

**TOWN OF WEBSTER  
PLANNING BOARD PUBLIC HEARING AND  
MEETING MINUTES AUGUST 21, 2014**

At 7:00 p.m. Chairperson Sue Rauth convened the regularly scheduled meeting of the Webster Planning Board.

Present were Chairperson Sue Rauth, Vice Chair Sue Roman, Members Jere Buckley and Selectman Roy Fanjoy and Alternate M.J. Turcotte. Chairperson Rauth designated Alternate Turcotte to serve as a voting member due to the absence of Member Lynmarie Lehmann. Also in attendance was Mr. John Kostro, General Manager and agent for the COPART facility on 111 Deer Meadow Road, Webster, NH.

The next order of business was the review of the July 17, 2014 minutes. By consensus the Board deferred review of the minutes in order to conduct the public hearing for Case No.14-02-Site Plan Review Application for COPART, 111 Deer Meadow Road, Webster, NH.

**7:01 p.m.** Chairperson Rauth formally opened the public hearing. She reviewed the Rules of Procedure for a public hearing. She then turned the floor over to Mr. John Kostro. He began his presentation by referring to two plats of the property; the first one depicted the lot prior to COPART's ownership – August 2010; the second plat depicted the current status of the property while under the ownership of COPART. The Board also had copies of the plats and photographs that were submitted with the site plan review application. Mr. Kostro pointed out the eight foot high steel fence with a ten foot high electric fence inside the metal fence. He reviewed the current layout of the yard. Some topics of discussion were about the lighting, signage, pavement and the onsite diesel fuel tank (COPART use only for their heavy equipment) which is sitting on a concrete slab. Acting Member Turcotte inquired as to how much of the property was not being used. Mr. Kostro stated approximately 3.5 acres. Member Roman point out that the property was over an aquifer with wetlands covering the back of the lot. She stated the significance of that was that the Groundwater Protection Ordinance would apply. At this time Mr. Kostro presented photographs of the property. Member Roman asked Mr. Kostro to “walk” her through the process when a truck hauler brings vehicles to the yard. Discussion continued with regards to leakage of fluids from the vehicles. Mr. Kostro stated when there have been small leakages they are treated immediately with an enzyme based product and cleaned up. Mr. Kostro stated in the event of a large spill, COPART has the required Haz Mat booms and equipment to contain the spills.

Chairman Rauth asked Mr. Kostro if COPART followed the NH DES Best Management Practices to which he answered in the affirmative. Acting Member Turcotte asked if there was a written procedure regarding taking care of spills and leaks to which Mr. Kostro answered in the affirmative. Chairman Rauth asked Mr. Kostro to find out if a test well was ever installed on the property to test the quality of the water. Acting Member Turcotte inquired about the storage areas and the number of vehicles on the lot. Mr. Kostro stated there were approximately 900 vehicles stored on the property with a capacity for 2,800 which he did not anticipate reaching that capacity. Member Roman initiated a discussion regarding COPART's contracts with truck haulers and routes used to and from their facility. Mr. Kostro advises truckers who do call for directions. Other truckers use their GPS. Selectman Fanjoy asked if Mr. Kostro had monthly statistics/records of the number of vehicles coming in and going out. Mr. Kostro stated he had the records for vehicles coming in but would have to look up the ones regarding vehicles going out. Acting Member Turcotte inquired about the safety and environmental inspections the

corporate office stated were done annually. Mr. Kostro will get more information regarding the status of those and he will find out who the company certifies to at NH DES.

**7:39 p.m.** At this time the Board had no more questions for Mr. Kostro. Chairperson Rauth then invited public comments. Barbara Brown of Deer Meadow Road asked Mr. Kostro if the company that conducts the environmental inspection was from COPART or an independent company. Mr. Kostro stated that COPART has their own environmental/ safety auditor. Ms. Brown then asked about the size of the diesel tank. Mr. Kostro stated 650 gallons; he added the tank was double walled. Mrs. Brown voiced her concerns regarding leakage of fluids; she inquired as to how often Mr. Kostro has employees check for leakage. A brief discussion followed. Mr. Kostro stated that vehicles coming in are checked before being parked. If there is a leak an aluminum pan is placed underneath. Mrs. Brown stated in her opinion, vehicles should be checked more than once for leaks. Mr. Kostro stated that employees in the yard do keep their eyes open for any leaks. A brief discussion ensued. Member Roman asked Mr. Kostro to submit COPART's written policy on spillage.

There were no other comments from the public.

**7:45 p.m.** Chairperson Rauth closed the public hearing to public testimony in order for the Board to deliberate. Member Buckley stated that he had problems with the whole process which he had articulated in previous meetings. He gave a brief history of COPART's coming to Town and the ensuing application process with the Town for a junkyard license from the Select Board. He stated that RSA 674:43 authorizes the Planning Board to require site plan reviews. It does not mandate site plan reviews. In Member Buckley's opinion, he felt the Board was free to decide whether or not circumstances warranted a site plan review, and that neither the Select Board nor anyone else could make that decision for the Board. He further stated that a site plan approval, unless it included restrictions that significantly impacted COPART's ability to continue their present business, will do little or nothing to address the associated highway infrastructure and life/safety issues of the roads. In conclusion, Member Buckley stated the documentation from a site plan review application would give the Board a baseline against which to judge future change proposals but does not require a formal site plan review.

Member Buckley then made a motion that the Planning Board withdraw the requirement for this site plan review and instead accept the plats submitted as documentation of the site as it now exists. A brief discussion ensued. Selectman Fanjoy stated he felt that COPART's business was an improvement for the community compared to the condition of the property prior to their ownership. He agreed that the Planning Board does have to ask questions about the business and look into matters of the environment which is part of the site plan review. Selectman Fanjoy did state that he would really like to second the motion but that there were a few things that the Planning Board does have to look at. He then stated he would not second the motion. There were no other seconds – motion failed.

Member Roman then read from the Site Plan Review Regulations Section II.A.3.:

“In circumstances requiring a Commercial Exception in addition to a Site Plan Review, Site Plan Review by the Planning Board will take place after approval of a Commercial Exception for the proposed activity by the Zoning Board of Adjustment.”

Member Roman added that members of the Planning Board had met with Town Counsel and Town Counsel had recommended the Board conduct a Site Plan Review and that the Board was fully within their rights to do so under the facts and circumstances of this case. She stated that Town Counsel will continue to give the Board guidance throughout the process on what are the appropriate limits given the fact that COPART has been operational since 2011.

Member Roman made a motion for the following:

- to request COPART's written policy/procedures for clean-up and monitoring spillage and who COPART certifies to at DES at the various departments;
- to schedule a site visit review to be accompanied by a DES representative, if possible, or a paid consultant with the cost to be borne by COPART, pursuant to the Site Plan Review Regulations-Section I.A. Purpose.

The motion was seconded by Acting Member Turcotte and unanimously approved.

Selectman Fanjoy asked Mr. Kostro if he was aware of an environmental study/regulations or Standard Operating Procedure that COPART would have needed to follow prior to building the business particularly when building near an aquifer. Member Roman added that the company would have had to do an environmental audit to be sure the property they were buying was not contaminated. She requested Mr. Kostro to bring that to the Board, too.

Member Roman brought up the issue of highway safety and structural integrity. Chairperson Rauth pointed out that discussion this evening had acknowledged there had been a change of use or at least an expansion that has contributed to the volume of traffic that the Town had not anticipated a few years ago especially when the City of Concord began enforcing its "No Through Trucking" ordinance and won the lawsuit against COPART. This made a big impact on the volume of traffic on the roads in Webster. Selectman Fanjoy informed the Board that the Select Board, specifically Selectman Johnson, was looking into traffic counts with the assistance of Central New Hampshire Regional Planning Commission. He stated the Town dropped the speed limit to 25 mph on Bashan Hollow and Gerrish Roads; however, "No Through Trucking" was still an option. Selectman Fanjoy talked about Clothespin Bridge Road bridge being in serious need of repairs. If the Town does work on it next year, the road will be shutdown which will impact the routes for truckers going to and from COPART and the general public. He stated the Select Board was looking at asking COPART for financial assistance for repairs on the roads or some type of a study. Member Roman stated the Planning Board had been advised by Town Counsel to ask for COPART to help fund studying the routes that are taken from the standpoint of safety and what might be a preferable route for maintenance for safety purposes in proportionate share to what COPART contributes to degradation. After a brief discussion, Member Roman suggested the Planning Board defer, without waiving their rights, to continue the hearing, and get together with the Select Board and Town Counsel to get advice as to what the Planning Board should specifically ask for. Member Roman made a motion that the Planning Board defer making any decision without waiving any of their rights regarding a highway study concerning safety and use of the highways by COPART and structural integrity of the roads; to ask for such a study until the Planning Board confers with the Select Board and have a joint meeting to see if there is one approach they are all going to take and meeting with Town Counsel to review that approach to be sure that it is fair and proportionate to COPART as well as to the Town. The motion was seconded by Selectman Fanjoy. Before the vote, Member Buckley asked if the Planning Board was putting COPART in a bind regarding the Junkyard License issue. Selectman Fanjoy stated

'no'. The Select Board can continue the temporary license by adjusting the expiration date. He stated there was no problem with the license. Chairman Rauth stated the public hearing would be continued until the next Planning Board meeting on September 18, 2014 at 7:00 p.m. in the Selectmen's conference room at Town Hall, 945 Battle St., Webster, NH. Member Roman's motion, seconded by Selectman Fanjoy was unanimously approved. After a brief discussion, Acting Member Turcotte made a motion to continue the public hearing; seconded by Member Roman and unanimously approved.

**8:27 p.m.** The public hearing was adjourned. The Planning Board thanked Mr. Kostro and members of the public for coming.

The next item on the agenda was the review and discussion of draft #6 of the Driveway Regulations. Chairperson Rauth stated she had feedback from Town Counsel and she had also talked to Matt Monahan (CNHRPC). Per Town Counsel, Chairperson Rauth stated the regulations can be as detailed as the Board wants them to be. Member Buckley asked if that included controlling internal features to which she answered in the affirmative. Chairman Rauth stated the authority is derived from the site plan regs., the subdivision regs. and other regulatory authority. Member Buckley pointed out there were now conflicting inputs from NHMA and Town Counsel regarding regulating internal features; draft # 6 reflects the Planning Board's decision to go with NHMA's input. A brief discussion ensued. Member Roman stated that Town Counsel was going to send the list of references pursuant to the Planning Board's authority. A discussion ensued regarding what the appropriate document would be for shared driveway owners to agree to a joint and several liability covenant. Member Roman asked Member Buckley if he could follow that up with Member Lehmann. She added that Town Counsel advised that shared driveways for more than two houses would fall under the Subdivision Regulations. Selectman Fanjoy stated he felt the bulk of draft #6 was very good and that Fire Chief Wolinski and Road Agent Bean should review it before the Planning Board votes on it.

At this time Acting Member Turcotte revisited the question regarding RV's being buildings. She strongly disagreed. A brief discussion ensued. Member Roman stated that the definition of 'building' in the Zoning Ordinance was so broad that it included *any* structure.

The next item on the agenda was the CNHRPC review of subdivision regulations. Chairperson Rauth distributed a document from Matt Monahan, Senior Planner for CNHRPC, which was his review and audit of the Town's Subdivision Regulations. The Board decided to schedule a work session with Matt Monahan to go over his audit in detail. A brief discussion followed concerning Innovative Land Use Controls and Conservation Subdivisions. Member Roman hopes the Board will start work on those in October to be ready for Town Meeting in March 2015.

Chairperson Rauth thanked the Board members for their work and support.

At 9:10 p.m. Acting Member Turcotte made a motion to adjourn; seconded by Member Roman and unanimously approved.

These minutes were approved as written at the September 18, 2014 Planning Board meeting.

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Susan Rauth, Planning Board Chairperson

Posted 09/19/2014