



**PLANNING BOARD**  
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**MINUTES OF THE PLANNING BOARD**

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Thursday, July 20, 2023 – 6:30 p.m. – Town Hall Conference Room

Members Present: John McDevitt, David Moore, Stephan Toth, Phil Dion (Alternate), Richard Winsor (Alternate), Steve Smith (Selectmen's Rep)

Late Arrival: Bob Dion

Members Absent: Steve Gerrato, Catie Medeiros, Stu Gerome (Alternate)

Staff Present: Mark Fougere

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D. Moore opened the Planning Board public hearing at 6:30 pm. He announced a quorum was present and the meeting was being recorded.

1. Projects of Regional Impact

There were no projects of regional impact.

2. **Conditional Use Permit**

24 Winnicut Road (Map R10, 24: Residential Zone)

Applicant: Christopher Rice, TF Moran

Owner: Brad Peterson, REP Enterprises

The owner and applicant are proposing to construct a paved driveway with an apron on Winnicut Road to provide access to the existing storage trailer area. The proposed driveway is 24 feet wide and approximately 260 feet in length. Improvements include grading, drainage, and landscaping. There are no wetland impacts; however, work is proposed in the wetland buffer. Retaining walls are proposed to limit buffer impacts.

Chris Rice, TF Moran, addressed the Board. C. Rice was representing the owner, who was not present. The property is approximately 4.38 acres. There is an existing storage area on the property for REP's business operations on the adjacent lot. C. Rice pointed out the location of the proposed driveway, which will be used to access the storage area. The proposed driveway will be 24 feet wide and 260 feet in length. The driveway on Winnicut Road is being proposed to alleviate traffic concerns at the existing entrance on Rt. 33. Currently, large trucks and trailers enter and exit the site on Rt. 33.

A Conditional Use Permit was requested. A portion of the proposed driveway will impact the buffer. There are no proposed wetland impacts. There will be permanent impact for the driveway. Temporary impacts to the buffer will be restored to open space when construction is complete. Buffer impacts: temporary--145 square feet to the 25-foot buffer and 1,445 square feet to the 50-foot buffer; permanent--1,845 square feet to the 25-foot buffer and 1,690 square feet to the 50-foot buffer. Retaining walls have been proposed along a portion of the driveway to minimize the impacts to the buffer area where possible. A row of arborvitaes and two dogwood trees are proposed for the area

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closest to the existing garage. They received a positive recommendation from the Conservation Commission in June. They have applied for an NHDOT driveway permit; it has not been received.

C. Rice addressed the Conditional Use Permit criteria: Article XVIII: Wetlands Protection Ordinance, Section 18.6 – Conditional Uses, Subsection 8.6.2 – Conditions).

- A. **The proposed use is permitted in the underlying zoning district:** This is an existing use. A driveway is proposed to provide safe access to that area.
- B. **The use for which the permit is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Jurisdictional Wetland Area, buffer, or setback:** There is no other alternate area the driveway could be placed that does not require additional impacts and/or impacts to Jurisdictional Wetlands. The small portion of remaining frontage along Winnicut Road is not wide enough, as the driveway flares must tie in prior to the property line.
- C. **The design, construction, and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the Jurisdictional Wetland Area, buffer, or setback and that no alternative design which does not impact a Jurisdictional Wetland Area, buffer or setback or which has less detrimental impact on the Jurisdictional Wetland Area, buffer or setback is feasible:** Same answer as 'B'. In addition, we have attempted to minimize impacts with the construction of retaining walls.
- D. **In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, that the landowner agrees to restore the site as nearly as possible to its original grade, surface condition, and vegetative condition following construction:** The landowner agrees.
- E. **The proposed use will not create a hazard to individual or public health, safety, and welfare due to the loss of the Jurisdictional Wetland Area, contamination of the Jurisdictional Wetland Area and/or groundwater, or other reasons:** The use will not create a hazard to public safety, health, or welfare (it will increase public safety), and there are no impacts to any Jurisdictional Wetland areas.
- F. **There will be no adverse impact on the Jurisdictional Wetland areas functional values of the site or surrounding properties as it relates to water quality, flood storage capacity and wildlife habitat:** There are no adverse impacts on Jurisdictional Wetland area functions and values of the site, surrounding properties, flood storage or wildlife habitat. In speaking with the Wetland Scientist, the Jurisdictional Wetland areas themselves do not have high functions and values, and we are only proposing to impact the buffer where necessary with no impacts to wetlands.
- G. **All required permits shall be obtained from the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under New Hampshire RSA §485-A:17, the New Hampshire Wetlands Board under New Hampshire RSA §483-A, and the United States Army Corps of Engineers under Section 404 of the Clean Water Act:** I do not believe other permits are required.
- H. **The applicant develop a stormwater management plan meeting the requirements of the Town's Stormwater Management regulations to document that no adverse impacts will occur unless this requirement is waived by the Planning Board for good cause shown:** Based on prior correspondence, the scope of this project does not trigger the requirement to provide a stormwater management plan.
- I. **The impact is not contrary to the public interest (an example might be the construction of utility services and that no reasonable alternative exists):** The impact is not contrary to the public interest; it will allow for reduced traffic entering and exiting from the site to Rt. 33 and provide safe access at a signalized intersection.

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- J. **Economic considerations alone are not sufficient reasons for granting a permit:** The request is not economically driven. The property currently has existing access through the adjacent property but is proposing this to alleviate a traffic safety concern.
- K. **The proposed construction is essential to the productive use of land not within the jurisdictional wetland area, buffer, or setback:** The driveway is essential to the productive use of the land. In addition to alleviating a traffic safety concern, should the property ever be sold, access would have to be provided from Winnicut Road.
- L. **The proposed construction permits the unobstructed flow of water and preserves the functionality of the jurisdictional wetland:** The construction permits the unobstructed flow of water and preserves the functionality of the wetland. We did perform drainage calculations to adequately size the proposed culvert underneath the driveway.

It was noted that M. Fougere met with the owners a while ago and conveyed that it was a safety issue. They are located in close proximity to the light and traffic backs up at that intersection. There are heavy trucks entering and exiting the site and creates problems.

MOTION: J. McDevitt moved to accept the application for the Conditional Use Permit for 24 Winnicut Road (R10, 24) as complete. Second – R. Winsor; all in favor. MOTION CARRIED

S. Toth: Questioned how large the culvert was under the proposed driveway. C. Rice: 12 inches. S. Toth: Was concerned how wet the area got when it rained and that debris could easily block the culvert and prevent the flow of water, resulting in flooding. He suggested a slightly larger culvert would ease his concerns. C. Rice will look into it; they are trying to minimize how much they have to raise the road height. He suggested possibly twin 12-inch pipes with a screen on the end.

R. Winsor: Noted this was a separate lot and asked M. Fougere if it was within the Commercial Zone. M. Fougere stated the lot was not in the Commercial Zone. R. Winsor: When the Planning Board approved the parking lot it was to get some relief. At the time assurances were made that there would be no expansion and remain a dirt lot to be used for storage. He thought there was some significant scope creep and a commercial use. R. Winsor continued that would be an expansion of a non-conforming use. M. Fougere noted the rear parking lot was fairly large; he did not consider a driveway an expansion of a non-conforming use. R. Winsor responded that it was non-conforming if it was not a commercial property; it was grandfathered but non-conforming. M. Fougere stated it would be an expansion if they tried to enlarge the parking lot. R. Winsor: The impervious surface was increasing, access was being increased to a non-conforming use, what is happening on the lot is expanding the scope: access to a different road and impacting buffers; he was not inspired.

Responding to S. Toth regarding safety, C. Rice stated the existing access was through the REP business entrance, which was a curb cut on Rt. 33. Trucks enter and exit through that curb cut. The owner is trying to eliminate that issue. S. Toth: How much traffic would use that road if it was built? C. Rice: It would depend on how many trailers were being sold and/or worked on during the day. At a peak, it could be 20-25 trips daily, or there may be days it could be zero.

R. Winsor: It may be easier access on Rt. 33 because of the light. It would be less of a safety concern and a safety benefit. They were far enough from the light to make a right turn and with a pause in the traffic, make a left turn. He felt the safety argument was thin.

J. McDevitt: Disagreed with R. Winsor, stating it depended on the time of day. J. McDevitt requested more traffic safety information but was not asking for a traffic engineer study. He disagreed that it was safer on Rt. 33 for tractor trailer traffic. R. Winsor pointed out that traffic would be on Winnicut Road

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and asked if anything would be changed. Traffic would still be backed up on Rt. 33; rather than exiting onto Rt. 33, they would be exiting 30 feet down the road. J. McDevitt asked if traffic would access off Rt. 33 and exit from the driveway on Winnicut Road. C. Rice responded it was his understanding that employees and customers would access off Rt. 33; trailer movement would be on Winnicut Road. C. Rice will discuss further with the owner.

R. Winsor noted it was not an improvement to move it to Winnicut Road. D. Moore stated that the intersection at Winnicut Road was primarily cars and now there would be tractor trailers. J. McDevitt asked the distance from the proposed driveway to the intersection. C. Rice stated it was at least 300 feet away and will get the exact dimension for the Board. He added that the curb cut for the house on Winnicut Road will be removed. He will try to get a specific breakdown of trailer movement (tractor trailers vs. pickup trucks towing trailers).

S. Smith: Stated he had several concerns. He asked if it was the gated entrance on Winnicut Road; it was not. The proposed driveway was further down. S. Smith noted there was one cut on Winnicut Road to the existing facility. The driveway would be an additional entrance. S. Smith questioned if the driveway would be for the back lot and not the rest of the facility. C. Rice will get back to the Board with an answer. S. Smith noted that there have been renovations and trailers are on the front of the lot where the house was located (it has been removed). If the drivers were concerned, that would be an issue. In his opinion, the lot was overused. There was also an entrance for the building located on the other side of the lot. They could use that entrance as well or consider a second entrance off Rt. 33; they do not need to use the first entrance. There is room to stack a tractor trailer in the turning lane to make a left turn when viable. S. Smith stated he had several issues with the plan going forward.

J. McDevitt stated he needed to see a true traffic flow and analysis. Board members had concerns that included traffic entering and exiting the site, the new road in the back, and the time of day they wanted to access the back road. M. Fougere was told by the owner that when coming from Portsmouth and making a left turn it was very challenging, even with the center turn lane. S. Smith noted he did not want to see loading/unloading on the side of the road.

D. Moore opened the meeting to public comments. Joe and Cindy Hoonhout, 31 and 36 Winnicut Road: His house is located directly across from the proposed driveway. They also own the property directly across the street, which is contiguous 24 Winnicut Road on the north, west and south sides. He explained that the plan shown was 'a little bit nebulous' and pointed out the inaccuracies. J. Hoonhout noted that he has spoken to the owner about his concerns. He was concerned about drainage; C. Rice stated they have done drainage calculations. Noting there was a 50-foot buffer requirement along the property line with 48 Winnicut Road, J. Hoonhout questioned if there were any other buffer requirements with adjacent parcels. R. Winsor stated that the 50-foot buffer would apply to any lines adjacent to a residential property and will need to be validated. Zoning is typically established that there is a 50-foot buffer between residential and commercial. J. McDevitt noted that the Variance granted by the Zoning Board of Adjustment will have to be reviewed.

John and Mary Lou McGuinness, 4 Cushman Way: There is an existing exit/driveway on Winnicut Road that is blocked. He questioned why it was blocked. As an alternative to ruining pristine land with wildlife and that backs up to their property, he asked if it could be elongated and used as the entrance/exit. R. Winsor noted that there is a long way to go and there is a lot to discuss. Different options will be considered moving forward.

C. Hoonhout: Discussed commercial use vs. residential use due to the displays. The amount of traffic projected will have a serious negative effect on the adjacent residential properties.

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D. Moore stated that the lot was originally supposed to be overflow parking and not heavily utilized. R. Winsor recommended looking at the minutes and any other notes with the original approvals.

Jim Bellanti, 2 Cushman Way: He is a direct abutter almost to the storage lot. Was there a 50-foot buffer with his lot. D. Moore stated it should be 50 feet with a commercial use. J. Bellanti stated that over the last few years the parking area has been stretching 'inch by inch'. Crushed stone has been delivered and flattened. His main concern was that trees may be removed from the back. C. Rice stated there are trees in the area of the proposed driveway. J. Bellanti stated that the trees were a buffer with the storage area. He questioned how the tractor trailers making a delivery would determine which entrance to use and if there would be directional signs.

Responding to R. Winsor's question, C. Rice stated the plan before the Board was from the original approval. There is a note on the plan indicating it was from the original approval. The property may have to be surveyed. A site walk and new survey were recommended. M. Fougere stated there is approximately 180 feet from the parking lot to the south property line.

M. McGuinness, 4 Cushman Way: Noted the lot was not overflow parking for staff; it was for trailer storage. It was much more commercial than overflow parking. R. Winsor stated it was for trailer storage and not overflow parking. J. McGuinness added corner lot was like a land bridge for small animals out to the corner lot. There are less deer since the storage area was enlarged.

D. Bellanti, 2 Cushman Way: She agreed with some of the Board members that the lot is overused. The noise has increased, and the lot is inching further back. She was surprised that it was not commercially zoned. She requested a buffer.

S. Toth: Hearing residents concerns, potentially if there were to be approved, a sound wall may be required or something to prevent sound. It seems the lot is used frequently. S. Toth clarified that the sound wall would be for the other side of the lot.

D. Moore closed the public hearing and returned to the Board for further discussion. J. McDevitt noted more information and discussions were needed. J. Hoonhout commented on the length of the trailers vs. the width of the proposed driveway and Winnicut Road.

The Variance history and Planning Board history need to be researched. An as-built relating to existing conditions is needed and can be compared to what was approved to make sure it was compliance with the ZBA and/or Planning Board approval. The owners should be present at the next meeting. R. Winsor stated he would like to see other options. They would have a hard time convincing him to move traffic from one road entering onto Rt. 33 to another entering onto Rt. 33; the math was not changing and making things safer. J. McDevitt added that the intersection was in failure. R. Winsor continued that if the owner felt there was a problem with access to the site, he was more inclined to discuss how to bring improvements to Rt. 33 and get traffic safely onto the site vs. disrupting Winnicut Road. There are other options that are more viable; this may be the easy one, but R. Winsor did not see it as the right one.

MOTION: S. Smith moved to continue the Conditional Use Permit for 24 Winnicut Road (R10, 24) to the public hearing on Thursday, September 21, 2023. Second – J. McDevitt; all in favor. MOTION CARRIED

ZBA and Planning Board files will be researched for any additional information. A site walk may be done after the as-built is reviewed by the Board. It was clarified that the as-built is for the existing trailer storage area, noting the edge of the parking lot disturbance all the way around as well as the buffer size.

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The owner should be in compliance with the Variance granted by the ZBA and the site plan approved by the Planning Board. C. Rice clarified that any change of use would have to come back to the Planning Board.

### 3. Approval of Minutes

MOTION: B. Dion moved to approve the minutes of Thursday, June 15, 2023. Second – R. Winsor; six in favor, one abstain (P. Dion). MOTION CARRIED

MOTION: B. Dion moved to approve the minutes of Thursday, July 06, 2023. Second – J. McDevitt; five in favor, two abstain (D. Moore, R. Winsor). MOTION CARRIED

### 4. Consent Agenda

There were no items for the Consent Agenda.

### 5. Other Business

It was noted by M. Fougere that the Selectmen approved the impact fees. The vote was four in favor, one against.

S. Smith updated the Board that Senator Altschiller was at the Board of Selectmen meeting on Monday, July 17<sup>th</sup>. There are several opportunities for grant funding for the Rt. 33 project. Senator Altschiller is working with Bill Watson, NHDOT Project Manager. \$10 million is available for bridges and roads and an additional \$10 million for design and infrastructure upgrades. A project number has been assigned for 2024. J. McDevitt noted that there are grant opportunities available if the Town had a grant writer.

### 6. Work Session: Thursday, August 03, 2023

- Harmony Homes: B. Dion explained that Harmony Homes builds tiny homes. They will be making a presentation about what they have done in other places.

*J. McDevitt left the meeting at 7:28 pm.*

- CIP: No additional requests have been received. The Board toured the Fire Department and adjacent buildings on Thursday, July 06<sup>th</sup>.
- Fee for taking mylars to the Registry of Deeds: The first time there will be no charge; a second trip for the same plan will be \$100 and doubles each time after that for the same plan to the Registry. There will be a public hearing.

### 8. Adjournment

MOTION: R. Winsor moved to adjourn at 7:30 p.m. Second – B. Dion; all in favor. MOTION CARRIED

### NEXT MEETING

Thursday, August 03, 2023 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant