

Chairman Larry Ruth called the Planning Board Worksession to order at 7:35 P.M. Members present were Gene Bavis, Deborah Amsler, Karel Ambroz and Larry Ruth. Elaine Leasure was absent. Also present was Phil Williamson, Code Enforcement Officer and Denise Munson, Town Attorney.

Gene Bavis made a motion, seconded by Karel Ambroz, to approve the minutes of May 21, 2008 as presented.

Roll Vote:	Gene Bavis	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye
	Elaine Leasure	Absent

Motion carried.

1. Discussion of Peter & Suzanne Giovenco for subdivision of property located at 88 Bills Road. Property is zoned: R.

Suzanne Giovenco, 82 Bills Road, owner of the property was present to answer questions from the Board. A concept drawing of the proposed subdivision and an aerial map (Google) was provided for the Board to look at. Mrs. Giovenco explained that she owns both 88 Bills and 82 Bills Road where she resides. She is seeking concept approval for a 6-Lot Subdivision with site plan approval for two lots (Lots 5 & 6). They plan to build a home for themselves on lot 6 and put lot 5 on the market. As interest builds they will develop the other four lots. Perk test and deep-hole tests for Lots 5 and 6 are scheduled for June 26th with Norm Druschel.

Gene Bavis asked the size of both parcels that she owns. Mrs. Giovenco said the parcel where they currently reside is 4.94 acres and the larger parcel is 95 acres. A cell tower is located on the 95-acre parcel.

Gene Bavis stated that this would actually be a 7-Lot Subdivision; the six lots in the front and larger back lot. Gene Bavis asked how they intended to access the remaining back land in the future? Mrs. Giovenco responded that a road would have to go in, but there are no definite plans for the back. Presently, they are just concentrating on the six frontage lots and see how the market develops. Mr. Bavis stated this would be relevant because there must be access to the back land. The Board is looking for access of a minimum of 60 ft. in width to land to be developed. Gene Bavis added that sight distance must be maintained for all lots.

Chairman Ruth responded that engineered drawings are required before anything beyond concept agreement can be done. Discussion ensued about other ways to reconfigure the lots. The possibly of combining the 95 acres parcel with the 4.84 acres and then reconfiguring the existing home with perhaps two acres and then creating a road access was discussed.

Overall the Board had no problem with the concept, if access to the back is maintained.

2. Discussion of Ray Zentara for Special Use Permit to operate an auto repair & auto sales shop located at 787 Plank Road. Property is zoned: Hamlet

Ray Zentara owner of the property was present, along with the prospective tenant of the property. The tenant would like to rent both sides of the garage. The previous tenant had a Special Use Permit to operate the business and Mr. Zentara stated that the new tenant agrees to operate under the same guidelines as the previous tenant.

Gene Bavis questioned if the business would be both for sales and repairs and Mr. Zentara responded that it would be.

Chairperson Ruth questioned how long the building has been vacant? Deb Amsler stated that her records show that Mr. Zentara came before the Planning Board in March 2006 and July 2006 trying to rent the property, so it has been vacant for at least two years.

Phil Williamson stated that if the operation has not been functioning under the Special Use Permit for a period of six-months, then the Special Use ceases to exist (Town Code § Section 180-55). Mr. Williamson stated that use of the property as an auto repair shop would be a non-conforming use in a Hamlet district and cannot be reestablished once it ceases. Mr. Williamson stated that it was his interpretation that the applicant could possibly go before the Zoning Board of Appeals for a use variance, but would ask the Town Attorney to research the matter and make a final decision as to whether or not the applicant can apply for a variance with the Zoning Board of Appeals. Phil Williamson stated that he would contact Mr. Zentara once a legal interpretation is determined. Denise Munson stated that she would have a determination by the end of the following week.

3. Discussion of William Kummerow for a 2-lot subdivision, to remove and relocate right-of-way on property located at 380 Whitney Road. Property is zoned: RR-1.

William Kummerow was present long with his wife and sister. Mr. Kummerow stated that the family is in the midst of dividing up his father's estate among the children. The Kummerows own four pieces of property 322, 336 and 348 Whitney Road and a 50-acre back parcel (tax #61116-00-303679) which has a 60 ft. right-of-way to Whitney Road. The 60 ft. right-of-way is presently used by 322 and 336 Whitney Road, as a single driveway to both properties. The Kummerow's would like to eliminate the 60 ft. right-of-way and divide in half the 60 ft. between 322 and 336 Whitney Road. As you cannot have a landlocked piece of property the 50-acres back property (61116-00-303679) is in the process of being merged with 348 Whitney Road property.

Gene Bavis suggested that if the driveway were shared, an easement would need to be drawn up by an attorney for the two parcels.

There Planning Board did not have any further concerns with the subdivision.

4. Discussion of Tim Craft for Home Occupation, Major Category A to operate a firewood business at property located at 1601 Atlantic Avenue on the north side of Atlantic Avenue across from Downs Road. Property is zoned: RR-1.

Tim Craft stated that he looking to purchase property at 1601 Atlantic Avenue including a residence and acreage to operate a tree service business. The intention would be to truck in logs to be cut and split on the premises to be sold as firewood.

The Board asked several questions of Mr. Craft.

- Would the customer pick up the wood or would you deliver? I would deliver.
- Would there be any employees? I have one employee.
- What would be kept at the site? The trucks that I use and the wood that is generated from the jobs I do.
- What kind of trucks? The truck that I chip the brush into, a bucket truck and a couple of pickups.

Gene Bavis stated that since he did not own the property he would need an affidavit signed by the present owner.

Phil Williamson read from Section 180-10A(2) which read in part:

- (2) Customary agricultural operations shall include cutting, splitting and sale of firewood harvested from trees growing on the premises.

Mr. Williamson explained that it would be his interpretation that you can only cut and split firewood grown on the premises and cannot truck in logs harvested elsewhere to be cut and split. Mr. Williamson advised seeking legal counsel as to how to proceed and whether or not the next step would be to apply to the Zoning Board of Appeals for a use variance. Mr. Williamson stated that if the Zoning Board of Appeals were to grant a use variance, the matter would then come back before the Planning Board for a Home Occupation Major, Category A. Denise Munson stated that she would research the matter and have a determination by the end of the following week.

5. Request to Waive Normal Subdivision Procedure and Approval Requirements for Simple Realty Subdivision for property owned by Phylis Dake, located at 1601 Atlantic Avenue. Property is Zoned: RR-1

Mr. Robert Seeley, L.S. of Shelley Associates was present. A letter addressed to Larry Ruth, Chairman from Robert Seeley, dated June 18, 2008 was presented to the Board:

We are requesting that the Planning Board waive the normal subdivision procedure and subdivision approval for the Dake Subdivision owned by Phylis Dake. This property, with a total area of 69.80 acres, is to be divided into two lots of 58.33 acres and 11.47 acres. The 11.47-acre lot is to be combined with the property to the west also owned by Phylis Dake and is in the process of being sold. The remaining lot, or parcel, is being retained by Mrs. Dake at this time. No new construction or development is planned for either parcel. The new owner and Mrs. Dake are aware that an approved site plan would be necessary before any construction can take place.

Mr. Seeley stated that the prospective buyer of the property is Tim Craft (agenda item #4). Deb Amsler questioned if Mr. Craft did not end up buying the property would the owner still proceed with the simply realty subdivision? Mr. Seeley answered that the owner's son, acting on behalf of his mother, has indicated that he would proceed with the subdivision in any event.

Gene Bavis made a motion, seconded by Deb Amsler to waive the normal subdivision procedure and subdivision approval requirements for the Dake Subdivision, located at 1601 Atlantic Avenue.

Roll Vote:	Gene Bavis	Aye
	Larry Ruth	Aye
	Deborah Amsler	Aye
	Karel Ambroz	Aye
	Elaine Leasure	Absent

Motion carried.

The meeting was adjourned at 8:25 P.M.

Gail Rutkowski, Clerk