

July 30, 2012

Special Meeting

Part I

Lautier Public Hearing and Deliberations

6:00 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mr. Fitzherbert, Mr. Reich, Mr. Abella, Mr. Solley, Mr. Werkhoven

ALTERNATES PRESENT: Dr. Craparo, Mr. Wyant

ALTERNATE ABSENT: Mr. Dutton

STAFF PRESENT: Mr. Ajello, Mrs. Hill, Mrs. Silvernail

ALSO PRESENT: Mr. Lautier, Mr. Clark, Mr. Worcester, Ms. Zelenko, Atty. O'Hanlan, Atty. Williams, Mr. Kleinberg, Mr. Mitchell, Press

Lautier/56 June Road/Special Permit: Section 13.11.3 Detached Accessory Apartment

Mr. Fitzherbert reconvened the public hearing at 6:02 p.m. and seated Members Fitzherbert, Abella, Reich, Solley, and Werkhoven. Mrs. Hill read the list of documents submitted to the file since the last meeting.

Mr. Fitzherbert noted the public hearing had been continued to a site inspection of the Lautier property on 7/25/12 and then continued to this date. He reminded Alternates Craparo and Wyant they could not participate in the deliberations.

Mr. Fitzherbert read the 7/25/12 letter from Mr. Showalter, Fire Chief, which stated the proposed retaining wall would improve emergency vehicle access.

Mr. Solley asked if the existing wall would be totally removed and then the new wall constructed on ledge. Mr. Clark, engineer, stated the new wall would be meshed into the existing wall.

Mr. Reich noted the excavation had begun although the permit had not yet been approved. Mr. Ajello noted that although the Inland Wetlands permit had stated that no work could begin on site until all required permits had been issued, the erosion control measures had been installed, the site was in good condition, and runoff from a recent storm had been contained.

Mr. Ajello noted the difficult access to the property and so asked Mr. Lautier if he had considered installing a sprinkler system in the accessory apartment. Mr. Lautier said this would be expensive and would require a large reservoir of water and a lot of water pressure.

Mr. Solley asked how the footing drains and gutters would be handled. Mr. Clark said they would discharge into the existing drainage system and added that an additional catch basin would be installed. Mr. Ajello noted the drainage plan had been reviewed by Milone & MacBroom, who had no concerns.

Mr. Fitzherbert voiced his concern about the construction of the wall. He asked Mr. Wyant if a 2 ft. high rock along the top of the retaining wall would be enough to stop a large truck that had lost

control. Mr. Wyant said if it was loaded, the truck would end up in the road. Mr. Fitzherbert then asked whether something better than 2 ft. boulders could be used. Mr. Wyant said the 2 ft. boulders would be stable under most circumstances, except when a loaded truck has lost control.

Mr. Fitzherbert noted the dry wall would be kept in place by angling it back and tying it into the ledge, but asked if frost would push on the upper section. Mr. Wyant said it would settle at the top, but the 12 ft. wall would not fail if the installation was done properly and supervised by an engineer.

Mr. Fitzherbert noted the construction would be very close to June Road and asked if the machinery would operate from the top of the wall. Mr. Clark said, yes, adding that large stones would be placed on a bench created in the ledge and then backfilled with smaller stones.

Mr. Fitzherbert asked about safety measures. Mr. Solley suggested cones would have to be placed on the uphill shoulder closest to June Road where there was the potential for a stone to roll. Mr. Fitzherbert said possibly June Road could be closed during construction with the Selectmen's permission.

Mr. Solley asked Mr. Clark for details about the backfilling and Mr. Clark explained how this would be done with crushed stone to allow water to pass through the wall.

Regarding safety, Mr. Clark said the Commission could condition approval upon requiring the contractor to work with the Board of Selectmen and to install jersey barriers.

Mr. Reich asked how long the project would take. Mr. Clark said a few weeks.

Mr. Clark noted that blasting would be required to create the bench in the ledge that the wall would be tied into.

Mr. Fitzherbert noted the Commission has broad responsibility for the health, safety, and welfare of the community. He said if it approved the project the Commission could be found liable should there be an accident due to the construction. He asked the commissioners if they were satisfied from a safety point of view. Mr. Solley suggested blasting mats might serve the same purpose as a jersey barrier, but Mr. Wyant said they would be taken off site when the blaster leaves. He also stated he would trust the contractor to take whatever safety precautions are necessary. Mr. Abella thought perhaps June Road could be closed off only at critical times during construction.

As the applicant did not plan to begin work on the wall until September, Mr. Ajello noted there would be less traffic and less of a safety concern after Labor Day.

Mr. Fitzherbert asked whether work could begin on the wall without approval from the Building Official. Mr. Ajello responded that building permits are required for retaining walls over 4 ft. high. Mr. Solley noted the Building Official would inspect the bench to make sure the wall was securely attached. Mr. Clark said the contractor had already contacted the Building Dept.

Mr. Fitzherbert recommended the Commission ask the contractor for a safety plan to protect the public. It was the consensus this could be a condition of approval. Mr. Ajello thought this plan could specify no work on weekends, which tend to have more traffic. Mr. Lautier said he did not intend to work on weekends. It was noted a flag man, warning signs, cones, jersey barriers, etc. could be included in the safety plan.

Mr. Reich noted the Commission recognized Mr. Frank's concerns that today's technology allows development of hillsides where it never before had been allowed. Mr. Reich did not see it as an issue in this case, however. Mr. Fitzherbert said there was nothing in the current Regulations to prevent it. Mr. Reich thought the Commission was setting a precedent by conducting a thorough review of the project.

Mr. Ajello asked if the Board of Selectmen and the Road Foreman had considered the protection of June Road when they had reviewed the plan. Mr. Lautier said he had spoken with the Highway Director who had expressed no problem with the plan.

Bonding was discussed. Mr. Solley noted that if the work on the wall causes damage to June Road the Town can bill the owner for repairs. Mr. Ajello said that no work should be done and no equipment should operate within the Town right of way without obtaining permission from the Selectmen and/or the Road Foreman. Mr. Lautier asked the Commission to document the existing poor condition of June Road before he begins work. Mr. Ajello said he would take photos for the file.

There were no other comments from the Commission.

MOTION:

To close the public hearing to consider the Special Permit application: Section 13.11.3 submitted by Mr. Lautier for a detached accessory apartment at 56 June Road.

By Mr. Reich, seconded by Mr. Abella, and passed 5-0.

Mr. Fitzherbert closed the public hearing at approx. 6:45 p.m

Mr. Fitzherbert began the deliberations by stating that based on the discussion at the hearing, the Commission would approve the application with conditions. The commissioners agreed and listed the appropriate conditions that had been considered earlier. Mr. Fitzherbert noted the Commission was concerned with safety both on the property and on June Road during the construction of the wall and so would condition the approval to protect the public.

MOTION:

To approve the Special Permit application: Section 13.11.3 submitted by Mr. Lautier for a detached accessory apartment and retaining wall at 56 June Road per the plans, "Proposed Garage and Accessory Apartment," 2 sheets, by Oakwood Environmental Associates, revised to 6/12 subject to the following conditions:

1. prior to the start of work on the retaining wall the applicant or his contractor shall submit a safety plan, which shall include such measures as using cones and warning signs, closing June Road, using flagmen, installing jersey barriers, etc,
2. all excavation work shall be done from above the wall on the property as stated by the applicant and not from the public right of way, and
3. the applicant shall contact the Highway Director to inventory the condition of June Road and to comment on the safety issues prior to the commencement of construction.

By Mr. Solley, seconded by Mr. Werkhoven, and passed 5-0.

This portion of the Special Meeting concluded at 6:55 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator

Special Meeting

Part II

6:53 - 8:36 p.m. Land Use Meeting Room

Members Present: G. Fitzherbert, R. Reich, L. Abella, K. Craparo, H. Wyant

Staff Present: J. Hill, M. Ajello

Also Present: S. Silvernail, Atty. Williams, Atty. O'Hanlan, Press

The Gunnery, Inc./22 South Street/Special Permit Application Section 4.4.10

G. Fitzherbert: Alright, we have, uh, seat changes that need to occur at this point.

N. Solley: Mr. Chairman?

G. Fitzherbert: Yes.

N. Solley: Um, you will now commence deliberation on the Gunnery, is that correct?

G. Fitzherbert: Yes.

N. Solley: Ok, the hearing's over with, deliberation, uh, and post-deliberation, any business from the Zoning Commission? No.

G. Fitzherbert: Not today.

N. Solley: So.

G. Fitzherbert: This is it. Going to be one topic.

N. Solley: Those of us who would excuse will do so momentarily.

Multiple Voices: Laughter.

G. Fitzherbert: Speaking for yourself.

Multiple Voices: Laughter.

N. Solley: ... ok, can I?

G. Fitzherbert: Your, your attendance is not required if that's what you're asking.

Male: It's only ...

Multiple Voices: Laughter.

G. Fitzherbert: Ok.

Male: Washington three, four, five.

G. Fitzherbert: It's only five. Now, somebody's got to move over ...

Male: Two ...

[people moving, mumbling]

Male: Oh, this is more comfortable.

G. Fitzherbert: Ok, we're moving to our second agenda of this special meeting which is deliberations on the proposal by Gunnery to build athletic fields. The hearing is closed and it's now our turn, uh, to talk about everything we've heard, read, seen, watched, uh, as it pertains to our regulations. I'm going to call the meeting to order and seat the same members, uh, that have been at the last few hearings. All the material submitted during the last couple of meetings, uh, are documented and have been placed in file, for instance, that couldn't occur, uh, after the last hearing. And there was no more hearings and now we're at a meeting. So, but they are in the file and they are present in the room. They can be reviewed by any of us at any time, uh, while we're talking. So we stay as factual as we possibly can. I also want to point out that Karen has reviewed the meeting she missed and is qualified to deliberate and vote. Is that correct?

K. Craparo: Right.

G. Fitzherbert: Thank you.

J. Hill: I just want to say, not only reviewed. She listened to the tapes.

K. Craparo: Yeah.

G. Fitzherbert: Tapes, reviewed and listened to the tapes, God bless you.

[Laughter]

I'm going to, uh, hmmhmm, make a couple of opening statements. We have, uh, alternates seated and one of the alternates is quite new and there may be things that I certainly want to clarify. Uh, and I'm going to ask the Director of Land Use to help, uh, with that and I think the first thing. I think I asked this once before, Janet, but how, how many years in land use? You're Director of Land Use. How many years have you worked in land use?

J. Hill: I've worked twenty-three years for the Town of Washington plus other, uh, other towns before that.

G. Fitzherbert: Ok, that's why I'm asking Janet to help us clarify a, a few issues that have been

brought up. First one, uh, was a claim, uh, by people in the audience, uh, that the proposed fields are a commercial use. I think it's important to address this. Janet, would you say that they are a commercial use by our definitions?

J. Hill: Well, we say the definition of commercial use would be, um, the sale of goods or services for profit and whether or not, I mean, that's not part of this application on the table.

G. Fitzherbert: Ah-huh.

J. Hill: And whether or not it may be proposed in the future, according to Mike Zizka's, um, 2005 letter, we can't consider that. We just have to act on what's before us now.

G. Fitzherbert: Ok, I, I think I'll add on to that, uh, is the fact that, that when we approve a use we approve the use that was stated to us. Uh, and uses that may have not been stated are not approved. We're, we're not looking at that. We're looking at what was described to us and presented to us in the application. Uh, and, uh, we're going to get back to that and cover that in detail. Another area, um, statement that was made is an independent engineering review would include more property than the Wetland review.

J. Hill: Well, in this, uh, case the Wetlands Commission expanded its jurisdiction, uh, due to the slopes of the property. So the Wetlands Commission reviewed the entire project, not just the amount of the project that was within the normal wetlands regulated area and the review for the Wetlands Commission, uh, reviewed the, um, e, erosion controls and the potential impacts, best management practices for the entire project not just for the part of the project that was within the normal in the wetlands regulated area.

G. Fitzherbert: In our regs we have specific regs. The first one that says, uh, if wetlands is, um, if there are wetlands then we, the soil and erosion controls are done by Wetlands. Uh, if there's areas that they have not done, uh, then we have to do it. We have properties where there are no Wetlands and we are fully responsible for all of those areas. In this particular case Wetlands did expand as is their right because of the slopes to cover the entire property. Uh, and with the independent engineering, um, that was done, they came up with many conditions to protect that environment. Uh, so we're going to come back to that in a lot more detail and have discussions. There were a couple of people that said Gunnery's getting preferred treatment and we would not allow a private person to clear this much land.

J. Hill: Um, huh, well, we would allow a person to clear that much land for residential use. Um, for example we allowed, uh, ... on Nettleton Hollow Road. I mean, we, not we this commission because it didn't even have to come to this commission. It was residential use. The site plan got approved by the Zoning Enforcement Officer after it had been approved by Wetlands. Um, as long as it meets, you know, coverage and setbacks, uh, it wouldn't even come here.

G. Fitzherbert: I think that's, that's very important to understand that it'd, there, there was, uh, a number of things on, on this, uh, program, uh, that was submitted to us saying we have to do this, we have to do this. We're going to go into those in more detail, uh, but Janet's point is if this was a private owner, uh, they wouldn't necessarily, unless there was an issue like boundaries or setbacks, they wouldn't even come to Zoning Commission about that issue. Uh, and that's happened many times. The private property owners, uh, and rights includes Gunnery as a property owner, um, who has owned this property since 1950 and they do have the right under special

permit that has been in place for decades. We, we have had a, a summary versus a person versus a non-person from, uh, the 2005 letter. Do you recall that? How that's treated?

J. Hill: Well, I happen to have the 2005 letter here. Do you want me to?

G. Fitzherbert: I think it's important.

J. Hill: It's somewhere here.

G. Fitzherbert: I think I have a copy. Here it is.

J. Hill: Ok, um, I'm, I'm, what I'm reviewing here is the September 22nd letter from, uh, Attorney Zizka, September 22, 2005 to the Commission about the Gunnery's property. Um,

G. Fitzherbert: I'll, I'll bring that back because we're, we're going to talk about that later. Uh, I want to move on at this point.

J. Hill: Oh, oh, ok, I ... look at it.

G. Fitzherbert: You found it?

J. Hill: Yeah.

G. Fitzherbert: Oh, then go ahead.

J. Hill: Um: "Zoning regulations cannot generally be based upon the identity of the landowner. Rather, they must be based solely upon the proposed or existing use of the land. Thus, it makes no difference whether The Gunnery or any other entity is the applicant; the application must be decided solely upon the nature of the proposed use itself. If the Commission would be entitled to approve the same application for an entity that had no other school facilities in the Town of Washington, then it would also be entitled to approve it for The Gunnery. Likewise, if the Commission is entitled to deny The Gunnery's application on its merits, then it would be entitled to deny it for any other applicant. The fact that The Gunnery has other school facilities in Town makes no legal difference to the required analysis."

G. Fitzherbert: Ok, thank you and we will come back to that in a lot more detail. Uh, that is the beginning part. I'm going to do what I've always done since I've been in this office which hasn't been that awful long. But, I would like to do an informal non-binding poll of the members. You have listened for months. Um, you have read for months and you might be leaning towards an approval or you might be leaning to not approve and I would like to take a poll now before we go through each item and I'll start it off. Uh, we don't have to give reasons at this particular point. Uh, it's just to give us an idea. I, I have, uh, strong, uh, leanings towards approving this application. And uh, Harry?

H. Wyant: Um, yeah, gone through everything. Um, we looked at, you know, some, a couple times ... and, um, I'm leaning towards approval.

G. Fitzherbert: Ah-huh, Lou?

L. Abella: We sure have had a lot of information. I, I think I've absorbed it pretty well, given that I've

had time to think about it and, uh, given all ... I'm leaning towards approving as well.

G. Fitzherbert: Thank you. Karen?

K. Craparo: Yeah, I've read all the material and, um, and listened to everything and although they're some areas that I would like a little more information on, I lean towards approval under the current amount of information that's available.

G. Fitzherbert: Thank you. Ray?

R. Reich: Uh, I plan to abstain from voting.

G. Fitzherbert: From the poll or voting?

R. Reich: As of now, I plan to abstain from the final vote so I'm not, I, I'm not, uh, I'm not a part of the count right now. I don't plan on voting either yay or nay when we get to the vote.

G. Fitzherbert: That raises interesting thoughts. Uh, upfront, uh, you did not recuse yourself.

R. Reich: Right

G. Fitzherbert: It sounds like basically you are at this point?

R. Reich: No, I'm simply abstaining from the vote.

G. Fitzherbert: Are you abstaining from the deliberations?

R. Reich: Yes. I'm still a seated member for the application though.

G. Fitzherbert: I'm going to, I'm going to. This is a new ballgame. I'm going to ask for. He's abstaining from deliberations. He's abstaining from voting. Has this ever happened before, Janet?

J. Hill: Not in my experience.

R. Reich: You've never had someone simply abstain from a vote?

G. Fitzherbert: We've had abstains from vote.

J. Hill: We, we've had people abstain from votes, but ...

G. Fitzherbert: Not from deliberations.

J. Hill: Not from deliberations.

R. Reich: Well.

G. Fitzherbert: My, my concern is if, if you are abstaining from deliberations, you should not be seated. It's not ...

L. Abella: Makes sense.

G. Fitzherbert: Any, uh, any expression, any nod of the head, would be agreeing or disagreeing with anything that is said by anybody, uh, or it could be viewed as that.

R. Reich: Would you rather me leave the table? Would, would the other members rather me leave the table, leave the table and not influence them in any way?

G. Fitzherbert: I think that would be a good idea, Janet?

J. Hill: I think that would be a good idea.

R. Reich: But, I still reserve the right to return to the table. I'm not recusing myself.

G. Fitzherbert: I think technically you are.

R. Reich: Uh, I don't plan to. I don't ... we'll have to.

G. Fitzherbert: You're, you're either seated or not seated. If you leave the table, you're not seated. If you stay at the table and you're not going to participate in deliberations, you could influence which means you are deliberating.

R. Reich: You could put a bag over my head.

G. Fitzherbert I would love to.

Multiple Voices: [Laughter]

R. Reich: With a, with a drawstring at the, uh.

M. Ajello: Mr. Chairman, may I?

G. Fitzherbert: Yes, yes.

M. Ajello: I, I think a, a recusal is done for reasons that haven't occurred here as far as we know. Um, this is an informal poll.

G. Fitzherbert: We're past that.

R. Reich: Mmm?

G. Fitzherbert: He didn't. He abstained from the poll.

Male: Right.

G. Fitzherbert: Now he's talking about.

M. Ajello: He's answering your question informally about this poll.

H. Wyant: Yeah, he ...

M. Ajello: Lou answered the question too and he may change his mind during the following deliberations and Ray may change his mind during the following deliberations.

R. Reich: That's my plan.

M. Ajello: His initial feeling that he's on the fence or that he's, uh, going to abstain is interesting. Comment about abstaining from the participation is, uh, not necessarily something that he needs to be held to. He may be involved in the. That's up to him. Um, commissioners sometimes sit silently and other commissioners sometimes participate fully.

R. Reich: Or fall asleep.

G. Fitzherbert: That's happened. I, uh, I'm, I'm going to clarify it. You said you were not going to vote.

R. Reich: I'm not planning on voting. I'm, I'm answering your straw poll. That's my leaning right now, but I will not take part in the final vote the way Harry said he's leaning towards voting yay. I'm leaning towards abstaining.

G. Fitzherbert: But then you said you wouldn't participate in the deliberations.

R. Reich: If the Commission prefers that.

G. Fitzherbert: I would ask you to make a decision. Either you're abstaining or you're not abstaining and if you're abstaining, then you should ... part of the deliberations.

R. Reich: I don't think that's valid.

G. Fitzherbert: I'm asking you.

R. Reich: No, no, I, I, I plan to retain my seat if the meeting proceeds so that I feel that my input is required and that my vote is required I want to reserve that right which is what an abstention does.

G. Fitzherbert: The abstention part is absolutely. The deliberation part, the review, and all our discussions, are you going to deliberate or you going to be silent?

R. Reich: I will be silent. I, I ... most of the other members are ...

G. Fitzherbert: Janet, any comments?

J. Hill: Well, I, I don't know. I'm thinking if he, nn, is indeed silent through the whole deliberation and he abstains, I'm not an attorney, perhaps that would, uh, that would take care of the objection that he's got a conflict of interest that, that's been raised, but I don't know.

R. Reich: That, that's not part ...

J. Hill: That's not the reason?

R. Reich: That's not a part of my reasoning here or it's, it need not be part of my reasoning. I'm simply.

J. Hill: Well, if that's not the reason, why do it?

R. Reich: We're, we're, we're getting to a final vote and every now and then you have the ayes and

the nays and the abstentions. That I want to be. I'm planning on being among the abstentions. That's all.

G. Fitzherbert: But you're going to be silent during the deliberations?

R. Reich: I can be very silent and non-communicative.

G. Fitzherbert: Ok. I will ... that.

R. Reich: Dumber than usual.

G. Fitzherbert: Well, I don't know if you can do that.

Multiple Voices: [Laughter]

R. Reich: I'm sitting ... you aren't I?

Multiple Voices: [Laughter]

G. Fitzherbert: Interesting.

M. Ajello: Mr. Chairman, just a reminder. We have sixty-five days from the close of the public hearing to vote on this issue and we don't want to do anything that would derail, uh, the situation ...

G. Fitzherbert: Thank you.

M. Ajello: ... and cause us to go through the process again.

G. Fitzherbert: Right, thank you.

G. Fitzherbert: Um, on the agenda that I have. Uh, I'm making a, a little more detail regarding the Wetlands review and decision. Janet made a couple of points, uh, very strong on what Wetlands did. Um, we had one presentation where it was about, uh, there's a firewall between Wetlands and Zoning and that's absolutely false. There is no firewall between Wetlands and Zoning. 12.12.1 allows acceptance of the Wetland approval by Zoning. Uh, they have jurisdiction in this particular case. They expanded that jurisdiction to cover the entire property because of the slopes. They wanted to protect the entire wetlands from the entire project and so they reviewed it and they brought in an independent view. And, from that firm made recommendations with a few conditions, uh, in their final approval. LandTech conducted their review based all on the Connecticut regulations. We had a number of booklets passed to us that were not the Connecticut regulations, guidelines from a, a lot of different organizations. LandTech used, the entire review, they used the Connecticut regulations as did Wetlands. Zoning had in an, apption, application taken care of drainage regarding the building and the driveway that was approved in a prior special permit process. If Zoning hired a consultant as the opposition called for time and again, it would have probably been, undoubtedly been LandTech and they would have had to review the entire property again and would have had the same results. In addition, they would have probably reviewed our Section 14 of our regulations that go beyond, uh, the wetland, uh, specific to zoning. I would see no reason that any of the Section 14's, in my opinion, and we can review them, uh, would not certainly qualify without having to have any kind of engineer. I at the very beginning of this hearing stated that the final findings with conditions would be accepted from Wetlands as is and that it was complete,

extremely well done, and was approved by that Commission on a 5-0 vote. I later declared this in the hearing again. The consultants hired ignored this acceptance and proceeded to provide opinions on how things might be done better with "what-if" statements. This was done with drawings both, uh, paper drawings and computer drawings adding forty feet in width to the drawings because in their opinion that's what the application should be. Later they added up to eighty feet wide. That is not what Wetlands reviewed in their application nor is it what LandTech reviewed per the Connecticut regulations nor is it what we reviewed. We reviewed the application, not "what-ifs." Gunnery can not go one foot outside of the approved application. In the conditions, they have an outside monitor and the Enforcement Officer to be onsite to make sure that doesn't happen. Should it go beyond or need to go beyond they would have to come back to Wetlands for approval. So that basically means that everything that was involved around the forty foot or the eight foot barrier including all the additional drainage ... that came into play is mute. Has absolutely no meaning.

J. Hill: And by that you, you really mean beyond the limit of disturbance the ...

G. Fitzherbert: That's right.

J. Hill: ... Gunnery showed?

G. Fitzherbert: That's right.

G. Fitzherbert: We evaluate the applications and like what ... had conditions. We do not evaluate "what-ifs." I want to open that up now for a discussion found the commissioners that we had a lot of things thrown at us by an engineer. I, dd, found it very unconvincing. A very large effort was made to use a forty foot swath, then an eight foot swath to try to document that what Wetlands had done was insufficient. The application itself was approved with conditions with no forty foot barrier, with no extension to eighty feet. They will be held to that by Wetlands and then when I reviewed everything else that was submitted, I found there wasn't anything else to look at. That that entire presentation was based on major "what-ifs." I'll stop talking. I want to go around the room on the wetlands except for you. Harry, your thoughts?

H. Wyant: Well, uh, yeah, that was my thought. Uh, that's stuck out right away as being, um, in the construction business and excavation for years and, uh, we've done pretty good, uh, sized projects. Uh, I noticed that, you know, that adding that was a, a major flaw, I thought. If they just went with the application as it was presented and have a case for that. Um, but they didn't have a case there, I don't think, so they. I, I just didn't agree with that part of it. Um, so I, I, I thought that, uh, they'd just, you know, that was beyond what we're supposed to look at basically.

J. Hill: Just for clarity?

G. Fitzherbert: Yes?

J. Hill: and any transcript that might be ... you, you thought the intervener's arguments ...

H. Wyant: Yes.

J. Hill: ... didn't?

H. Wyant: Yes.

J. Hill: ...

G. Fitzherbert: Thank you, Harry. Lou?

L. Abella: Yeah, I mean, there was, as we all know, there was a lot of information going back and forth, but I think, uh, your summation was very helpful in refuting some of the claims that had been made and, uh, you know, even though I'm not in the construction business, I feel comfortable that as presented those fields will be adequately be done and they can be ... Um, so I feel comfortable of course having known that LandTech and Wetlands had reviewed it carefully, uh, gave me confidence as well.

G. Fitzherbert: Alright, thank you. Karen?

K. Craparo: Yes, I agree. That's, eh, eh, that was the big thing, but realizing that the Wetlands was an expanded review and not just, uh, uh, a cursory examination and also the fact that they had expanded what they thought the, aa, the, uh, what should I say, the interveners expanded the, dd, distance that was going to be and also the, the slope, I think, was a little bit off of what it was really, ss, uh, in accord of the, with the, uh, directions and the, the, um the construction of the project. Um, as long as the Wetlands had reviewed it well, that was my main concern and then all the, the rest of the stuff, uh, there, there was concerns about lighting, but there's not going to be any lighting at that project I understand.

G. Fitzherbert: We're going to cover that anyway.

K. Craparo: Ok.

G. Fitzherbert: We're going to cover that anyway.

K. Craparo: And the noise I guess you're going to cover too?

G. Fitzherbert: We're going to cover that also.

K. Craparo: Ok, yeah, so that, that was mostly my, uh, my major concerns and the Wetlands will follow along with this as well as the people that are all involved with it to make sure that they adhere to what the project is supposed to be. So, if that's the case, and, and I'm sure it will be the case, then, um, I have no concern.

G. Fitzherbert: Appreciate the input. I don't either. The next thing on our agenda is just to do a quick review of the legal requirements, um, and here I would like to make sure that, that, uh, Janet, you, uh, if anything's out of whack, if you'd let us know? Um, and if anyone here, uh, thinks that we should talk any of these items, we can. All you've got to do is bring it up. Alright, uh, the application itself was complete, marking that as a plus. Hearing nothing, I'll move onto the next one. Written notification pending application to all neighbors and the next one certified mail return receipt requested, both of those were plusses. The legal notice requirements were met. That's a plus. It certainly meets lot coverage, um, staff reviewed that. Uh, application meets sign requirements. Application meets all setback requirements. Application does have Wetland approval. All other approvals needed are received. Application meets external lighting requirements and this is what you brought up. Ok?

K. Craparo: Yeah.

G. Fitzherbert: And I think we should talk about it.

J. Hill: Ok, but first could we just go back to all other approvals needed are received and we have Wetlands.

G. Fitzherbert: Right.

J. Hill: But like we don't have DEEP, but which they mentioned was required, but that normally comes ...

G. Fitzherbert: After.

J. Hill: ..., ll, after.

G. Fitzherbert: It's not a requirement in the application, ...

J. Hill: Right.

G. Fitzherbert: ... but in the process.

J. Hill: Right.

M. Ajello: But we have a health, a letter from health department?

G. Fitzherbert: Yes. So on the lighting, uh, uh, they have stated they're going to have no exterior lights. Uh, we have a scoreboard. Uh, however, uh, on the time of year, uh, it will be light out while the scoreboard is on, uh, and off because they won't be there, uh, once it's dark. Uh, but we, we do. Uh, I think that we could put a very simple condition that making sure lights are never added in the future. That's no external lights other than, I don't know. Other than what?

L. Abella: Perhaps safety some, you know, might need something from a safety point of view or?

G. Fitzherbert: Or security.

L. Abella: Or security.

K. Craparo: Security! There should be some sort of e, egress and ...

L. Abella: Yeah.

K. Craparo: ... egress, uh, lights and I don't know.

G. Fitzherbert: Any such lights would be ...

K. Craparo: No, no.

G. Fitzherbert: ... lighting requirements.

M. Ajello: We don't usually have security lighting on, uh, fields.

G. Fitzherbert: Well, it's just the, the term is to say all lights. That takes away an option to them of ...

M. Ajello: What option other than vehicles with vehicular lighting?

G. Fitzherbert: What if they wanted to put in security lighting? Minor lighting?

K. Craparo: Then they'd have to come back and get an update.

L. Abella: Safety would never be an issue.

M. Ajello: I'd say they would have to come back. I think there would be some concern ...

K. Craparo: Yeah.

M. Ajello: ... they'd have lights on overnight up there ... forest ...

K. Craparo: Yeah, that would not be, that would not be nice.

L. Abella: On the current conditions, ...

G. Fitzherbert: Alright.

L. Abella: ... I guess we don't.

H. Wyant: Yeah, I would just have them come back.

M. Ajello: They haven't asked for that. They haven't applied for that so.

H. Wyant: Oh, yeah.

L. Abella: Ok, good point.

G. Fitzherbert: Ok, we all in agreement on that?

L. Abella: Yeah.

G. Fitzherbert: No lights. Application meets use permitted in district. The application is for a school. That is a use permitted in the district.

J. Hill: By special permit.

G. Fitzherbert: By special permit, marked as a plus. Any, any discussion?

L. Abella: No.

G. Fitzherbert: Application has adequate landscaping and buffering as part of the application which there isn't any.

L. Abella: I was going to.

G. Fitzherbert: So, so the basic thing is.

K. Craparo: There is ad, there is, uh, there is landscaping. They're going to do landscaping.

L. Abella: There was a ...

K. Craparo: The plan said.

J. Hill: Well, they, what they said was due to the elevations.

G. Fitzherbert: Oh, the, uh, the low stuff?

K. Craparo: Yeah.

J. Hill: Elevations and due to the, uh, widths ...

G. Fitzherbert: Yep.

J. Hill: ... of the vegetated buffer that they're going to leave ...

G. Fitzherbert: Yep.

J. Hill: ... you wouldn't be able to see the field from offsite and so, um, ...

G. Fitzherbert: Right.

J. Hill: ... they weren't proposing it.

L. Abella: It's not required.

G. Fitzherbert: Right, at that part they weren't proposing anything and I, I do want to come back to that in our Section 13. Uh, this was, so in their plan they do have the ground stuff that's in their plan. Alright? It is adequate.

L. Abella: Yep.

G. Fitzherbert: Application meets definition of school. Discussion? If so, we will base it on our land use attorneys informing us what is a school and what is not a school and in this particular case, on that property for Gunnery, it is already been designated a school. Uh, and you're just ... a bit of this, this letter, but there's a lot more here. Um, and this is our attorney. It's not representing the Gunnery or opposition. Any ...

J. Hill Just for the record it's ...

G. Fitzherbert: Yeah.

J. Hill: ... the 9/22/05 letter to the, to Mr. Martin from Mike Zizka.

G. Fitzherbert: I have no doubt in my mind looking at our past experiences, uh, past applications, uh, and, uh, this letter that we have used before, uh, on our definition that it meets the definition of school. Lou?

L. Abella: I totally, totally agree.

G. Fitzherbert: Harry?

H. Wyant: Yeah, I agree.

G. Fitzherbert: Karen?

K. Craparo: I agree, ah-huh.

G. Fitzherbert: Thank you. Alright the next section is our, our Section 13 and we will go one, one section at a time or one item at a time. Some of them are broken up into, because they were very long and important, breaking them into more than one discussion point. 'The overall purpose under favorable and circumstances, uh, will be appropriate, harmonious, and desirable use,' uh, 'and would be considered as an individual case.' One of the statements made is if, it was stated that if we were to approve this application, we would ruin the town and establish a terrible precedent. Uh, that line, last line in that section, 'considered as an individual case,' uh, says there is no such thing as a precedent, uh, in any special permit process. Each one has to be looked at and reviewed on its own merit and there can be a ton of different variables, uh, from one application to another as you all know. So, that was a statement that was made. Anybody have any thoughts on that or is ... move on?

L. Abella: I think that the, the neighborhood impact ... significantly as they indicated ... Developments and Planning they work perfectly well.

G. Fitzherbert: Appreciate that. Anyone else?

H. Wyant: I agree with that.

G. Fitzherbert: Ok, Karen:

K. Craparo: I agree. I think it's, uh, certainly in keeping and harmonious with, uh, the, the favorable circumstances and for a desirable outcome for the Washington area is.

G. Fitzherbert: Thank you. We move into the, uh, guts now of our thirteen sections and standards. 13.1.b.1 consistent with the Plan of Conservation and Development and intent of our zoning regulations. Schools – three different sections of the Plan of Development and, con, Conservation and Development deal with schools and how valuable they are to town. Uh, ... they, we were asked to review against the Plan of Development by people in the audience. Uh, ... will be, I think it was ... quicker. I haven't got that much here.

L. Abella: ...

G. Fitzherbert: Oh, here's stuff. Bottom line is I don't have that piece of paper ... is at one part of the, of the, uh, Plan of Development they talk very specifically, uh, about the jobs in Washington. And, out of the fifteen hundred jobs at that point, the majority were coming from public and private schools. Uh, the Washington we know is directly tied to our schools. Basically, we all know it's our, our industries. Uh, it goes on a couple other times, uh, to say balance it, the needs of the school with that of the town. Uh, and that's what we have to do on anything that any of the schools apply for is balance it against the needs or the wants of the town as well as the school itself which we, schools that we hold in value. Thoughts? Anything in the Plan of Development that goes against this application ...

L. Abella: I think ...

G. Fitzherbert: ... in your minds or with things brought up?

K. Craparo No, no.

L. Abella: The Plan of Development always mentioned schools as integral to, to our community and, uh, as long as they're done properly, uh, as you said a balance.

G. Fitzherbert: Ah-huh.

L. Abella: Uh, if ... should be encouraged and if it's done correctly and I think this fits perfectly well to, uh, to the size of the property and ...

G. Fitzherbert: Seventy acres?

L. Abella: Seventy acres ...

K. Craparo: Ah-huh.

L. Abella: We're only affecting twelve acres and it's not even building.

G. Fitzherbert: Good point.

K. Craparo: And it's use is only going to be three or four days a week.

L. Abella: Exactly.

K. Craparo: And ... in summer.

G. F And we'll talk more about the use because it's coming up in an area that, that lends itself to that, so I'm ... mention that. Um, location, type – '13.1.b, location, type, character, and size, scale proportion, appearance, and intensity of the proposed use and buildings and structures be in harmony with the appropriate and orderly development of the Town and the neighborhood.'

Uh, buildings and, and most of where the building and the road are, were previously approved. There is some structures in the fact of bleachers and a scoreboard. Is there anything else that I'm missing?

M. Ajello: Stairway.

G. Fitzherbert: Stairway.

M. Ajello: And parking.

G. Fitzherbert: Right, parking.

M. Ajello: And fencing.

G. Fitzherbert: Most of our review then will be about the use, uh, but we can talk about both of those. Uh, this is where intensity was brought in. Uh, for what the applicant has asked for, uh, I do want to talk about it for ... to you guys, uh, the fact that, uh, it was brought up that they would be renting their fields. Uh, that's not in the application.

J. Hill: Who brought that up?

G. Fitzherbert: Interveners.

J. Hill Interveners.

L. Abella: I think they actually mentioned in refuting that that would not be ...

G. F Yeah, and, uh, the primary thing was this is athletic fields for their students that was critical in their physical development and could be other parts. Could be social development and so on as it pertained to their mission. Uh, I want to, I want to make sure that since it was brought that we limit this, uh, use of these fields at this point to exactly what they asked for. There were a line, there was a line that says and some other uses, but those were not spelled out. Uh, and, uh, we can't give at this point blanket approval. Uh, Gunnery could come back under the special permit process like any school could come back should they want to have a different use or do anything else on that property. Lot of acres still remaining. Uh, and there's absolutely no guarantee, uh, what they asked for would be approved. Just like there's no guarantee that it would not be approved. Uh, so, uh, again handled as, as an individual case. I very much would like to have a condition that says, uh, that we grant the use of those fields for exactly what they talked to us about.

L. Abella: And no other.

K. Craparo: Ah-huh

G. Fitzherbert: And no other, no other use at this point, uh, that it is for athletics, for their students during the regular school year and that's it. That's my ...

K. Craparo: Regular school year being from?

G. Fitzherbert: Late ...

K. Craparo: I guess September to?

G. Fitzherbert: Whatever their, cc, ...

K. Craparo: June, July whatever it is, but nothing during the summer time?

G. Fitzherbert: What, I think, let's talk about that because.

L. Abella: I think for ...

G. Fitzherbert: If it's in their calendar and it is for Gunnery students.

L. Abella: I think that's a key, Gunnery students first.

K. Craparo: Mmm, ah-huh.

G. Fitzherbert: Ok, uh, lots of, uh, boarding schools, uh, bring football teams in early for pre-season.

K. Craparo: Ah-huh.

G. Fitzherbert: They show up couple weeks before the regular kids do. I don't know the Gunnery calendar. I don't know if they'll do that.

K. Craparo: I don't, I don't think they do that now. I think they ... I, I have never. It's always, pretty, uh, ... like during the season and it's when the school is in session to the end of the, the season and I haven't seen ...

G. Fitzherbert: But, but, but I know it does happen, uh, ...

K. Craparo: With other schools.

G. Fitzherbert: ... with boarding schools.

K. Craparo: Yeah.

G. Fitzherbert: Yeah, uh, and, uh, and colleges of course. Uh, everything pre-season, but that is part of their calendar. That is not random. Uh, it is put on a calendar and it is scheduled. Uh, I don't know if these fields would be used by Gunnery for anything like that, but if they were Gunnery students and it's on their calendar as part of their year, I have no problem with it. They may not and soccer I have no idea if there's any such thing as pre-season in soccer. It's not one of my sports. Actually I don't have any sports anymore.

Multiple Voices: [Laughter]

G. Fitzherbert: Um, and ...

K. Craparo: And no night time use.

G. Fitzherbert: Yep, absolutely, uh, we have lighting ...

K. Craparo: We won't have lights, but still.

G. Fitzherbert: Right, right. Does anyone have a problem in restricting as a condition to those fields to exactly what they asked for?

L. Abella: No.

K. Craparo: No.

L. Abella I think that makes sense.

K. Craparo: That's perfect.

G. Fitzherbert: Ok.

L. Abella: Excellent.

K. Craparo: That's protecting people in the area.

G. Fitzherbert Alright, so we will work up a, a condition should we approve it. 13.1, oh well, I'm, I'm jumping. I was totally, uh, caught up in, uh, uh, in intensity cause I had that as a topic area. This was

location, type, character, size, scale, proportion, appearance, and we should really kind of address all of those. When I look at location, one person had said that this is, couldn't find a worse location. I'm not sure you could find a better location, uh, that would not impact, uh, neighbors. Uh, totally in the middle of, of seventy acres. I would say you might be able to find a level and not have to do as much bulldozing, but that's. I'm not the property owner. That's their choice. Uh, uh, the type of activity that is being asked for is with the schedule as you mentioned. There were two games a week. How many practices?

K. Craparo: Sometimes on Saturday, but that's only if they had a home, like a homecoming game or something, but it was like, uh, uh, Wednesday, Thursday.

G. Fitzherbert: Right, and I, I probably, I'm, I'm, I don't know, but I, I, would assume the fields are not used, uh, they're not pulling kids out for soccer practice during the academic day ...

K. Craparo: Mmm.

G. Fitzherbert: ..., uh, classes, uh and basically when you look at times of the year, uh, it just seems like, uh, it's going to have very little impact on the area. Uh, look at each one of those areas, uh, and see if there's things that jump out that were presented to us that. To me the scale is ...

L. Abella: Is, is appropriate.

G. Fitzherbert: I, is, yeah, minor for the size of the property.

K. Craparo: And the events are going to ...

L. Abella: You guys were just talking about the intensity.

K. Craparo: The, the, the, uh, the students are going to be bussed over from the school and I guess on like, uh, the Saturday ...

G. Fitzherbert: Ah-huh.

K. Craparo: ... games, they probably will have some student's parents or something, but it's going to be a, eh, I've never seen a real overload of, uh, of, tt, of cars or anything down on the fields below, uh, during the season so it's really. You know, it's really not very much impact at all.

G. Fitzherbert: Appearance? Quite frankly it can't be seen.

K. Craparo: And I like the way they're doing the bleachers, putting them into the, that's going to look nice. So I think it'll be a, I think it'll look good as well as be functional.

G. Fitzherbert: When we do look at that, that second part, uh, 'buildings and structures be in harmony with appropriate orderly development of the Town and the neighborhood' so, you know, town is important. Um, and, and the Plan of Development says schools are important for the town. Neighborhood? Do we have neighborhood defined?

J. Hill: ...

G. Fitzherbert: It, it has an impact on one neighbor in particular, the closest one ...

L. Abella: We...

G. Fitzherbert: ... but we might want to define neighborhood ...

L. Abella: Well, I think neighborhood could be.

G. Fitzherbert: ... at some point.

L. Abella: You know, the whole neighborhood is Washington.

K. Craparo: Yeah.

L. Abella: And then you get in closer and closer and closer.

K. Craparo: You have micro-neighborhood.

L. Abella: The closer you get the more intense to this, uh.

K. Craparo: Yeah.

G. Fitzherbert: Right.

L. Abella: There are things that impact the whole neighborhood being all of Washington.

G. Fitzherbert: Right.

L. Abella: And most things that impact ...

G. Fitzherbert: Right.

L. Abella: ... immediate neighbors. The impact ...

G. Fitzherbert: But there really is not a very large neighborhood around this property as far as other homes.

L. Abella: Yeah, and I think you mentioned that it's, it's, we're not even discussing a, a building and a very low ...

G. Fitzherbert: Right.

L. Abella: ... usage space.

G. Fitzherbert: Any other comments on this section, cause this is an important section?

L. Abella: When you mentioned appearance, most people can't see it unless you go there.

G. Fitzherbert: Right, right.

L. Abella: And if you go there, it's for most people it would be looked at as attractive looking.

G. Fitzherbert: And we did have a presentation, uh, and quite frankly I thought was terrible. Um, out of scale of the views for people who might be able to see the field from a couple of locations ...

J. Hill: And that presentation was by whom?

G. Fitzherbert: I'm trying to remember his name.

J. Hill: Mr. Jancsky.

M. Ajello: Jancsky.

G. Fitzherbert: Mr. Jancsky.

K. Craparo: Ah-huh.

G. Fitzherbert: Um, and even with that looking at our regulations if there, I'm not quite sure, a point that was going to be made, if there were visibility. As we know, there's not visibility, uh, as to neither one of those areas are considered scenic route, scenic areas. Uh, in Washington we have maps here, uh, and there's no guarantee that if you happen to live at a certain elevation that things are going to remain the same forever. Uh, so I don't know what point was being made, uh, and there was total over exaggeration, uh, from what was presented to us. I, I'd like to hear your thoughts on, on that cause that is part of this section.

L. Abella: You're, you're talking about the ...

G. Fitzherbert: Appearance.

L. Abella: ... the impact ...

G. Fitzherbert: Right.

L. Abella: ... on the neighborhood?

G. Fitzherbert: No, appearance ...

K. Craparo: The visual.

L. Abella: Or the visual?

G. Fitzherbert: The visual.

K. Craparo: The visual im, implications of living say on what is it, Plum Hill that's over there? What is the name of that?

G. Fitzherbert: Yeah.

K. Craparo: The hill that's there?

Male: Ju, Judea.

G. Fitzherbert: And Judea.

K. Craparo: Judea, uh.

L. Abella: Well, I think the presentation by the school, uh, ...

K. Craparo: Yeah, with the pictures.

L. Abella: ... clarified that.

G. Fitzherbert: It certainly did.

L. Abella: Yeah. I think all of us know the town very well and we've driven it all thousands of times. I mean, we know what, what impact is.

H. Wyant: Yeah, and, um, I live on Plum Hill.

G. Fitzherbert: Yeah.

H. Wyant: And um, I have.

G. Fitzherbert: I'm going to stop you.

H. Wyant: Ok.

G. Fitzherbert: You're introducing new information.

K. Craparo: Ha.

G. Fitzherbert: You can talk in general, ...

H. Wyant: Oh, ok, well ...

G. Fitzherbert: ... but.

H. Wyant: The views from what we saw ...

G. Fitzherbert: Yeah.

H. Wyant: ... from the, uh, you can't, you can't see from that, that ...

K. Craparo: From the pictures that we saw.

H. Wyant: Yes, that's right.

J. Hill: Pictures by? Mr. Jancsky?

H. Wyant: Mr. Jancsky.

L. Abella: So you're confirming what ...

H. Wyant: ... yes.

L. Abella: ... Karen has said.

H. Wyant: Yes.

G. Fitzherbert: So I, I, I see absolutely no problem with appearance. The proportion is small amount of acres in a large area. We have the scale matches great to proportion. So, any other comments from this section?

L. Abella: I think you presented it very well.

G. Fitzherbert: So we can look at intensity, uh, or the usage as a special condition, right?

L. Abella: It seems an appropriate scale in my view.

G. Fitzherbert: Which really does cut down the use of that property to a very little. I mean very little impact. 13.1.b.2 continued, uh, part of the same area, 'will not hinder' or, or the same, uh, section, 'will not hinder or discourage the appropriate development and use of adjacent property or substantially or permanently impair the value thereof.' Uh, we had two people for the opposition or the interveners that, two people or two documents?

K. Craparo: Two, two people.

G. Fitzherbert: That said property values would be. I thought it was documents wasn't it?

K. Craparo: Ah-huh.

J. Hill: Two letters.

K. Craparo: Letters.

L. Abella: Letters.

G. Fitzherbert: Yeah, two letters. And the, and from Gunnery we had, uh, another real estate person that submitted saying that was just their opinion. There was no evidence of that and of course there really can't be the evidence. Uh, there has not been in Washington any evidence of that. The key there is substantially or permanently impair the value. You know, we're in a recession. We're all going to find out the, the value impacts of our next assessment, uh, they're certainly going down. Uh, but, uh, to my knowledge ...

K. Craparo: But that's.

G. Fitzherbert: ... as we brought this up, uh, in past times, uh, no one was able to come up even with one change in the town of Washington that took down property values on any street.

L. Abella: We discussed this, eh, at great length when the Mayflower was ...

G. Fitzherbert: Yes.

K. Craparo: Yeah.

L. Abella: I remember over and over.

K. Craparo: The, uh, the assessments may go down, but the value of the property in this area is staying right where it always has been.

G. Fitzherbert: Thank you. Since this is totally out of view, what you see is a driveway. Uh, the driveway itself is not a straight line. Uh, it weaves which means even up the driveway you will not be able to see anything. Uh, I don't know how that would hinder or discourage appropriate development, uh, of adjacent properties. It's not just twenty-five feet from a boundary line. Uh, the area is wooded all the way around and as, say his name again for me? Uh, our view person?

J. Hill: Jancsky.

M. Ajello: Jancsky.

G. Fitzherbert: Uh, Mr. Jancsky pointed out, this is an immature forest and I believe that to be true. Uh, the very nature of immature is it's going to continue to grow, uh, and expand. Uh, so if anything over time the blockage will become thicker. As we talked ... it's also the fact that the times of year for the usage is most of the time the fields are going to be used for soccer and athletics is while the leaves are on the trees, not when they're off. Now there'll be a little overlap there in November ...

K. Craparo: And the spring.

G. Fitzherbert: ... depending on how wet the spring is, uh, whether or not, uh, ... good part of the year that they are using those fields, it's not only going to be the trees. It's going to be the foliage. Uh, so the pictures that were taken and shown to us were with trees without any, uh, leaves on them and it's still blocked.

L. Abella: I seem to remember one number's, the closest is 450 feet ...

G. Fitzherbert: Right.

L. Abella: ... forest.

G. Fitzherbert: Right.

L. Abella: That's a lot of ...

G. Fitzherbert: It is to me so I, I really, uh, I don't think that that's a factor, but I want to hear from you ... just ...

L. Abella: Yeah.

G. Fitzherbert: Anything?

L. Abella: Well, I think if you get to buffering, I don't think it's needed, but, uh, I think 450 feet of that kind of forest is, is adequate. Uh, but I think they might consider an evergreen or two here or there. Not, not necessarily for the buffering, but just for.

G. Fitzherbert: I, I looked at that and I haven't got the slightest idea where.

L. Abella: Yeah, well that's.

G. Fitzherbert: Where is ... needed?

L. Abella: It's not technically needed.

G. Fitzherbert: Right.

L. Abella: But.

G. Fitzherbert: We can come back.

L. Abella: Yeah, exactly ...

G. Fitzherbert: Harry?

H. Wyant: Yeah, I think there's, uh, sufficient, uh, screening there.

G. Fitzherbert: ... to allow property owners to develop ...

H. Wyant: Yes.

G. Fitzherbert: ... their own property.

H. Wyant: ...

L. Abella: Definitely.

K. Craparo I agree.

G. Fitzherbert: 13.1.b.3, 'adequate access for fire protection purpose and other emergency service.' Uh, I was on a site visit. It is a very wide road. Meets our slope requirements and so I can't imagine whether there'd be any possible problem. Um, do we have a Fire Marshal?

M. Ajello: It was reviewed by the Fire Department when the road was.

G. Fitzherbert: When, when we did the road. Ok, so that really is not a factor cause there's not more buildings being done. 13.1.b.4, 'adequate access to property for internal traffic.' Uh, this is where we did see on the plan additional parking of ...

K. Craparo: May I go back to that ...

G. Fitzherbert: Yes, yes.

K. Craparo: ... one thing about. It, it is something that's important because although there's no buildings for fire, if you had, uh, somebody come in there with a gun for instance and want to kill all the players on the field, the police would have to respond and the fire department so you want to have adequate.

G. Fitzherbert: Absolutely.

K. Craparo: So maybe it needs to be re-reviewed under those conditions even though you're not going to put, be putting out a fire, you might be putting out a, a terrorist attack.

L. Abella: ...

K. Craparo: You think of those in these days.

J. Hill: How wide is that?

M. Ajello: If my memory serves me, that was an eighteen foot wide road ...

G. Fitzherbert: It's a wide road.

M. Ajello: ... created that wide for the purpose of ... bypass of busses was one thing ...

K. Craparo: Yeah.

M. Ajello: ... and ...

G. Fitzherbert: And asphalt.

M. Ajello: And paved.

G. Fitzherbert: Right.

M. Ajello: Uh.

G. Fitzherbert: So it is a big one.

K. Craparo: Ok.

G. Fitzherbert: ...

K. Craparo: Yeah.

G. Fitzherbert: It's good ...

K. Craparo: That's alright.

G. Fitzherbert: 'Adequate access to property for internal traffic,' and it's very simple and it's ... up in back.

K. Craparo: Ah-huh.

L. Abella: Yeah, we're, we're not talking a complicated ...

G. Fitzherbert: Not big cars ...

L. Abella: No.

G. Fitzherbert: ... and big buildings and so this is, uh, not a, I don't think a very important area here.

L. Abella: It's a one use road. It's, uh, pretty much.

G. Fitzherbert: Right. Uh, continuing, second part of that, uh, separate discussion. 'Provision is made for entering and leaving the property that no undue hazard to traffic or undue traffic congestions is created; adequate off-street parking.' The, uh, it was very wide at the intersection. Um, site lines are long.

K. Craparo: Does this take in, I hadn't thought about it before, but, uh, parking outside the field or on the road prior to the entrance roadway. In other words, along, um, South?

G. Fitzherbert: We can, we can put a condition ...

K. Craparo: We ought put that condition so no parking outside of there.

G. Fitzherbert: No.

K. Craparo: No busses, not, not nothing.

G. Fitzherbert: Right, no off-street, or off-property parking. All parking has to be on the site property ... like that. Anything else on that one? Their plans shows. Their parking plan looks more than adequate to meet our standards. Standards. Lot is, 13.1.b.5, 'lot is of sufficient size, adequate shape, dimension, topography to permit conduct of the proposed use and any building or other structure in connection therewith in such a manner that will not be detrimental to the neighborhood or adjacent property.' So it really is, uh, proposed, the staircase up the hill, the bleachers, the scoreboard, and fence, the main thrust being on the proposed use. The lot to me is huge, seventy acres.

K. Craparo: Is, is that, uh, there was a structure there wasn't there?

G. Fitzherbert: It's.

K. Craparo: There was plenty. Is that?

G. Fitzherbert: It's an environmental classroom for Gunnery.

K. Craparo: And that's going stay there?

G. Fitzherbert: Yes.

K. Craparo: And that's only going to be used for environmental classes. No storage of equipment and ... kind of stuff?

G. Fitzherbert: There, there, there is a special permit specifically for that building.

K. Craparo: They have gotten, ok.

G. Fitzherbert: And they have to follow. Again, any, anybody can come back to the Commission.

K. Craparo: Yeah.

G. Fitzherbert: Uh, under the special permit process you ... change the usage. So the use, uh, as far as size, adequate shape, dimension, any problem that you see with that lot being able to use soccer fields? Hold soccer field?

H. Wyant: No.

L. Abella: not at all.

G. Fitzherbert: Bleachers, scoreboard, fence, all other structures are not visible. As we saw in the drawings, it, it really is quite a way from all property lines. So ...

L. Abella: It's pretty much right in the center.

G. Fitzherbert: ... you've got a lot of acreage. Pretty much in the center. Any other thoughts on that one? Eh, huh, the slope, um, falls under that, that category and, and, uh, when people look around at this particular point in time, they see some flat fields and athletic fields and so on, and, and, uh, at the different schools and have no idea what the original slopes were. Uh, and so this is a very hilly town. Uh, and so you are going to move some earth in this town, whether it's a private owner as we talk about in zoning or adding athletic fields. Athletic fields have to be level. Uh, and with that you're going to be cutting into the slopes. I personally, uh, don't see that as, as being a hard thing to do. Uh, Harry, you do, not to ... break it up, but do you think that that's a difficult thing to do?

H. Wyant: Not with today's equipment and, um, I, I don't think it is. I think it's a relatively small project for a lot of people nowadays.

G. Fitzherbert: And a potential contractor stated that same thing to us.

H. Wyant: Yes. I think it'll be, um.

G. Fitzherbert: Not a big project was his, his.

H. Wyant: It's ... yeah.

G. Fitzherbert: Any other? 13.1.b.6 'that provision is made for suitable landscaping to protect the neighborhood and adjacent property with a permanent landscaping buffer of evergreens, the natural topography, stonewalls, or other appropriate screening materials.' Uh, again where this is located compared to all the neighbors is. It really is unlike anything that's come to us before that is screened this much by natural screening.

L. Abella: Right.

K. Craparo: Ah-huh.

G. Fitzherbert: Uh, it's not adding it, uh, and, uh, if there was any need to have any kind of buffering we never hesitate.

L. Abella: Exactly.

G. Fitzherbert: We put that out there, uh, and demand that that occur on every application. I can't see any place that buffering is needed. Does anyone else?

L. Abella: I, I would agree. Um, having said that, there aren't that many evergreens out there.

K. Craparo: He wants to plant some evergreens. He's set on getting evergreens up there.

Multiple Voices: [Laughter]

L. Abella: But I don't think it's. I don't think it's required because of the, that forest.

G. Fitzherbert: Yeah, and, I mean, you like evergreens or think you'd have evergreens?

L. Abella: Well, I just think.

G. Fitzherbert: But you don't need them for buffering.

L. Abella: Yeah, yy, they're not needed on this project, but, uh.

G. Fitzherbert: I can't argue that planting a few evergreens might be nice, but.

L. Abella: But it's not a must.

G. Fitzherbert: But we haven't got a reason to demand that.

L. Abella: No.

K. Craparo: Huh-ah.

L. Abella: Exactly.

G. Fitzherbert: We all agree on that?

Multiple Voices: Yes.

G. Fitzherbert: 13.1.b.7 'that the, pr, proposed plans have provided for conservation of natural features, drainage basins, the protections of the environment of, of the area, and sustained maintenance of the development.' On the roads and buildings we have put in the drainage in a prior application. The Wetlands reviewed the entire property and made their recommendation, their approval and their recommendations and to me that's, that's absolutely fine. And they did it to protect the wetlands, protect the environment.

K. Craparo: Ah-huh.

G. Fitzherbert: That was the reason they expanded their scope.

L. Abella: Exactly.

K. Craparo: Yeah.

G. Fitzherbert: Maintenance of the development, uh, obviously that was in the plan. There's, they're building fields. You've got slopes. You've got bleachers. You've got scoreboards that need lights to be changed and when they burn out, I mean, maintenance is, is, uh, going to be done. It was raised at one point that, and we had one picture of an areas the grass didn't take. Uh, I don't know what they were questioning. It was like seed, uh, may not take. Um, that happens and usually you reseed, uh, or go to some other technique, Uh, I didn't see that as a, the seeding thing as, as. Obviously they have to protect their slopes and they want good athletic fields. So if they have to do it over ten times, they'll do it ten times I'm sure.

We had a presentation on the forest. We covered that, uh, a little bit earlier saying that we really have no regulations that say you can't cut down trees. Uh, there are things outside of zoning that you ... or when it's a large area. This doesn't qualify. Uh, endangered species and I don't

remember the names ...

L. Abella: Hmmhmm.

J. Hill: Evans Associates?

G. Fitzherbert: Was that it? ... remembered.

K. Craparo: Well, I read. Maybe it was in the Wetlands report.

G. Fitzherbert: Yes.

K. Craparo: Their review that they didn't feel there were any endangered species in there.

G. Fitzherbert: Ah-huh.

K. Craparo: And uh.

G. Fitzherbert: She was very careful, of course she didn't walk the property, but she was very careful to say that in her opinion there might be. There might be the possibility.

K. Craparo: Hmm.

G. Fitzherbert: She, she was very, was not very strong, uh, and, and she did mention that there were things that were mile or two miles away and which I would assume ... Uh, Gunnery has a classroom for environmental studies and they did stay, state that they would be cautious and examine the area completely before they started moving earth. Thoughts on 13.1.b.7?

L. Abella: I mean, again, they're only clearing twelve acres. It's unlikely that there would ...

Male: What's the ...?

G. Fitzherbert: Yeah, what was the total acreage in the, in the application?

M. Ajello: Uh, like ten or eleven in the, within the area of disturbance. Uh, they called it twelve that's possible. It was expanded to as much as fifteen by the interveners, but, uh, when the Gunnery came back they said that if, if you withheld that eighty foot, uh, exaggeration, uh, of a, the, the area of impact, you could get up to as much I think as seventeen point something acres.

G. Fitzherbert: Right.

M. Ajello: We're, you know, we're going to go with whatever was in the approved use.

G. Fitzherbert: I was just. Lou, Lou was bringing up a number and I just wanted to confirm that.

M. Ajello: That, that line which is defined by the limit of disturbance and the silt fence and everything else.

G. Fitzherbert: So I continue.

M. Ajello: Yep.

G. Fitzherbert: It was twelve acres jumped out and I just wanted to make sure.

L. Abella: No, wanted to be sure. Exact, and I, I that's what I remembered.

G. Fitzherbert: Yep.

L. Abella: In the unlikely event there was any endangered species and, you know, I don't think twelve acres is going to radically change their, their habitat. I'm not an expert, but.

G. Fitzherbert: Out of seventy acres.

L. Abella: Out of seventy acres and, and you've got the whole town ... it's just like.

G. Fitzherbert: Yeah, all around.

K. Craparo: Yeah, we're one big forest here.

Male: True.

G. Fitzherbert: Anything else on 13.1.7, b.7? 13.1.b.8 'that the propo, proposed use and any building or other structure in connection therewith will not create a nuisance such as noise, fumes, odors, bright lights, glare, visual obstructions, vibrations, or other nuisance conditions at or beyond the property line.' I think we can eliminate a few of those things. Noise and bright lights are the, glare, uh.

L. Abella: Fumes.

G. Fitzherbert: From busses?

K. Craparo Ah-huh, not much though.

G. Fitzherbert: Not much, so we're, we're banning lights. They're there in the daytime so even headlights shouldn't be a factor on vehicles unless they go right up to dark, but it would only be ...

L. Abella: ... five minutes.

G. Fitzherbert: ... a minute or two.

L. Abella: Yeah.

G. Fitzherbert: Uh, noise? We, we had the presentation to us on the sound, source path, and, and reception. Obviously the source would be the field with kids playing on it. There does not appear to be a whole lot of direct paths, uh, for sound to travel. The main one, uh, for part of it might be part of the driveway. The last statement that, that the gentleman, and again I don't remember his name, it should ...

J. Hill: Mr. Brooks.

G. Fitzherbert: ... Brooks, uh, his last statement was the biggest interference on sound is the earth itself, an earth barrier. The fields are being cut down from the Stern property and there is going to be by elevation an earth barrier besides the trees. As of right now we have pictures that showed us

looking through the trees, but the fields are going to be substantially lower, uh, than where that picture was taken. So you have an elevation plan. You also have tons of trees. The path is not clear. It is not open. Uh, there is going to be, as he said, interference with that sound. There was also points that there's already sound being generated on the property and common sense is two sounds come together, uh, there is a muffling effect in both directions, not just one. Uh, the rest of the neighborhood has, as you said, long distances through the forest. There could be other factors like wind, uh, that could help carry sound and, and that sort of thing, but.

K. Craparo: In winter it does. I mean when there's.

G. Fitzherbert: Less leaves.

K. Craparo: Yeah, but they're not going to be out there in the winter.

G. Fitzherbert: That's a strong point. So the time when sound might carry the best, they won't be there.

K. Craparo: No.

G. Fitzherbert: The lights we will take care of with a condition, just not allowing them as we talked about before. Uh, meaning only basically headlights. Uh, anything else from that area? Fumes, odors, obstructions, vibrations?

L. Abella: It's ... no visual obstructions to anyone outside the property. I think noise was the one that was discussed the most.

G. Fitzherbert: Ah-huh.

L. Abella: And I feel we feel comfortable with that.

G. Fitzherbert: And, and, we can add on for noise that there should not be any unnecessary noise devices or, uh, if you go to some sporting events, the, the spectators themselves bring devices to make noise with, you know, horns.

K. Craparo: Ah-huh.

G. Fitzherbert: Uh, we can just literally say the, uh, nothing wrong with ...

K. Craparo: You can say that there may, uh, there all may be already is a limitation cause I never hear those thing in the field when the kids are playing.

G. Fitzherbert: No, I, I haven't in our town either, but.

M. Ajello: But it's discouraged in some venues, but.

K. Craparo: But may not want to say it.

M. Ajello: Maybe not actively. I don't know what we can do to.

G. Fitzherbert: I think we can, we can highly encourage Gunnery to make sure that isn't loud noise machines and I have not heard that on their other fields, uh, and tennis courts or that type of thing.

So I'd be surprised if they allowed it to occur in the neighborhood. They already operate in a neighborhood.

J. Hill: What about the school itself, um having a loudspeaker or audio system?

K. Craparo: They don't use one now down there in their fields, but it might be worthwhile no loudspeakers, no.

G. Fitzherbert: We did talk about that, the ...

K. Craparo: Yeah.

L. Abella: That'd be a good one too.

K. Craparo: Yeah.

M. Ajello: How would you word that?

J. Hill Well, for Rumsey we just put, um, ...

M. Ajello: Use of ...

K. Craparo: Noisemakers.

L. Abella: Artificial noisemakers?

M. Ajello: Audio systems?

K. Craparo: Yeah that's one.

M. Ajello: Um.

J. Hill: Just put no, um, ...

G. Fitzherbert: Too many pieces of paper.

M. Ajello: Other noise makers.

J. Hill For the Gunnery we can just put no amplified noise is permitted.

K. Craparo: That's good.

L. Abella: Amp, amplified.

G. Fitzherbert: Amp, amplified covers most of the noise makers ...

L. Abella: That covers just about everything, yeah.

K. Craparo: Yeah, yeah, yeah that's good.

G. Fitzherbert: It's a lot to a big horn.

Multiple Voices: [Laughter]

G. Fitzherbert: Alright, no amplified. We, uh, have gone through those items, uh, I would like to ask people to remember now any concerns that they had, uh, and this is the time we can bring up any subject for discussion.

L. Abella: Uh, what's the solution on, on bathrooms? I'm trying to think. If they put ...

K. Craparo: They going to have those outside ones?

L. Abella: Outside portable ...

G. Fitzherbert: Yeah.

K. Craparo: ...

M. Ajello: Portable johns are used seasonally.

L. Abella Porta, ... that's, that's right.

G. Fitzherbert: Yeah, ...

M. Ajello: They were located and adjacent to the entry road ... level, uh, you know the handicap parking?

L. Abella: Ok, yes.

G. Fitzherbert: Uh, I have, I have written mine here, uh, wells, uh, was brought up. Uh, there was absolutely no one, the, the topic wells was brought up, but no evidence, uh, was presented at all, uh, showing that this, uh, this disturbance in any way would impact wells. Uh, and, and that might be because it would be very hard to find evidence that would back up any claim like that. So I, I don't, uh, wells as a problem. Um.

K. Craparo: Is there just one house that, uh, that they're runoff goes to and that's, um, what's the lady's name? First one on the right up on the ... road?

M. Ajello: Crumrine?

K. Craparo: Hmm?

M. Ajello: Crumrine?

K. Craparo: No it's a lady, ... there was one and they, they didn't find any indications that that was going to be an issue that I read.

G. Fitzherbert: Yeah. Uh, other specific areas that would?

M. Ajello: I looked up the number just for the record because you were uncertain. I was uncertain. The limit of disturbed area as per proposed by the Gunnery is 11.95 acres for the record.

G. Fitzherbert: Other concerns anybody have?

K. Craparo No, I think we've covered ...

L. Abella: I think you went down list very carefully.

K. Craparo: ... I've got lines on them.

G. Fitzherbert: Harry?

H. Wyant: I don't have any concerns.

G. Fitzherbert: Because we had interveners, um, it makes it different and than the standard approval process. ... you have.

J. Hill: Can I just say that, um, you talked a lot about the, uh, the erosion controls and the wetlands should be ..., uh, determining that the plans were ... if you were to protect wetlands.

G. Fitzherbert: Ah-huh.

J. Hill: But in the, uh, letter that ... reviewed that we got from LandTech consultants ... said protect wetlands and adjoining properties. Which is why I point that out.

G. Fitzherbert: Very good. Uh, and as I said before they verified that he follows all of Connecticut statutes in reviewing an entire property.

J. Hill: That's Chris Allen from LandTech?

G. Fitzherbert: Yes. Janet, uh, with, with, uh, this different, uh, approach from having interveners besides neighbors, uh, does that impact our, our voting at all?

J. Hill: Well, the interveners, uh, petitioned that the, uh, proposed activities. I'm not going to quote, but would have a, uh, adverse impact, would defile, would pollute the state's, uh, air and water and other natural resources and it's their burden of proof. They have to prove that to you. So you should make a motion to determine whether or not you find that they've met the, the burden of proof and then once you do that you can act one way or another on the application itself.

G. Fitzherbert: Ah-huh.

M. Ajello: I have that wording here if you want to hear the exact wording. It's, uh, ... before.

J. Hill: Well, I, um, I took the wording from the Wetlands motion.

M. Ajello: Right, that would be the intervention is an environmental intervention, right?

J. Hill: Oh.

G. Fitzherbert: ... same thing that I'm looking?

M. Ajello: I believe so.

G. Fitzherbert: Uh, then why don't you work, why don't you read that for us.

M. Ajello: Uh ...

G. Fitzherbert: Listen carefully.

M. Ajello: The burden, the burden for the interveners to demonstrate that the proposed activities would have or would be reasonably likely to have the effect of unreasonably polluting, impairing, or destroying the public trust in the air, water, or other natural resources of the state.

G. Fitzherbert: Clear to everyone?

K. Craparo: Ah-huh.

G. Fitzherbert: Do you think they convinced you otherwise?

K. Craparo: No.

L. Abella: They, they didn't convince me. I think Gunnery's information and my, my own experience I, I don't. I'm not convinced.

G. Fitzherbert: Neither am I. Harry?

H. Wyant: I'm not convinced.

G. Fitzherbert: And I'm going to read a motion. Listen carefully.

[MOTION] Regarding the Special Permit application Section 4.4.10 submitted by The Gunnery, Inc. for athletic fields at 22 South Street,

WHEREAS, the Zoning Commission has considered the petitions of the interveners, their, uh, record submissions, and supporting testimony, and

WHEREAS, although members of the public and the interveners submitted information and expressed concerns with regard to the proposed activities, the information is not sufficient, was not sufficient to demonstrate that the proposed activities would pose any significant risk of harm to the environment or to adjoining properties, and

WHEREAS, the evidence received by the Zoning Commission, in total, does not demonstrate that the proposed activities would have, or would be reasonably likely to have, the effect of unreasonably polluting, impairing, or destroying the public trust in the air, water, and other natural resources of the state,

THEREFORE, the Washington Zoning Commission resolves that the interveners have failed to meet their burden of proving that the applicant's proposed activities are reason, reasonably likely to have the effect of unreasonably polluting, impairing, or destroying the public trust in air, water, or other natural resources of the state.

By Karen Craparo, second by Lou Abella, Passed: 4-0-1 [Mr. Reich abstained.]

Do you agree with that?

L. Abella: I totally agree with it.

K. Craparo: I do.

G. Fitzherbert: Then I would like to say, ask you to make a motion that we accept it. That, that is the

...

K. Craparo: I move that we, you don't want me to read the whole thing again?

G. Fitzherbert: No, you can just "as read."

K. Craparo: I move that we accept the motion as read, the special permit application.

J. Hill: Approve the motion.

K. Craparo: Approve.

G. Fitzherbert: Ok. Do we have a second.

L. Abella: Second.

G. Fitzherbert: All those in favor say aye.

Commissioners: Aye.

G. Fitzherbert: That's a total of four out of four with ...

K. Craparo: One abstainer.

G. Fitzherbert: Is there any nays? Is there anyone abstaining?

R. Reich: Yes there is, one abstention.

G. Fitzherbert: One abstention. Um, could we go back through and make sure that we have all the conditions that we've said we were going to?

K. Craparo: Ah-huh.

M. Ajello: I have them listed.

G. Fitzherbert: Ok, that would be great.

M. Ajello: #1 was, uh, and then you can ...

G. Fitzherbert: Go slow, go slow.

M. Ajello: ... can modify the wording. No exterior lighting shall be installed.

G. Fitzherbert: Sounds good to me.

M. Ajello: Ok, ...

G. Fitzherbert: Shall.

M. Ajello: ... #2, uh, the fields are for use by Gunnery students and personnel and used according to the regular school calendar.

K. Craparo: Used in accordance would be.

M. Ajello: In accordance is a better word, yep.

K. Craparo: Ok.

G. Fitzherbert: Say it again please.

M. Ajello: Uh, the fields are for use by Gunnery students and personnel and shall be used in accordance with the regular school calendar.

J. Hill: Do you want to say only by Gunnery students?

G. Fitzherbert: Uh, we've got to. I mean, they obviously play other teams, uh they.

K. Craparo: Yeah.

L. Abella: The parents might come to the games.

G. Fitzherbert: Janet? But, so they. It's, it's, uh.

L. Abella: Gunnery activities?

G. Fitzherbert: Is limited to what was asked in the application. Uh, that the athletic fields will used ...

K. Craparo: Solely.

G. Fitzherbert: Solely.

K. Craparo: For the purpose of the Gunnery, uh?

G. Fitzherbert: Students.

K. Craparo: Student's athletic activities

G. Fitzherbert: During their ...

K. Craparo: Regular school activities.

L. Abella: School, school.

G. Fitzherbert: That does.

L. Abella: That should cover it.

G. Fitzherbert: ...

J. Hill: Well, just ...

G. Fitzherbert: ... better, better ...

J. Hill: Just, I don't know.

G. Fitzherbert: Go ahead.

J. Hill: Just to compare.

G. Fitzherbert: Go ahead.

J. Hill: What you said for Rumsey.

G. Fitzherbert: Yeah.

J. Hill: The facilities, um, are not open to the general public and are for Rumsey Hall School use only.

K. Craparo: That might be a better way to put it.

G. Fitzherbert: Yep?

K. Craparo: Yeah, that's a better way to put it. More succinct in there.

G. Fitzherbert: I think so too.

K. Craparo: So we'll use that Janet?

J. Hill: Alright.

G. Fitzherbert: Number three.

M. Ajello: #3 no use related parking shall occur offsite.

G. Fitzherbert: Thank you, perfect.

M. Ajello: Questions?

G. Fitzherbert: Perfect.

M. Ajello: #4, I know I wanted to hear that twice.

Multiple Voices: [Laughter]

M. Ajello: Perfect! Haha! #4 no amplified noise shall be allowed.

G. Fitzherbert: Good, short and sweet, right to the point. Is that it?

M. Ajello: That's what I have.

K. Craparo: That's it.

M. Ajello: On my notes.

L. Abella: They're all good ones.

G. Fitzherbert: Uh, a couple areas were brought up, uh, so I'd like to add one more, Janet.

J. Hill: Ah-huh.

G. Fitzherbert: No work may be done under this Special Permit until all the necessary approvals from federal, state, and/or municipal agencies are obtained and copies of those approvals submitted to the Land Use Office which could include DEEP and the Army Corp Engineers should they want to review it. That's after us, but bottom line is if it's required they have to do it and they've got to give us copies.

M. Ajello: Is there any other, any other agency that may?

G. Fitzherbert: If there is, we're saying that.

J. Hill: That's what were saying in municipal. What other ...?

Multiple Voices: [Laughter]

M. Ajello: Foreign ... or something of that nature?

Multiple Voices: [Laughter]

L. Abella: Foreign governments.

Multiple Voices: [Laughter]

G. Fitzherbert: Foreign government, haha.

M. Ajello: Olympic committee?

Multiple Voices: [Laughter]

G. Fitzherbert: That's because of you.

Multiple Voices: [Laughter]

G. Fitzherbert: Alright are we ready to vote?

L. Abella: Yes. G. Fitzherbert: Motion, since you did one. Just that first ...

K. Craparo:

Motion to approve the Special Permit application:

Section 4.4.10 submitted by The Gunnery, Inc. for athletic fields at 22 South Street, uh, per plans, "South Street Athletic Fields," eight sheets, by Smith and Company, dated 10/3/11 and revised to 3/19/12 and supporting documents from the applicant's professionals subject to the following conditions:

[CONDITIONS – listed as submitted; not repeated verbally]

1. No exterior lighting shall be installed.

2. The facilities are not open to the general public and are for The Gunnery use only in accordance with the regular school calendar.

3. No use related parking shall occur offsite.

4. No amplified noise shall be allowed.

5. No work may be done under this Special Permit until all the necessary approvals from federal, state, and/or municipal agencies are obtained and copies of those approvals submitted to the Land Use Office which could include DEEP and the Army Corp Engineers.

By Karen Craparo, second by Harry Wyant, Passed: 4-0-1 [Mr. Reich abstained.]

G. Fitzherbert: And those conditions are? Uh, ... the ones we just.

K. Craparo: We already stated those.

G. Fitzherbert: The ones we. The four we just listed?

M. Ajello: Five.

G. Fitzherbert: Five, I added one. That's right. Five, we just listed. Any discussion on that? Could we get a second?

H. Wyant: Second.

G. Fitzherbert: Second to our motion, ... OK. Harry. Any further discussion? Hearing none I would like to call on people one at a time and ask you to give a short rationale for the why you are voting the way you are and I'll start. It is, I am going to vote to approve. I think that it is a good use in a good area of town. Uh, good for Gunnery. Good for the neighbors as it is centralized on seventy acres, uh, already totally buffered and landscaped, uh, with tons of trees and I really think that, uh, almost across the board the arguments that were presented to us were very, and I'm using the term very, uncon, unconvincing.

J. Hill: You mean the arguments by the interveners?

G. Fitzherbert: Intervenors. The most impactable naturally were individual people simply stating that they were against it for one reason or another. I don't know if that was the exaggerations, but I was very unconvinced, uh, by, by the intervenors, uh, with their arguments. I thought they were not very well done. It impacted me not at all, uh, except for two or three areas that we're putting conditions on. Uh, Lou?

L. Abella: I think based on all the conditions that we just reviewed this evening, uh, special permit and, and all the appropriateness of it, uh, I think it's, it fits the, the scope. It's appropriate. I think it's appropriate for the town and the neighbors and, and for Gunnery of course and I think I don't it'll have any negative impact at all on the surrounding area. Now, for that reason, I think it meets all the conditions as we've, uh, reviewed, and I would recommend approval.

G. Fitzherbert: Thank you. Harry?

H. Wyant: Uh, I'm going to vote for approval and, uh, I believe that if you go by our special permit regulations and, uh, just going over the, the scope of the project and everything I think it's a good fit for the, for the area. Um, I, I think after a while it won't have a big impact on, once the construction is done, on the neighbors, um, like a lot of other projects we've had. And, uh, so, so I believe that it, it's a, it's a good fit for the area and for the town and I approve it.

G. Fitzherbert: Alright, thank you. Karen?

K. Craparo: Well I had my concerns primarily were with the wetlands, um, concerns, but that, uh, after reading the, the document and, and the review of the whole status of, uh, that part of the application I, I don't have any concerns and I have to say that as neighbors the Gunnery has been extremely good. They are very sensitive to any problems or issues that arise and, uh, I'm sure they will continue to be good neighbors to their new neighbors.

G. Fitzherbert: So you are?

K. Craparo: Voting for it.

G. Fitzherbert: So that's four votes for. Any nays? Any abstentions?

R. Reich: One abstention.

G. Fitzherbert: One abstention. So it passes. I thank everyone for the extended time frames, uh, and I would entertain a motion to adjourn.

[MOTION]

To Adjourn. By: Gary Fitzherbert, second by: Lou Abella,
Passed unanimously

L. Abella: I'll second that.

G. Fitzherbert: Ok, all in favor.

Commissioners: Aye.

G. Fitzherbert: Thank you everyone.

Mr. Fitzherbert adjourned the meeting at 8:41 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Sheila Silvernail, acting clerk