

July 21, 2008

Members present: J. Marot (Chair), B. Hoeg, G. Kashgagian and  
K. St. George

Meeting called to order at 7:30 p.m.

**Jamie Bissonnette**

I am back concerning the plan for my father. I have shortened the road to 725 feet. We are considering putting this area (100,000 square feet) into 61A agricultural and adding it to what my grandfather presently has because he is farming it now (Lot 4) which presently has his house on it. We are creating 2 lots off of this right of way. Brian – how many lots? Jamie – 2 new and his existing. Nancy – are you talking a conservation restriction. Jaime – 61A – doesn't that have a 10 year restriction. We talked to Attorney Mather and I thought he said 10 years. Nancy – I thought we had talked about more land area and a conservation restriction. APR – I would like to see something more than a 61A . Jim – I think there is a time limit on the 61A. Jamie – what is the term concerning restitution for the tax – is it 30 years. We would like to have it in a 61A to take advantage of the tax issue. Brian – what are you going to use for the driveway. Are you talking 3 house lots off 1 driveway. What improvements are we talking? Jamie – there is underground electric. It will go to both lots. Greg – what is this. Jamie – it is my Dad's land. Greg – how many acres. Jamie—about 20 acres. Nancy – I thought we had talked about the area for the farm being larger. Brian – can you get a subdivision on that road. Jamie. The road would be too long. There are a lot of avenues but that is not what we are trying to do right now. Basically we are talking 3 new lots. Brian – the land that comes along here. Jamie – the math does not make sense. Brian – the only way to unlock is to build the road. Jim – 61A is forest and agriculture. It is over 21 acres. Jim – we asked for a bigger piece of the farm or just as them to build the road. It would be my tenancy to build the 40 foot road. Nancy – we have to face the fact that you might come back in a few years and do a lot more. Greg – I thought it would be tied up longer. Jamie – so the Board is looking for it to be tied up longer. You are talking this whole parcel or build the road. I will talk to my father and see what we can work out. I would like to be on the agenda for the next meeting.

**Roan Barber**

Jim – As the Board is aware I have not commented on because my son worked for the company who was presenting it. He no longer is working for them but I would ask that Brian take over as Chairman for this vote. Roan is looking to eliminate the sidewalk around the cul-de-sac. It would look better if the sidewalk stopped here. Greg – I make a motion that we accept a modification to eliminate the sidewalk. Chris – I don't have a problem with eliminating the sidewalk around the cul-de-sac. Kevin – 2<sup>nd</sup> the motion. Vote – Brian, Kevin and Greg. Jim abstained. Brian – you need to have your engineer make the notation on the as

build. Chris – I don't see a problem it seems to be satisfactory. Catch basins are in place.

### **Cold Spot Solutions**

Jim – I have letters of recommendation from the Board of Health that they have approved the septic system. Open Space and the Board of Selectmen do not seem to have a problem. Chris – he has done every thing on the list. The retaining wall is under 4 feet. Jon – it is 3 ½ feet. Kevin – I make a motion that we accept the plan as it is being submitted. Greg – 2<sup>nd</sup> the motion. Nancy – do you have an order of condition. Jon it has gone through. It should be here. They have agreed to organic fertilizer. Jim – all in favor. Vote was unanimous.

### **Hearing re by-law changes concerning accessory apartment 10.0 and electronic signs 6.6.7 -- 8 p.m.**

Notice as it appeared in the Middleboro Gazette on June 26 and July 3, 2008 was read by Jim. Jim -- Since this is a public hearing I would ask that you address all questions to me and that you give us your name and address when you speak. Mark Bosse - Is there a by-law now concerning electronic signs? Jim – no but we do have a sign by-law. Rocky Savas, 12 Edgewater Drive – what does off premises mean. How does it affect us? Jim – the sign should be for what is being advertising concerning your business. Rocky - I don't understand. Jim – what don't you understand ? Rocky – what is wrong with my advertising my son-in-law's business? Mark Bosse – the off premise was to address the business. There are signs all over the town. This is part of the freedom of speech that the government guarantees us. It is an existing sign with a message from someone else. This is America we can say what we want. It should be allowed. Steve Savas – 36 Montgomery Street. – say the police call and want something put up—we are accommodating a request for the benefit of someone else. Jim – we will take your feelings back to the town. Rocky – we want to help the town and have always tried to be that way but I have to say that we feel as though we are being picked on. We are the only ones that seemed to be singled out. Bill Markson – have you run this by-law by town counsel. There is a number of case law that seems to apply. One that I remember off hand is 44 Liquor Mart vs Rhode Island. Also I believe that the 1<sup>st</sup> and 14<sup>th</sup> amendment come into play here. It would be my suggestion that you run this by town counsel. Rocky – I think this should have been done before it came here. We were told that we had to shut off our sign after hours but this does not seem to apply to everyone else in town. We have compiled a list of the number of business that are not being told that they have to shut off their signs. Nancy – I have to say that I feel that you are looking at me when you are saying these things. I wasn't at the meeting. I am trying to get a handle on this. You feel that your being picked on. Maybe we should try to stick the by-law that is being discussed. Mark Bosse – what is the intent of this by-law. Jim – to help regulate electronic signs. Mark Bosse- why – how is it going to be regulated. Mr. Savas – I believe it is correct when it is suggested that more research should be done. They have asked us to do certain things and it has been done but it does not appear as though anyone else it town

has to abide by the same rules. Mark Bosse – am I correct when I say that no matter what is done at this point it will not affect the present signs? Chawner – you were given the permit. That is how the sign is used. Zoning is reviewed by the Planning Board. All the research is done and then it will go to Town Meeting. I would ask that the Planning Board make it more restrictive. I believe that the thought behind this is so that the EMC language be more specific and broad. We need to limit the signs not what is on it. We need to restrict where they can be placed. You need to protect the rural character of the town. Markson – what is the purpose behind it. We need to think of more business. We do not have enough business. People claim that they want business but it appears to me as though it is being made more difficult for business to come into town. It seem as though we are creating problems. Darrell Bernier – I have to say that Savas has allowed the Park Department to use its sign and I believe that we will continue to use it. It is non-profit. Mr. Savas – we also plan to let the church and the school use the sign. Mark Bosse – it seems like that part of the language need to be given some serious consideration. This is America and we are allowed freedom of speech. We should be thinking of community support. Chawner – what is the difference between that and a billboard. Mark Bosse – it is the intent to advertise, I don't see any difference. I believe that it is our ability to support the business in the area. It is a right and duty. Mr. McCarroll – they are on a state highway. I believe that the state regulates what the sign says but the town regulates the sign. I believe that they would have to go to the Massachusetts Outdoor Advertising Board. If Savas was to come to Massachusetts Highway we will regulate what is on the sign. You get the okay from Massachusetts Highway and then the city or town. Kevin – why does the sign change so fast? Steve Savas – if its longer than 5 seconds and you are going 35 you want to see what is on it. It has been proven that it is a safety issue. If it is over 4 seconds it becomes a safety problem. There is a merit to foot traffic. Mr. Savas – we can show products on the sign and what happens with our figures. We have gone by the 1`1 p.m. closing. Legally we do not have to. Jim – I understand that you are going to keep it that way for now. Mr. Savas – we have made it a point to check on signs around town and found at least 72 lighted signs and at midnight 63 were still on. Jim – when we see new site plans in most case we are restricting the kind of sign and we are putting in the stipulation that the signs are not to be on beyond the hours of operation. We request that they put most lights out (except for safety reasons) and we have not had a problem. At this time I will continue the hearing to our next meeting on August 4, 2008.

### **Accessory Apartment**

Notice as it appeared in the Middleboro Gazette on June 26 and July 3, 2008 was read by Jim. Since this is a public hearing I would ask that you address all questions to me and that you give us your name and address when you speak. Chawner – I don't have the existing by-law but isn't it only 600 sq. ft. I feel that if anything this is making it bigger and more of a stand alone. You are really creating a second living area. It is taking the present by-law and making it more accommodating. Jim – 20 x 20 is a small house – 1,000 is more space – 2

bedrooms are more accommodating. Jim Rogers – this is not an in-law apartment – we were thinking more family vs in-law. We were looking for independent living for a family type of unit. Nancy – you are changing the in-law apt. Chawner – I think it is well intended we don't want to keep our kids. It gives us a chance to increase our population. Nancy – we just approved a 40R. I am just afraid that we are getting into uncharted territory. Mr. McCarroll – I thought it was to legalize what was being complied with – so that it could be enforced. Jim – I don't see where this changes it all that much. In effect you could make every house a 2 family house in town. Jim Rogers – Part of the conversation was to try to put a standard into effect. You have issues where this exists without control. We need to have it so that the town has control. Jim – I believe it was 750 and it was then changed on the town meeting floor. Size was an issue. McCarroll – it was used for different uses. If a parent dies technically you can't use it. Chawner – this town's financing is very fragile – every house has different levels. The house is receiving more in benefits than it is paying. I am all for making the budget work. I don't want it costing the town more money. McCarroll – it has to be fine tuned. Jim – if you add a bedroom it can make a big difference. Jim Rogers – Jim our point is that we are trying to give you rules and regulations that the town can work with. If you believe that there will be tax consequences we need to look at it more thoroughly. Nancy – what is wrong with what we have now? In our by-laws we address an in-law apartment. Jim – you don't need a separate dwelling unit. There is no law that says I can't put in another kitchen. Nancy – I have a problem with enforcement. I don't know what is wrong with what we have. Greg – what is wrong with 600 feet and 1 bedroom? Two bedrooms is activating the school situation. Chawner – we need something. We need to think of the budget. We need a funding issue. Jim – we need to speak with the assessors. You still have the ability for people to do it illegally. Nancy – I am against any changes at this time since we don't know the repercussions. This really scares me. Chawner – the Casino is why we need to make it stronger. Jim – I would recommend that we do not close the hearing at this time but rather postpone it to our next meeting to August 4, 2008.

### **County Road Rezoning**

Mr. Doherty – We sent to everyone on County Street to Freetown St. We added our telephone number and I have to say that no one has called. Both myself and the McCarrolls would like their areas re-zoned to business as it is across the street. Everyone has been contacted except for the Mullen Hill Church. Mr. Staples – I want it unless it is everyone. Markson – I believe the zoning goes back to 430 feet. I have no objection. I brought in a plan for storage. My back land abuts the forest land and business here. If this goes through I would like ask my land back here to be rezoned. Jim – I would like to see how the property owners feel up to 140. Mr. Doherty – we were told to Freetown Street. Mr. McCarroll – I think you could poll the people who are here. Jim – we are looking to an area that has access to a main road. Basically 140. I think I would like all the way to 140. Bill – most were 200 feet back from the road. In 1980 this was zoned business. It is slightly more than 430 feet. Jim -- the article would say so

many feet back or it would have to be by meets and bounds. Mr. McCarroll – Mr. Doherty and I would like our property zoned. Mr. Scholz – I am not in favor of the change but if that is what the majority wants then I would have to go along with it. Mr. Vanlaarhoven – we have tried for years to zone it the other way. I think it should go to 140. Doherty – it would be 105 acres. Lakeville Hospital is 70 acres. McCarroll – I think it should be zoned all the way. We are here to correct what should have been done some time ago according to the Master Plan. The Master Plan shows it goes all the way. Jim – once you cross 140 I don't think I could suggest it. Mrs. Vanlaarhoven – is there any restrictions. Jim – it is just what is allowed in the Business Zone. Examples were given. McCarroll based on the interstructure it is unlikely that you would get a Wal-Mart. Chawner – while I think it stinks I would like to have done what the neighborhood wants. McCarroll – the way development is going I see a change within a few years it could happen very quickly and would impact the neighborhood. You have the petition for the business change from each of us. Markson – It has been since 1970 – 1985 there is no demand for that property. I had to create a use. Jim – demand generates itself. It will become popular. For many years Freetown had no zoning. Markson – they are getting things that we should have. Jim – I don't think we have a problem with the zoning. Do you want the change? I am going to ask you for letters and have them respond to us. Let us know how you feel – is this what the people want? Doherty – do you want me to send letters? McCarroll – Mr. Doherty and I started this over 2 months ago and we went to the Selectmen and they said that they would be forwarding a letter to you with a copy of their vote. Jim – we had hoped that it would go to 140. Markson – if Mr. McCarroll and Mr. Doherty are not satisfied they always have the option of drafting a petition and they do not have to go to the Planning Board. Jim – I am saying that I have not heard an affirmative vote without peer pressure from the neighbors. If there are only two people in favor I will not stand up at town meeting. Our vote as a group is not always what we vote as our personal vote. Brian – we would like to hear from other people concerning whether or not they would be in favor or not. Jim – to contact these people we need to give a clear message that all have been contacted. We need this information. There are 11 other owners. Jim Rogers – you need to notify them and if they don't reply in 2 weeks it is a positive answer. Jim – we make the required advertising to all abutters. McCarroll – I don't think that it is our job. Jim – National Development went to all the abutters themselves. Markson – if you had the idea that abutters were in agreement you would back it? Chawner – the Board of Selectmen did take a vote to support the same and recommend it to the Planning Board. I think that some of them are not speaking up and now we are talking down to 140. I am not sure what is being considered. Jim – we are talking a zone of equal depth if all are in agreement to rezone I think the Board would consider it. McCarroll – I do not feel that I have to do this. If Mr. Doherty is in agreement that is fine. Mr. Doherty – I am willing to send out the letter. Jim – Every time a petitioner has a problem with anything and there is opposition he or she should approach their neighbors and ask what do you think? McCarroll – all we asked for was 430 feet like across the street. Jim – you have the right to do it and bring

it to the Town Meeting. McCarroll – I would suggest that the process be put to the community. Brian – we need to know the input. McCarroll – the Selectmen have an opinion. Nancy – the spot zoning did come up at the meeting. Mr. Scholz – do I understand that it is like Mr. Doherty said that if the people do not respond it will be counted as a yes vote. I do not think that I agree with that. Jim – I don't believe that is necessarily a yes vote. This is to look at it and considering it to go from residential to business. I would require a public hearing and it would have to be advertised. There are times when our recommendation is taken at town meeting and times when it does mean anything. Some of the articles at town meeting require a 2/3rds vote. Chawner – I understand what you are trying to do. You realize that it is business on one side of the street and you would like the town to consider the change to the other side of the street. I don't think it is impossible. I would like the Board to know that if I am not available for the next meeting that I would like to go on record as in favor of the change.

### **Bills**

Jim – I have a bill from the Middleboro Gazette in the amount of \$28.05 for the advertising done concerning the by-law hearings. It is my understanding that this will be paid from funds from the Selectmen's account since these are being recommend by the Board of Selectmen Greg – I make a motion that we approve the same for payment and forward them to Rita for his signature. Brian – 2<sup>nd</sup> the motion. Jim – all in favor. Vote was unanimous.

### **Budget**

Jim – I have a request from Rita concerning a 3 year budget. Brian – since we ask for the same amount each year what is she looking for. Jim – I will suggest that she put us down for \$250.00 per year.

### **Walter**

Jim – I don't know if any of the members are aware of it but Walter has not been able to come to meetings lately because he is on dialysis three times per week, basically Monday, Wednesday and Friday. I was wondering how the Board would feel about have one meeting per month on Tuesday. For August it would be the 4<sup>th</sup> and 19<sup>th</sup>. Members were in agreement.

Greg – I make a motion that we adjourn. Kevin – 2<sup>nd</sup> the motion. Jim – all in favor. Meeting was adjourned at 11 p.m.