

MINUTES OF THE ZONING BOARD OF ADJUSTMENT MEETING  
January 10, 2013  
7:00 PM

Meeting called to order by Ray Donald, Vice- Chairman, present: Jay Alberts, Ben Romano, Daryl Branch, Peter Coffin, Tammy Bakie. The approval of the October 2012 minutes was postponed.

**Samantha Mooskian, R-3, Lot 2**

Mr. Donald reminded those present that it was the planning board's responsibility to determine noise or safety requirements. Mr. Alberts stated the meeting would be a de novo hearing, meaning it was a new hearing, and any decisions or discussions at the last meeting should have no impact or influence on the decisions tonight. Ms. Samantha Mooskian stated she was proposing an indoor gun range at 21 Route 125. Ms. Mooskian stated a 6 or 7 square foot building would be built within the 22 square foot building. Ms. Mooskian stated the range would consist of 14 lanes. Ms. Mooskian stated she was working with a company that specializes in gun ranges. Ms. Mooskian stated she wanted to see women educated with respect to self-defense with firearms. Mr. Alberts asked about organizations that oversee gun ranges and set standards. Ms. Mooskian stated she was working with professionals. George Harris President, International Firearms Consultants LLC., speaking on behalf of Ms. Mooskian stated he had built ranges all over the world both indoor and outdoor. Mr. Harris stated locally Sigsaurs academy in Epping he retired in 2011 as director and was co-founder of the academy. Mr. Harris stated noise would not be an issue. Mr. Harris stated he and his wife have promoted firearm safety and never have had an accident. Mr. Harris stated he was aware of the concerns, but emotions sometimes override intellect. Mr. Donald reiterated that the board was only to determine if the ordinance precluded or allow a firing range in that area. Mr. Alberts read the list of permitted and prohibited uses. A discussion followed on "adult orientated" businesses. Mr. Tim Shea spoke about the five standards to deny a special exception. Mr. Shea stated the noise would be a change to the essential characteristics of his neighborhood. Mr. Shea spoke of the impact on property values. Mr. Shea stated as the property exists today tractor trailer deliveries require traffic on Route 125 to be stopped in both directions. Mr. Shea stated he didn't see adequate parking and didn't believe it met commercial standards for egress. Mr. Shea stated he had a document from the U.S. Environmental Protection Agency that list lead as a pollutant. Mr. Shea stated the applicant's intention is to exhaust toxic gases and toxic fumes through the roof into

the environment. Mr. Shea distributed an aerial photo which showed that half the proposed gun range property was in the wetland and all of it is in the aquifer protection zone. Mr. Shea stated in commercial zone ordinance 110.3 while permitted uses must comply with all other zoning ordinances and regulations the more stringent standard must apply. A discussion followed regarding the criteria for special exceptions and what was the Planning Board's purview, and the standard for protecting the aquifer. Mr. Shea read from a report regarding a day care center in Florida and its' proximity to an indoor gun range which vented lead contaminated air. Mr. Harris stated the lead would be contained within the range. Mr. Martin Orio stated he was concerned that there was a different level of tone with regard to opposition than there is to those in favor. Mr. Orio spoke of where he lived and taxes he paid and lead and safety concerns. Mr. Orio asked about the parties involved. Mr. Orio questioned the board's impartiality. A discussion followed regarding notification of abutters. Ms. Ellen Faulcouner, Administrative Assistant to the Planning Board explained the events. Ms. Mooskian reiterated that a mistake had been made which was not intentional. Ms. Mooskian stated she works in the building and the owner is Mr. Tom Diorio who is on board with the project. Mr. Alberts spoke of the planning board requiring experts be brought in which would be funded by the applicant. Mr. Coffin spoke of the five criteria and the applicant's responsibility of preparedness. Ms. Mooskian spoke about the air handling system and the air being cleaner after it leaves the building. Mr. Harris concurred and spoke about noise levels. Mr. Coffin spoke about the lead and that the applicant would have to provide real numbers from the manufacturer of the air handler. Mr. Alberts asked Mr. Harris to address the five criteria. Mr. Orio stated the applicant was not prepared to discuss the details and that Ms. Mooskian by her own admission said she doesn't know anything about gun ranges. Mr. Harris gave his speculation on the five criteria. Mr. Shea stated that it was stated at the October 16<sup>th</sup> meeting that gunfire would be heard outside the building. Mr. Shea stated that he spoke with two realtors who told him property values would be impacted by this business. Mr. Donald made a motion to delay the vote to the next meeting to allow time to get more information. Mr. Alberts seconded but asked where would the information come from and what would be expected of the applicants. Mr. Donald stated the applicant would be expected to supply a certain amount of information. Mr. Alberts stated that if the board voted to continue he strongly suggested the applicant be prepared to answer the five criteria with empirical evidence. All four letters were read into the record. Ms. Mooskian stated she does not abut the residence on Hillside. Ms. Mooskian stated she was willing to continue the meeting. A vote was taken to continue the meeting until February 14<sup>th</sup> at 7:10, all in favor. Mr. Donald stated that this would be the only

notification of the meeting. Mr. Orio asked if the opposition could present expert testimony. Mr. Donald stated that the board would try to satisfy the requirements of the ZBA.

### **John & Brenda Galloway Tax Map R-3, Parcel 18**

Mr. Alberts asked for clarification of the zone. Mr. William Schneider, Operations Manager, Benevento Bituminous Products stated the parcel was entirely in the industrial zone. Attorney Frank Quinn representing Benevento Bituminous Products stated they were proposing the expansion of a non-conforming use. Mr. Quinn stated the expansion would be an improvement from what is currently on the ground. Mr. Quinn stated it would be greener, cleaner and more sustainable. Mr. Quinn stated it would be environmentally friendly and ultimately result in less truck traffic. Mr. Quinn stated they were purposing bringing in wrap recycled asphalt product and would need to add minor structures and secondly bring in a new fuel source. Mr. Quinn stated they would like to use propane as opposed to the #2 heating oil. Mr. Quinn stated the plant has been operated by Benevento continuously since 2008, and has been a good corporate citizen. Mr. Quinn stated there has been no onsite fire or police and are licensed and permitted by New Hampshire DES. Mr. Quinn introduced others to answer any questions regarding environmental concerns, air permits, and the new fuel source. Mr. Quinn stated the project had been reviewed by the fire chief and the DES and it had been signed off by both. Mr. Quinn stated no variances would be needed for setbacks. Mr. Schneider stated Benevento was a third generation family company based in Wilmington, MA that employs 100 people. Mr. Schneider stated the installation of liquid propane would be a cleaner source and there would be no dependence on foreign oil. Mr. Schnedier stated piers and footings would be installed to support a 30,000 gallon liquid propane tank. Mr. Schneider reiterated the changeover had been okayed by NH DES and Chief Seaman. Mr. Schnedier spoke about the advantages of propane. Mr. Schneider spoke about the advantages of the wrap product. Mr. Schneider stated they were in the ground water protection district and would be under the threshold for impervious surface. Mr. Schneider stated there was no storm water conveyance from the site. Mr. Schneider provided and explained a plan. A discussion followed regarding an access easement. Mr. Quinn stated there is an easement in favor of Stephen Brox that is recorded and runs with property. A discussion followed regarding a proposed subdivision, the plans and abutters that would need to be notified. Mr. Alberts stated the plans as they are now were unacceptable. Mr. Romano concurred that the plans are a legal document. Mr. Donald suggested the applicant ask for a

continuance. Mr. Quinn spoke asked about proceeding with the condition that the line be removed from the plan. A discussion followed regarding continuing or proceeding and whether the property was rural residential or industrial zone. Mr. Quinn asked to defer to the next meeting.

Mr. Donald adjourned the meeting @ 9:35.

Respectfully submitted,

Tammy L. Bakie  
Secretary  
Zoning Board of Adjustment

DRAFT