whether this is an allowed use or not, making this a moot point. If the ZBA determines that it is not a Commercial Manufacturing use, then it is properly noticed.

Ms. Laberge asked the applicant to explain why they believe that the use falls within the definition of "commercial manufacturing."

Louis Bravakis, the VP of Laidlaw Energy Group and Ray Kusche presented the application. Mr. Bravakis stated that the business takes clean wood chips and converts them to electricity for sale to the public. He stated that this is similar to taking granite and making products from it. He stated that they generate a product and sell it to end users (either utilities or a neighbor). The product is electricity converted from a tangible product. This product is measured and purchased by a unit. While the product does not sit on a shelf, it is energy production.

Ms. Connor called for Board discussion.

Mr. Blomback stated that the use variance is not needed. He stated that if the process were reversed, they would be taking energy out of the grid and making wood chips.

Ms. Laberge stated that she does not consider the production of energy to be considered "manufacturing."

Jeff Connor stated that they using wood chips (a raw material) and turning them into something different they can sell is manufacturing. He stated that this is the same as turning logs in to lumber; this is wood chips turning in to electricity.

Ms. Connor stated that there is a question of industrial manufacturing vs. utility production.

Mr. Connor stated that only difference is the customer.

Ms. Laberge stated that they are not manufacturing an actual item that can be picked up. She stated that she thinks of manufacturing as something you can hold in your hand.

Mr. Connor asked if putting in a facility to produce a gas would be considered manufacturing.

Mr. Blomback stated that wood chips are used to manufacture plywood. Mr. Connor stated that this is technically using wood chips to make steam which is sold to make electricity.

Ms. Laberge stated that just because she does not think that it meets the zoning definition of manufacturing does not mean that they are not producing something.

Ms. Connor read the definition of manufacturing again. She stated that the ZBA needs to determine the definition and then the public will be allowed to speak if the use variance hearing occurs.

Mr. Blomback stated that he does not like the definition being used for Commercial Manufacturing. He stated that this application meets the definition as written.

Ms. Connor stated that Henniker does not have an “industrial zone.”

Ms. Connor called for a vote as to whether this request falls within the definition of Commercial Manufacturing or not.

Jeff: Yes

Kris: Yes

Doreen: No

Joan: No

Gigi: No

The Board **voted 3 No – 2 Yes.** The applicant must request a Use Variance.

The Board will hear Case 2008-104 requesting a Use Variance.

Ms. Scott stated that the applicant is applying for a Use Variance to allow their business in the Commercial district.

Mr. Bravakis stated that it is their opinion that their business produces an item for sale. Customers purchase kilowatt hours. They take products in and produce an item for sale or resale. A kilowatt hour is manufactured from physical items and produces energy for

use. This would fall as an exemption although it is not specifically listed by name. We would produce the item of kilowatt hour from clean wood chips.

Ms. Connor asked them why the Board should grant an exception from expressly permitted uses.

Mr. Bravakis stated that they were invited to look at this site by Cousineau Forest Products. Mr. Bravakis stated that he has been in the business of energy production for the past 25 years. He expressed appreciation to the audience in attendance for their interest in what is going on in their community. He stated that the State has issued the 2025 mandate, a bold statement that 25-percent of the State's energy should be generated by clean sources by the year 2025. He stated that New Hampshire is currently still increasing their consumption of fossil fuels. He stated that they are proposing a 20 MW plant at this site.

Mr. Bravakis stated that the plant must meet strict criteria. They only burn clean wood; the plant is approved as a low-emission plant using advanced power conversion technology. They must meet higher standards for a facility that burns wood in the most efficient manner. He stated that this is good for the community as we all work together to meet the new global-warming mandates. He stated that burning clean wood chips manages forests in a responsible way and doesn't increase CO2 that is emitted.

This is a location of heavy industrial use. The site was a log mill. A concrete plant is in the neighborhood. This area was well-planned for the good of the community. He stated that the plant would be away from the road. He stated that the property is 9.83 acres, and the plant would be barely visible from the road.

Mr. Bravakis introduced his associate, Mr. Ray Kusche, who has also been in the energy business for over 25 years. Mr. Kusche stated that he was involved in biomass plant built in 1986 in Greenfield, ME. They employ 25 people at that 19 MW facility. He showed a picture of that facility to the Board and the public. He explained that the fuel pile in the picture represent Cousineau's part of this venture.

Ms. Laberge asked if it takes both pieces of property to make this venture work. Mr. Richmond of Cousineau's stated that they handle the processing of the wood chips already. They would conveyer the chips to the power plant on the adjoining property. The powerhouse, cooling tower and retention pond would be on one piece of property.

Mr. Kusche stated that they would produce electricity and a small amount of ash (2-3% of burned wood). He stated that farm programs use the ash as fertilizer as it is clean and beneficial. He stated that no demolition debris would be burned. He stated that New England Organics in Maine would work with them about disposing the ash.

Ms. Laberge asked about the relationship between the two companies. Mr. Bravakis stated that it is a joint venture. Cousineau's manages the fuel yard and Laidlaw manages the plant.

Mr. Richmond stated that Cousineau's Forest Products had been operating since the 1970's. They bought it in 1996. He stated that they process about 100 million tons/year of virgin wood fiber in the form of chips, sawdust and mulch. He said that the area from Maine to Florida is on their supply chain with land-clearing operations in New York, Vermont, Connecticut and Massachusetts. They process and screen the material and send it to schools (Kearsarge, Merrimack Valley & Hanover), PSNH & Concord Steam for conversion to power. He stated that about 300 million tons go through their yard every year. Every chip that comes into the yard for processing goes back out on a truck. By having this power plant next door, the wood chips would be brought in but would go to this processing plant. This would drastically cut down trucking on Old Concord Road. He stated that approximately one-quarter of their business would be diverted to this facility. He stated that for them, it would be business as usual. He also stated that no complaints have ever been brought against them in all of these years as they manage their business very well.

Mr. Richmond stated that the land-clearing businesses would still be bringing the wood to them. Instead of re-loading trucks with wood chips to be delivered to other markets, some of that traffic would be diverted to the new power plant facility, thus reducing the outgoing truck traffic.

Ms. Connor asked for clarification of the conveyor operation. Mr. Richmond stated that all of the activity would only need the one variance for one piece of property. Cousineau's would front-load the wood chips to the property line where the conveyor belt would move the chips to the plant.

Ms. Laberge asked if the operation could be self-contained on the one piece of property without using Cousineau's for the fuel storage. Mr. Bravakis stated that there is enough land to house the entire operation, but they are approaching this as a joint venture with Cousineau's.

Mr. Kusche stated that the footprint of the plant is relatively small for the property. He stated that it could be contained on the one piece of property, but they are working with Cousineau's for the fuel storage as they already do that type of work. He stated that one problem in the industry is the high cost of waste wood and the associated high fuel costs. Here, they are locating the plant right where the biomass is already located and only need 20-25% of what the company is currently producing.

Mr. Richmond stated that about 80% of the business is biomass now. Only a small portion of the business deals with bark mulch, and they will still keep that operation going. He stated that 3,000 tons of wood are processed and 100 truckloads (20 trucks/day) are sent to Portsmouth each week. He stated that that is the truck traffic that would stop if this occurred.

Mr. Connor stated that Cousineau's business is not relevant to what they are determining in this application request.

Ms. Connor asked the applicants to please read the application for the benefit of the audience. Mr. Kusche complied with that request.

Ms. Connor opened the public hearing at 8:45 pm.
She called for any member of the public who wished to speak in favor of the proposal.

David Currier, resident, stated that he is an abutter to the property. He said that he is not opposed to the project but has many questions. He asked for the specific location on the property where the plant will be. He stated that there is a class VI road that he pays to maintain, and he is concerned about how that will be affected. Mr. Currier asked how water runoff will be mitigated. He also stated that he has a dug well and has concerns how this type of development will affect the well. Mr. Currier stated that he understands what they are trying to do, and it could be a good thing. He disclosed that he was a stockholder in Laidlaw Energy.

Mr. Bravakis stated that there will be extensive permitting imposed at the State level ensuring maximum standards are met. Ms. Scott stated that if the variance is granted, the plan would have to go for Site Plan Review where all details would be thoroughly reviewed. She stated that runoff is not allowed onto other properties. Also, the road that Mr. Currier mentioned is not the road that they would be using for this business.

Dr. Echternach stated that it is with some reservation that he is in favor of the project. He stated that he understands that this is a tough issue for small towns to deal with, and this is not the first time Henniker has had to look at this. He stated that it is very easy to react emotionally to the proposal, and there is some validity to the reaction of “not in my backyard.” Dr. Echternach stated that we need to face the fact that we need energy if we are going to keep our lifestyle that we have grown accustomed to. We have to decide how we can get energy from a renewable source. He stated that he is in favor of renewable energy, and it would be nice to use local resources to do this. Details of this plan need to be hashed out. He asked for the audience to keep an open mind if proper site review can be done. He stated that at the turn of the 19th century most of the energy was produced locally. While he is vehemently opposed to nuclear power, this type of power plant may help the problem.

Jennifer McCourt, resident, stated that the criteria seem to be just a semantics issue about manufacturing. This use is similar to what’s already going on in the area; this just occurs in a plant. Ms. McCourt shared that she thinks this is a great idea. She stated that her husband is a farmer would be happy to use the ash since it is much better than lime. As far as the ordinance, she agreed with the way that the applicant answered the questions as it appears to just be a semantics issue.

Kathy Nafarro asked for any speakers to please disclose if they are in any way related to or have business dealings with the applicants.

Mike French, resident, stated that he thinks that the concept is very exciting. He remembered the first oil crisis in 1973-74 initiated interest in renewable energy. This is exciting because of the co-generated use of the plant. He stated that he strongly supports the concept. He does have questions about what kind of noise will be emitted by the plant as well as what emissions controls and standards that must be met.

Mr. Kusche stated that the Greenville plant is located in the town limits. There is a railroad by it, and residential houses are about 300 yards behind the plant. He stated that there was one complaint that on a still summer night that one of the residents didn't like the backup alarm on the loader. Mr. Kusche stated that there are areas inside the plant which require earplugs, but the general noise around the outside of the plant is very quiet. He stated that one would probably not know if the plant was operating or not from 50 yards away. There are no alarms on the plant. He stated that tests are run during startup and will consist of steam noises during that time.

Mr. Kusche spoke about pollution control. He stated that New Hampshire, Massachusetts and Maine have state mandates that a percentage of electrical generation be provided by renewable sources. He stated that state language mandates that 1) the size/air distribution for complete combustion process (new technology); 2) plants must control their own emissions. New Hampshire's state regulations allow higher emissions limits than what this plant will release. Emissions have to be low enough to sell renewable energy credits. To get those, the plant has to use clean advanced technology. Mr. Kusche stated that the technology (backend catalytic converter technology) is similar to a catalytic converter in a car. The technology also takes out CO emissions. He stated that it is safe to say that this will be the cleanest plant in New England. He stated that this plant is very expensive to build.

Bob Gosse, resident of Old Concord Road, stated that there is a plant less than one mile away, and now they want to build this plant. He stated that there have to be issues with noise, air quality, etc.

Cheryl Morse stated that she has been impressed with the information presented thus far. Traffic along Old Concord Road is a huge issue, and it is a huge advantage to reduce the amount of truck traffic. The BioEnergy plant was based on demolition debris. Construction demolition debris cannot be burned in this plant. Having this type of plant will ultimately protect us. The site plan review process will answer many of these questions. When the ash from the Hopkinton plant was tested, much was learned about the industry. She stated that she is thrilled that we are looking at state-of-the-art technology. We are fortunate that we are not looking at an old plant that has to be brought up to standards. For the industry, this looks like the best possibility right now.

A resident of Hopkinton spoke in favor of the project. This person stated that the water vapor that comes out of this type of plant is about 200 degrees; most other plant run 300-400 degrees. Public Energies Commission requires on a three-year frequency that particulate emissions be tested. DES sends a letter on a quarterly basis that they meet noxious emissions standards. The resident stated that while he is hugely in favor of this

plant, he wanted to bring out information that ammonia will be part of the process as a “scrubbing agent.” He asked if they will be bringing ammonia and storing it in the town. He was in favor of the technology, acknowledged that it has come very far and there is the need to see more of this type.

Mr. Kusche stated that emissions are continuously monitored. The State requires semi-annual tests be done by an independent agency. He stated that stiff penalties are imposed if independently verified tests are not done. This is a heavily regulated business. The plant will be monitoring ammonia emissions. He stated that several compounds can be used: ammonia, urea and aqueous ammonia (< 19%) are options. He stated that the plant would work within strict guidelines for storing and working with noxious chemicals.

Angela Robinson, resident, asked why people are so in favor of this proposal. She asked why they would favor something new coming in to the town that they love. She stated that Henniker is a beautiful community, and she feels very scared of this idea as things can go wrong. She stated that she wants the community to stay safe for everybody that lives here, and she asked the Board to not rush in to a decision as this is a very important matter.

Robert French, Jr., stated that he is in favor of the proposal. He stated that he worked at the saw mill facility. He stated that it is a perfect marriage of the facilities and will help us to save on fossil fuels. He stated that runoff from the logging yard and the containment area will be better maintained. He stated that fewer trucks will travel the road, and the plant will generate less noise than the saw mill. He stated that he is in favor of having a source of energy that is not dependent on oil as we may not be able to afford electricity soon.

Grace Cohen, resident, stated that based on the information she has heard tonight, while there are many questions to answer, she feels this may be a good opportunity. She stated that she has toured the public service plant in Bow. She asked if there would be any discharge into the river. Mr. Bravakis stated there would be none. She asked about safety protocol for the storage and transportation of the necessary ammonia. She asked about the level of noise that would be produced by the conveyor belt. She asked what discharge there may be from the boiler. She stated that chunks of coal burn through the boiling water at the other type of plant and asked for disclosure of what type of hazardous materials are discharged from the process. Ms. Cohen asked what would happen in the case that the joint venture fails. What protection will the Town have? Will the tall smokestack leave the area open for more towers and cell phone towers to be erected? If Cousineau’s diverts wood chips away from PSNH, will that actually increase electricity costs for the rest of us?

Ms. Scott asked to respond to the concern of more cell towers. She stated that no one can put anything on without going through the proper planning and zoning process. She stated that this proposal is strictly for a 20 MW power plant. She stated that they cannot decide to become a coal-burning plant. If they want to expand at a later date, they would have to go through this entire process again.

Ms. Connor then called for anyone in the public who would like to speak against the proposal.

Atty. Ron Lajoie, resident of Hopkinton, stated that he is a representative of REACH, a grass-roots group concerned with environmental issues. He stated that he spent six years fighting the BioEnergy plant in Hopkinton. He agreed with Ms. Robinson's comment that it is right for the Town to not rush to a decision in this case. He stated that companies sell the positive points to the Town, and all of their promises can fall very short. He asked to look at the criteria of determining why they should be granted a variance from the Town. 1) It has already been determined that this needs a variance for this area. They have the burden of proving that they are harmed, and that this property has a unique problem that it cannot do something else. If the property can be used for anything else, they fail. The only recourse this Board has is to amend the ordinance to allow the facility. He stated that the answer provided for item 2A does not answer the question. He stated that just because they cannot use it for any purpose that the zoning ordinance allows today does not mean that they should be given a variance. He stated that this very clearly fails the criteria; therefore, the ZBA has to deny this variance. Mr. Lajoie stated that installing a smokestack 70'-100' tall, with plumes of smoke containing known toxins, will affect the community. He stated that these toxins will make you sick. While they may meet the requirements set by the industry, they will fall over your houses and your kids. He stated that there will be harmful toxin in the air. He urged the Board to ask about the financial background of the company, and to inquire about the lawsuit in New York. He urged the Board to ask about the company's stock. He wanted to know if the company will be required to pay the full tax burden or will they ask for a reduction. He stated that some of these companies plan to pull out within three to five years when they can no longer claim the tax advantage.

Mr. Lajoie asked where the smoke will go. He asked what will happen to the property values and where will the particulate matter will fall. He stated that modeling can be done to predict this. This will directly affect property values. He stated that realtors can tell you what happens in the market. He stated that maybe this will be the best thing to ever happen, and maybe this company will stand by their word. He stated that the law may be changed to allow this, but urged the Board to proceed cautiously. He stated that this type of "manufacturing" does not produce a widget at the end of the process, and the EPA shifts with politics. He stated that this is serious and can make you sick.

Another member of the public asked how this can be done to the trees. He stated that the Sahara Desert used to be a treed area three times larger than the contiguous United States. He stated that a law was needed to stop trees from being destroyed.

Richard Kennedy, resident of Hopkinton, stated that he is very concerned about this project. He stated that he owns timberland up north, and cutting wood can be beneficial. He stated it is like weeding a garden; forest management is good for the trees. He stated that people have a bad taste after what happened with the plant in Contoocook. He stated that the harm that is done with the pollutants can be compared to what the Nazis did with

the gas chambers; those children were killed while our children are being maimed over the course of 70-80 years. He stated that he moved down from Moosehead Lake, Maine, where the other plant is that this company compares itself to. He stated that the plant is located across the river from a nursing home and hospital. He stated that the company acted like a bull in a China shop, and they were found to be dumping waste into the sewer through a manhole cover. He stated that the plant is lit up so that no one can see the stars at night. He stated that they must be watched carefully. He urged the Board to be very careful and to make certain that every possibility is covered. He stated that he knows we need other sources of power and knows this is a very tough issue but safety must come first. He thanked the Board for inviting the neighboring town residents.

Karen Irwin stated that she grew up in Henniker and currently lives in Hopkinton. She stated that she also worked against the BioEnergy plant for six years with REACH. She stated that she is opposed to this project. She stated that while this is not a C&D operation, a lot of the toxins are the same. She stated that legislation is in place to decrease the emissions limits. She stated that they do not restrict VOC's. She stated that 4.1 tons of benzene are released into the air. She also listed several other toxins (aqualine, cadmium, chromium, arsenic and others) that she said are known to be released in wood burning plants. She said that toxins are found in the ash that falls around the area as well as in the smoke plume. She stated that this plant is very close to the variance that exists in Hopkinton. This places a 20 MW plant within three miles of a 32 MW plant. Bow Coal and Concord Steam are also in the area. She stated that DES has to look at the totality of all of the plants. She stated that this is a public utility, not manufacturing, and must follow the ordinance. She stated that public and private rights must be considered. She asked if this is in the spirit of the heavy commercial district. She stated that power conversion is a separate section in Hopkinton's zoning. She stated that the Board must have many questions and must be very particular when granting a variance. She asked how truck traffic will really be minimized when this will be a 24 hours/day, seven day/week operation. She stated that feeding this plant will increase the truck traffic. Ms. Irwin asked if she heard that they would be selling energy credits to Connecticut. She stated that the reported boon they will bring to New Hampshire may not be true. She urged the board to be very careful and specific when considering this application.

Bonnie Conway stated that the toxins will land on hard surfaces and rain washes the toxins into the ground water systems. She stated that this can only increase problems with asthma and other respiratory issues.

Janet Ward of Hopkinton stated that she appreciates the open discussion. She stated that this is a monumental decision that Henniker must make. She stated that she served on the DES task force that was formed after the ban to burn wood was passed. There was C&D wood to dispose of and thought this would be constructive work to be involved in. She stated that she witnessed a huge push from the industry and within the agencies to overturn the ban. She also commented that clean wood chips are very expensive making it much more profitable to burn clean wood. Mr. Kusche stated that clean wood has risen 100% in value in recent years. She stated that there is a much less expensive technology

available for burning only clean wood. The expensive technology is used for burning both clean wood and C&D chips. She stated that we have several incinerators proposed for a small, relatively densely-populated area. She stated that Connecticut is moving towards C&D wood as a renewable energy source, and this information has to be considered.

Ron Hess, resident of Henniker, stated that he is a NH Citizen for Clean Air which is made up of 25-26 communities like ours. He stated that this organization tried to get a ban on outdoor furnaces. The grass-roots campaign has moved to the State level. He stated that last fall they were able to work with a large association from Connecticut, Maine, Vermont & New York dealing with pollution. He stated that the people that have spoken against this proposal are correct and the information coincides with medical information that is available. He stated that allowing this plant has the opportunity to pollute all of Henniker and will affect houses, property, land and, most importantly, our kids. He stated that he understands the needs for power and the industry, but he does not believe they can control emissions as well as they say they can.

Jennifer Parker, resident, stated that she comes from a background in environmental law and agrees with those speaking against this application. She stated that there are known problems with these plants. She stated that her family recently moved to Henniker; they did not want to go to Bow because of the increased pollutants. She asked the Board to take their time in making their decision on this huge issue. She stated that this is very upsetting to her since they chose this area because of its clean air quality. She stated that she has worked with other companies, and they tend to find that it is cheaper to not comply with regulations.

Andy Mitchell, resident of Old Concord Road, expressed concerns. He stated that there must be truck traffic needed to feed the plant and feels that the road cannot stand it. He also asked to see a model of where the pollutants would fall.

Ms. Scott, Planning Consultant, stated for the public that letters were submitted to the Zoning Board and are hereby noted in the minutes. Copies have been provided to the applicant and are available for public review. A written letter was submitted by Theodore Kupper, resident of Hopkinton, stating his reasons against the proposal. Also, letters from Roland Soucy, John Margeson (Highway Superintendent), and the Police department were received stating that they have no comments about this application at this time. A letter dated 5/21/08 from Sharon Wason, CNHRPC, was received and a copy was provided to the applicant. The CNHRPC concurs that this is a development of regional impact. Specific information requested by the CNHRPC includes "pre and post drainage reports; information about what hazardous material storage and handling methods and other protective mechanisms will be put in place to protect the aquifer, surface waters, and any wells from potential pollution; a traffic report detailing the number and types of vehicles delivering wood chips and other material to the site and removing ash and other remnants from the facility, including allowable routes, hours and other conditions; an air quality permit from NH DES."

The Conservation Commission also provided comments in a memo dated 5/8/08. A copy of this memo has been given to the applicant and is available for public review. The comments (taken from the memo) are as follows:

“1) We feel that the use variance (case 2008-104) does need to be heard by the ZBA because we believe that power generation does not fall under the category “commercial/manufacturing” as defined in the Henniker Zoning Regulations.

2) We believe that this is a project of regional impact as defined by RSA 36:54-36:57 which states that projects of regional impact are those that possibly have an impact on neighboring communities, an impact on road networks beyond the town, a proximity to a community border, anticipated air or noise emissions or proximity to surface waters. We feel that this project meets all of these criteria.

3) We feel that the existing application for an Area Variance (Case 2008-105) has insufficient information about the nature of the proposed 80 foot tall structure on which to base a decision about its impacts on the community. Furthermore, it is our belief that 80 feet is more than 3 stories, the height provided for in the Henniker Zoning Regulations.

4) We feel that more detailed information on the design and anticipated nature of the project’s impacts is needed, and that an opportunity for public feedback on additional information that is submitted should be provided prior to any decision on either of these variances.”

Grace Cohen stated that after hearing all of the comments, it occurred to her that this is a bigger issue than she originally thought. She stated that the 4,000 people in Henniker and the 5,000 people in Hopkinton could be affected by this decision. She stated that she feels that she needs to modify her original position to the side opposing the application. She stated that the fact that it could be detrimental is reason enough to not allow it. She stated that she hoped the Board would take the time to think clearly and reconsider the proposal as she did.

Ms. Connor closed the public hearing at 10:07 pm.

Mr. Blomback asked what the intended hours of plant operation would be. Mr. Kusche stated that it would operate 24/7 with two scheduled outages (spring/fall) for a two-week duration. He also stated that he does not anticipate truck traffic along the road to change that much since the fuel would be supplied by Cousineau’s.

There was discussion about direct market and the risk that this type of company takes. Mr. Kusche stated that they could write contracts of varying lengths to absorb the risk. He stated that it is difficult to predict market conditions as far as 10 years out, but five years can be somewhat safely forecasted.

Mr. Blomback questioned how much ammonia must be used in a year in order to decrease the amount of particulate matter emitted. Storage amounts could not be estimated at this time. Mr. Kusche stated that the technology is designed to use as little of the reagent as possible.

The applicants stated that they feel that they have been unfairly associated with a bad experience in the neighboring town. They stated that the technology used in the proposed power plant is not used to burn C&D, and their company does not burn C&D. They stated that nobody wants a power plant near them, but we all want to consume electricity. They complimented the audience on being concerned citizens for their community and appreciate the well-articulated comments for both sides of the issue. They stated that they share the same concerns about not harming anyone. They stated that it is time to turn away from dependence on foreign companies and come up with other sources of energy.

Mr. Blomback returned to the issue of ammonia storage. Mr. Kusche stated that it may require 5 gallons/hour of aqueous ammonia. He stated that while it does not all go away, it is reduced to parts/million released into the air.

Mr. Blomback asked the applicant to address the question that was raised about the company paying taxes and the burden on the town. The applicants stated that this type of venture is very expensive, carries risks and is not viable to write off soon. They budget for and pay their taxes on a yearly basis.

Ms. Scott clarified the question as to the company asking the Town for a tax reduction. Mr. Bravakis stated that investors know they are not going to realize a return for a long time. Taxes are part of operating expenses, and property taxes are budgeted along with other expenses.

The applicants stated that they anticipate 15-22 employees working directly at the plant. When asked, they stated that they anticipate 6 – 7 million dollars would go back into the community. They stated that steam will go back into the dry kilns, but more heat would be available if someone wants to use the waste heat that is produced. Mr. Bravakis encouraged the audience to research the positive experience of biomass plants in Sweden & Norway where plants are in the cities and the waste heat is supplied to buildings in the districts. He stated that those plants have been operating for years without detriment to the communities. An audience member stated that she is from Sweden and asked which towns use this type of power plant. Mr. Bravakis offered to email her the names of specific towns.

Ms. Oliveira stated that she had no questions at this time.

Jeff Connor asked for specifics on the conveyor process and questioned regulations of the material being conveyed to the power plant. Cousineau's is to be supplying the fuel, and they handle only virgin wood fiber. Mr. Connor asked about background information on Laidlaw Energy Group. The applicants stated that they are out of New York and are good, honest people to work with. Mr. Connor asked if they would want this plant in their own backyards. Mr. Bravakis and Mr. Kusche stated that they take their work very personally and feel that this is a positive source of renewable energy.

Ms. Connor called for the Board to discuss the criteria for determining the variance. Ms. Connor stated that an argument has to be made that there is something unique about this property to allow them to do this. If the ordinance affects everyone the same, then it will not work. While this area is the place for the heaviest commercial use in Henniker, this use is not expressly allowed.

Ms. Laberge stated that if this plant is to be in Henniker, this is the best place for it.

Mr. Connor stated that there is nothing unique about the land itself; if it affects everyone the same then the land is not unique.

Mr. Blomback stated that he does not think the Board should be hearing this request for use variance. He stated that he has an issue with item 2C as he does not have adequate information on this point about emissions from the plant.

Ms. Laberge asked if the hearing could be continued to the next meeting to get input from the applicants that would be helpful in making a decision.

Mr. Blomback stated that if 30 days is granted, it should be a constructive use of time and specific information should be requested.

Ms. Oliveira stated that the answers given on the use variance request application assumes that this was considered a “manufacturing use.” Since the Board has ruled that it is not, they may clarify their answers.

Ms. Scott stated that the applicants may provide additional information at the Board’s request and reopen the public hearing. The Board also can give the applicant the option to extend longer than 30 days if desired. She stated that the hearing can be re-opened at the regularly scheduled meeting and the applicant does not need to send out new notices.

Ms. Laberge asked that it be very clear that two different pieces of property are being used. The variance is only for the property as listed. She stated that it needs to be clear that the two pieces of property are working together. There needs to be enough room for the power plant to function self-sufficiently should it need to without Cousineau’s business.

The applicant had answered the questions on the application from the standpoint of a manufacturing use. The Board has ruled that what they are planning is not manufacturing; therefore, the applicant may clarify their answers now that they are aware of this. As the Board has requested more information concerning air emissions data, any other chemicals to be used on the site, and information relative to public concerns, Ms. Oliveira **MOVED** that Case 2008-104 be continued to the next meeting on June 18, 2008 in order for the applicant to elaborate on and clarify the answers on the application. Mr. Blomback **SECONDED** the motion. Motion to continue **PASSED UNANIMOUSLY (5-0)**.

Case 2008-105: A request has been made for an Area Variance under §133-28 A. The applicant, Michael Bartoszek of Laidlaw Energy Group, on behalf of Granite State Forest Products, is proposing to construct a 20 MW renewable energy plant (clean biomass woodchips). An Area Variance is requested to allow an 80-foot tall building to be constructed where “no buildings shall be constructed more than three stories above grade level”. The property is located at 1192 Old Concord Road (Map 1 Lot 549 F2) in the Heavy Commercial (CH) District. This application is being noticed as a Development of Regional Impact, per NH RSA 36:54- 36:57.

Ms. Connor **MOVED** to table Case 2008-105 to the next meeting on June 18, 2008. Ms. Oliveira **SECONDED** the motion. Motion **PASSED UNANIMOUSLY (5-0)**.

Ms. Connor **MOVED** to adjourn at 11:05 pm. Mr. Blomback **SECONDED**, and the motion **PASSED UNANIMOUSLY (5-0)**.

Respectfully submitted,

Jennifer Astholz
Recording Secretary