

**TOWN OF GREENFIELD
PLANNING BOARD**

September 8, 2015

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Tonya Yasenchak at 7:01 p.m. On roll call, the following members are present: Tonya Yasenchak, John Bokus, Nathan Duffney, Michael Gyarmathy, Thomas Siragusa, John Streit, and Robert Roeckle, Alternate. Stan Weeks is absent. Charlie Baker, Town Engineer is present.

MINUTES – August 25, 2015

MOTION: B. Duffney

SECOND: J. Bokus

RESOLVED, that the Planning Board waives the reading of and approves the minutes of August 25, 2015, as submitted.

VOTE: Ayes: Bokus, Duffney, Gyarmathy, Roeckle, Siragusa, Streit, Yasenchak

Noes: None

Absent: Weeks

PLANNING BOARD CASES

7337 Middle Grove LLC – Special Use Permit/Site Plan Review

Middle Grove Road

Mike Ballestero is present and explains that he has applied for a Contractor's Storage Yard at the property. It is currently a junkyard and has been for the last 35 years. He thinks this is a prime spot for a yard, it is on a County Road and he feels that the Board should promote small business. T. Yasenchak reviews that a contractor storage yard, large, is allowed in the MDR1 zone with a special use permit and that is what the applicant is here for. The Planning Board is reviewing this because the Code Enforcement Officer, G. McKenna, has interpreted the applicant's business and what he wants to do at this property is a contractor storage yard. The applicant has also stated that he would like to salvage the cars that are there. M. Ballestero states that is correct and store his containers there. T. Yasenchak reiterates that he will be removing the cars from the site, over time, and also as part of the business he hauls, they have roll off containers which will be stored here if they are not on a project site. T. Yasenchak states that the Board members attended a site walk. They walked the site, the road and peripheral properties, and to be able to view this project.

A public hearing is opened at 7:06 p.m. Libby Carrino, partner with Carter Conboy Attorneys in Saratoga Springs, is present representing the McLellan's, across from the existing application. She states that in reviewing what has come forward and reviewing the Code, junk yards are governed by Chapter 65 of the local ordinance as opposed to the zoning code. Even if the junk yard has been out there for 30 years, all junk yards were destroyed by way of the local ordinance, 65.4 E. As it relates to land use, that goes under things like pre-existing or grandfathering. Those things can be abandoned and if not used for a year it is abandoned. As has been adequately stated in the record, this particular junk yard was permitted per Chapter 65 which says that those permits are non-transferable. She states that it is her clients' position that there is a non-conforming, violative use occurring on site as it stands today. It is not operating under a grandfathering provision of the land use code nor a permit from Chapter 65. Because of that, section 105-26 J of the code states that the PB cannot sit in review of applications that have active violations on site. She asks the Board

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to consider the fact that there are active violations on site and to consult with the Code Enforcement Officer because of that. The next issue she heard is that the Code Enforcement Officer has determined that the application, on its face, demonstrates compliance with contractor storage yard large. For purposes of the record, she would like to bring a few things to the attention of the Board. The application requires a trade use showing which is not in the application. It requires what type of contractor you are and that has not been provided. The second is that it must be connected with an existing permitted use. The junkyard is not permitted presently. One of the things of greatest concern to her clients is the number of cars on site and the proximity to wetlands. She knows that this board takes its SEQRA obligations very seriously and that in conjunction with the Town Engineer and other application materials that might be submitted, that is something that they are asking the Board to take a serious look at alongside DEC, which regulates uses within 100 to 500' of wetlands. It indicates in the SEQRA that there are commercial uses nearby. The Chair stated that there was a site visit and she trusts that the Board is able thru its own powers of observation and its own assessment of the site; it is a rural area without a lot of commercial uses around. She states that the Comprehensive Plan does not contemplate junk yards and Chapter 65 indicates that they are not desired in the Town. Those are things that the Board should look at in reviewing a special use permit. She reviews items that make a particular use not suitable for a location. The Chair also stated that the application is incomplete at present and they look forward to seeing the additional items to make that application complete so that G. McKenna's determination can be made on a fully submitted application as is required under Town law. She states that with the concept of removing the cars from the site over a period of time, that would be a worthy mitigation effort for an existing violation - to clean up the site to become compliant with Chapter 65. Unless and until that occurs, it is their position that no application before any of the land use boards is appropriate until any kind of violation has been satisfied thru whatever mitigation efforts the applicant proposes. Chris Reville, Middle Grove, states that the clarity that came to him is that the 1000 cars needs to be separated from bringing in an industrial manufacturing process into a residential area. Reading the code, it basically says that you cannot have a special use permit if you are going to disrupt and devalue your surrounding neighbors. He feels that this should be denied and a comprehensive plan should be put into place. The land can be developed. The value of the scrap metal and antique cars is considerable. There should be no evaluation whatsoever or concern for how much money has been laid out. That is a self-induced hardship. He is opposed to this. Bill McLellan, Middle Grove Road, states he lives right across from the proposed facility, he has watched all the heavy trucks going up and down the road and all the dust that goes over to his house. He states that he has lived there for 25 years and there have been numerous accidents. A year and a half ago an accident literally demolished 2 vehicles in front of his house – one being his truck. They ripped the axel off his truck and their car; turned and moved the truck 30'. If we add 10 heavy duty trucks and the roll-offs, he thinks we are looking at a potential disaster. No one has done a traffic study on that area. The wetland is nothing more than the top of the water table that we rely on for our wells and everyone in Greenfield lives on wells. By M. Ballestero's own statement, the roll offs are going to be emptied, sort the material out, collect the salvageables put the rest in the roll offs and send it away. All that stuff is not going to go back in and some will stay in the environment – pipes, lead based paints, heavy metals possibly. All that stuff that is going to be there settling in or floating over his house. The facility is not a storage yard, M. Ballestero is not a contractor, he is a processing agent and that is not what is being asked for and not appropriate for the area. He states that there must be at least several million dollars' worth of housing in the area around this facility. If the Planning Board allows this it will not be several million - it might be at best half of that. In talking about fitting in the environment and belonging to the community, this does not fit that definition at all. He thinks the Board should refuse it and ask M. Ballestero to put his facility somewhere else. Sara Gaba, Sodeman Road, states she is the former owner of this property. They carried the permit for 39 years, which they renewed every year. She was the owner of Gaba Bros on Sodeman Road, a salvage yard for more than 50 years. To say it took the value of properties down in her area, she says no. There are rules and regulations that they have to meet with zoning. G. McKenna is there. She states that with the wetlands and a buffer zone, that is absolutely fine. She states that a year ago this summer DEC was in in quantity to the yard across the street that she still owned and has since sold, they found one violation and asked them to move something. Other than that – nothing and there is a pond on that land. Every year it gets tested because of storm water runoff. In Greenfield, there are no creeks in the area for storm water

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runoff. You can't expect someone to go ahead and flush out the yard on Middle Grove Road when the price is just about half of what it was 2 years ago. Two years ago junk went out at \$220 per ton and it is now going out for \$120 per ton. You cannot expect these boys to try to do all these cars in a short period of time. They need to do work and pull the engines and some of the radiators. She states that she would be glad to answer any questions, but DEC has been there and never contacted her. She states that she is sure that Bernice (McLellan) would have seen vehicles over there if she was around last summer. If anyone has any questions regarding salvage yards or DEC, she will try to answer what she is knowledgeable about because she did the majority of the paperwork for the business. Vanessa Perkins, Middle Grove Road, states that she is grateful for this community, this builds strong communities, and it is obvious that we have some opposing views. She wants to see this strong community sustained and this is how we are going to do it. She really wants to encourage us to mitigate some of the concerns and at the same time she wants to support small business where her kids can stay in the community and make a living. She would like clean water and safe roads. She lives on Middle Grove Road and she gets that concern, and there are ways to mitigate those concerns. She does not think that we should make it so difficult that M. Ballestero incurs a significant amount of loss for concerns that she believes can be mitigated. She wants to encourage us to arrive at an agreement, let him operate his business while preserving cleanliness and peace and the value of the homes and land. She wants to encourage us to come to a solution together and she is grateful to the Planning Board to take the time to do that. Mary Boldish, Middle Grove Road, states that she lives next door to the property. This is not considered a hardship, this land was never put up for public sale, he bought this privately. This was his decision to buy this land and he should have bought it under the circumstance that he could get a permit, so this is not a hardship on him at all. He knew exactly what he was getting into. Also, 8 months out of the year she can see the junk cars from her house. She would like them removed so many feet from her property. If this is passed and even if it isn't passed, she would like them removed. This is not something that should be done in this community. This is Greenfield Center; we don't need this type of business in Greenfield. This is a country community, this is for our children. Let's do what's right for the community and the people. This is your job (to the Planning Board), do what is right. We need businesses in Greenfield, but we need good business and profitable businesses, we don't need any more junk yards, scrap yards – put it in a commercial area. John Jordan, Middle Grove Road, states that he is confused about the permit being put under a contractor storage standard. It states that it has to be in connection with a principle permitted use and he asks what that is. T. Yasenachak states that there is a residence on the property which is the principle permitted use. J. Jordan comments on the 8 to 10 vehicles, 20 roll offs and another business that is being used on the property. He states that does not look to him like it is in the spirit of the contractor storage permit. It states that vehicles stored at a contractor storage yard may be parked in the rear of the property with a 'B' buffer zone and he has not seen anything about that. The storage of building materials, etc. must be indoors as approved by the special use permit. When he looks at the minutes he sees 6 or 8 vehicles, 20 roll offs, etc. In regard to waste, that is not pursuant to what the code is providing for in this kind of permit. He does not understand how this is going to work. He is quoting from Section 105-127. George Jolly, King Road, states he lives directly across the wetlands from the subject property. There are two things that he is trying to understand. The Town Board, back in 1967, said that junk yards were not going to be part of Greenfield. It is very hard to understand how the Gaba's managed to have the junk yard there. It is nice that it hasn't been disturbed too much in the last few years, however, if that is going to be cleaned up at any time in the future, the potential for damage to that area is very real and there ought to be participation by Spill Recovery Specialists and a complete environmental review of how a cleanup is going to occur. We are clearly in a residential zone and he cannot understand why the Board feels it is necessary to bring an industrial processing plant/business into this zoning area. We are talking about dust, noise, extra traffic – all the things that people have been mentioning. If the Board feels that this is really necessary for the Greenfield Community, you owe it to the public to explain why this is such a necessary thing. There are lots of small businesses and they are great, but we are talking about so many potential degradations here to that residential quality of life that those who came to Greenfield for and continue to expect and value so much. If the Board feels it is absolutely necessary, the public really needs to hear why you should violate their expectations and what they bought into. Todd La Roche, Middle Grove Road, states that he has always seen the cars back there and thought how that kind of thing affects the water table, he doesn't know as he is not an engineer. He

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states that for all the reasons we have heard, he would be very much in opposition to seeing that site actively developing any kind of industrial waste or influence on the environment. He does not know enough about saying whether something should or shouldn't be done at that site but he would like to see all those cars taken away and the place cleaned up. He states that he knows that some kind of mitigation possibility was mentioned but he states that this sounds like the argument with GE – touch the stuff or let it sit there. He asks the Board to please think about how you should go forward. He likes what Dr. Jolly said about knowing exactly what kind of environmental impact would be made. Act as if you live a few hundred yards from this site yourself and then ask the same questions. Al Janik, King Road, states that he is opposed the Planning Board granting or considering any permit that contains a provision to operate a junk yard or metal recycling operation. He believes that is the responsibility of the Town Board and not the Planning Board and that Town Counsel be asked for their opinion. He asks the Board to consider the applicant's current scope of activities at their current location and statements made by the applicant, and if those fit the definition of a contractor storage yard. The application includes recycling, a pad and a building. He believes that that would be used to empty the containers, extract metals, repack the containers and then remove them off site. He states that no matter how this activity is presented, processing/recycling, etc., he believes that the applicant operates a waste hauling and transfer operation, and that does not meet the definition of a contractor storage yard and does not belong in a residential area. He asks the Board to deny the application. If the Board continues to consider the application, he asks that the public hearing be kept open for further comment. Sara Gaba states that in talking about the wetlands, she is not sure but most people know that there are a lot of beaver dams in the back of the property and she wonders if this could be some of the problem with the wetlands in that area. She states that regarding the neighbor who bought next to the yard with the cars, the cars existed and no new cars were brought in before she bought her property. She thinks that is a factor that maybe the neighbor should have investigated before buying the adjoining property. T. Yasenchak asks when the last time was that S. Gaba received a permit from the Town Board for the junk yard. S. Gaba states last year and she has it with her. T. Yasenchak states that then in 2014 the Town Board granted permission to operate the junk yard. S. Gaba states that she has every license from 1976. T. Yasenchak states that the applicant is not asking for the use of a junk yard, they are not here for that. They are looking to start taking those pieces away. S. Gaba states that the pad is what they would use to put a car onto to dismantle it, to take out a motor or whatever. They are not going to do it where it sits. Bernice McLellan, Middle Grove Road, states that she would like to challenge the statement made by S. Gaba about cars going in since M. Boldish's house went up. Up until her husband passed away, there were cars going in and out of there all the time. So the fact that it has been years since cars went up there, that is not the case. T. Yasenchak states that all we really needed to know was that she did receive a permit in 2014 for the junk yard. She does not want to get into the rhetoric of who said what. She states that the Town granted a permit in 2014 to operate a junk yard and so whatever she was doing under the permitted use from the Town Board, she had the permit to do so. Right now we are discussing the application at hand. M. Boldish states that the only thing she is asking for is that there is not a buffer between her property and the junkyard. She would like them removed so many feet from her property. James Lee, South Greenfield Road, states that the way he views this is that when they developed the code, what was the ideal use for that land and they determined it to be residential. Of course there are opportunities to make exceptions, but there are also opportunities to make the land the way that the zoning committee decided at that time. This is a great opportunity to actually clean up and make the land the way that that board said would be ideal for this area. He sympathizes with M. Ballestero that he purchased the land and did not receive the permit before purchasing it, but as a Planning Board member you have to always keep at the top of your mind, what is the ideal use of the land as determined by the zoning committee and by proxy the citizens of Greenfield and use that as your guide to make your decision. G. Jolly, states that J. Lee's comments are brilliant because we are talking about the Planning Board having the opportunity to set right things that weren't done optimally in the past. Somehow that dump got put into Greenfield even though the Town Code says, and the language is really strong, that they are a hazard to people and property. He states that it seems to him that there might even be some opportunity to help M. Ballestero not lose some of his investment. For instance, if under DEC's supervision the cars were removed with Spill Specialists, etc., and the whole thing was moved somewhere else, he would get his scrap metal and sell it whenever he chooses to and Greenfield would have its rural environment back.

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He asks the Board to think about other kinds of routes that we might take. T. Yasenchak states the Board usually does ask for a complete application before having a public hearing but in this case the Board felt that it would be more fair to the applicant to hear the neighbors' viewpoints before having him spend more money on engineering, reports, plans, etc. She explains that the Town has a list of items that we review under special use permit, we are very aware of that and we will continue a dialog as we continue asking for more information from the applicant. If you feel that something has been said in error, the applicant can bring that to our attention at a later date as we continue to ask for more information. Because we don't have a complete application we will not actually be closing the public hearing tonight. Tonight is only to voice concerns and questions for the Board. G. Jolly states that the property is in the DEC check zone. It is that strip around the wetlands and it is very clear on the map. It says that the check zone has to be evaluated by a DEC biologist to determine where the wetland is and how it is going to be affected. He asks if the Board has brought in the DEC to do that. T. Yasenchak states that typically that is something that the Board may ask an applicant to do whenever there is a project with wetlands, if it has not already been done. The Town does not do that. Question is asked if they do impact predictions. Does DEC predict if it is being used in a certain manner? T. Yasenchak states that it depends on what we ask the applicant to do. There is a difference between asking the applicant to flag the wetlands, which is what the previous gentleman was asking for, to show the limits of the wetlands vs if we are asking DEC to give us some kind of report or if we ask the applicant to have a professional write a report of what would need to be done. Lydia Mitchell, Kircher Road, states that she has wetlands across the street from the proposal. The DEC study would be helpful for her, plus there was a comment made about the values of homes and she asks if a study was done on this. She asks how one can say that the value hasn't declined without a study or evidence. T. Yasenchak states that the Board has a list of things that, by the Town Code, the Planning Board can ask the applicant to give us. Most of those have to do with the site planning, environment, etc. This Board does not look at hardships or the financials, only what we are allowed to look at. J. Jordan asks a question. T. Yasenchak states that the Board is only bound by what is in our code. When we have a project that comes before us it is because the Code Enforcement Officer believes that what is being asked for fits and he has interpreted it to be such that it is in accordance with the code. Then it comes to the Planning Board and the Planning Board reviews that project according to the list that is given the Board to review a special use permit. J. Jordan states that the permit didn't specify all the possible uses that he saw in the minutes. T. Yasenchak states that when we get to that point, we will be reviewing the items in the code and ask any applicant to list everything that they want to do on that property and how they will do it. The Code is not that specific when it comes to a large contractor storage yard and it does have 'etcetera's' in it. She states that the Planning Board is not the one who interprets that code; they only review the project as it has been interpreted and passed to the Planning Board by the Code Enforcement Officer. Theresa Loeber, King Road, asks if the applicant is required to state how much noise will be produced from the property and if there is a lot of noise and she wants to complain about it, who does she call. T. Yasenchak states that as part of the environmental review we do look at noise. We do not have enforcement as far as a noise ordinance, as we do not have a noise ordinance at this time. We do have hours of operation that go along with any special use permit that we issue. A. Janik states that it was indicated that the Board looks at the application that was reviewed by the Code Enforcement Officer and if he says that this meets the definition of a contractor storage yard – that is the end of it? T. Yasenchak states that if the Planning Board feels that they have a serious question about that, we can kick it back to the ZBA for an interpretation. A. Janik questions that it goes back to the ZBA. T. Yasenchak states for an interpretation, not a variance. A. Janik states that he thinks in this particular instance G. McKenna erred. J. Jordan questions that we do not know what information G. McKenna based that decision on. D. Hodgson, King Road, states that he is opposed to any industrial activity on this site that is not directly related to the cleanup of the site, which would be a good thing, but not any other added activity on the site. Mark Hachenski, South Greenfield Road, agrees with the previous comment. He is in favor of small business and it would be great if we could bring a business in here, but if it is going to be an industrial business like that, having moved here because of the community and some of the people who live here. If you put an industrial complex there, it will take away so much of what Greenfield is all about and the reasons they moved here. It is just not the right business that should go in there. Chad Jorgensen, Daniels Road, agrees with this also. He states that his concern is with the water shed and contamination. Kathleen Kieffer,

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King Road, states that she agrees with the comments of the other neighbors and safety on that blind curve of Middle Grove Road. It is residential and should stay residential. Caroline Seligman, King Road, states that she is confused because this is a residential zone and it seems as though although a business might be welcome, that any kind of industry is out of place. This isn't just a little bit of a variation; this would be a total abrogation of the zoning. Like her neighbors, she is very concerned about this. V. Perkins states that she is confused. From what she reviewed of the minutes before coming here tonight, it has gone from a storage yard where roll offs are going to come, we are going to possibly take something out of the roll offs and store for a short period of time in larger containers, then go away – how that becomes an industrial site. Is there more to this that isn't in the minutes, and how does she get that information? How big is this? T. Yasenchak states that what she has read in the minutes is what we have been told from the applicant is their desire as far as how they would like to operate their business. V. Perkins questions that all of that operation will be behind a tree line buffer and it can still stay contained behind that buffer within the mandatory distance. T. Yasenchak states that is part of the review. Bruce Poritzky, Middle Grove Road, states that his land abuts and that he probably has the most exposure to the existing junk yard. He has a well that is set quite a bit below where that junkyard is currently located. They did do a water test a number of years ago and they are going to redo it to see if there is any runoff going in to his well. He states that he has been to a number of these meetings and has heard different ideas of what this project is going to be. M. Ballestero, in the first meeting, did mention that he was possibly going to be bringing vehicles in, possibly only a few, but the intention was to take them out but maybe bring in a few. He is wondering if this is actually going to be a storage yard or an ongoing process of junk coming in and going out, just going out, what kind of oversight would there be from an environmental standpoint and are there going to be ways to mitigate those problems if they start occurring down the road. If in the middle of the night they are hearing trucks coming and going, how does that get controlled down the road? V. Perkins states that she thinks that it is important that we remember that we are neighbors and that we are making assumptions that M. Ballestero is going to be a bad neighbor. T. Yasenchak reiterates that typically we do not have a public hearing at this point, really at this point we are asking for the concerns and comments knowing that things are going to be brought up that are in our code and that we ask for anyway. We have asked M. Ballestero and when we get into the fine tuning of this, he has to give us exactly what he is going to do. We will be reviewing that. We won't even get to any kind of decision until we have that. She reviews the items that have to be reviewed for a special use permit. She asks that we not get into arguments, just voice comments and concerns that will help the Board as they continue the review. T. Loeber states that she thinks that is the problem that no one even knows what they are arguing about at this point. Why has the applicant not given the Board the information at this point, it's been months? T. Yasenchak states that the Board has been asking for little bits of information so that we can go forward with this. T. Loeber asks why there is no plan so that everyone can see clearly what the applicant wants to do. T. Yasenchak states that as a good neighbor, this Board felt that we would be a good neighbor to the applicant and to the other neighbors to bring them in at this point. We could have had the applicant spend tens-of-thousands of dollars and then listen to all this, and that would not have been being a good neighbor or fair to the applicant. We are trying to be fair to everyone so that we can continue the process that we always do. T. Yasenchak states that she has been on the Board for 12 or 13 years and everyone else almost 10, we have a process, we just want to hear concerns about it and not getting into any more arguments about it. This is for information. Alan Van Dyk, Daniels Road, states that his concern is that he understands that there are cars there, that Mr. Gaba parked many cars there, and is that true. Where was the Town government when this was taking place? T. Yasenchak states that there was a permit that was issued by the Town Board. A. Van Dyk states that he would be concerned with traffic, pollution, ground water pollution, etc. Ms. Luse, King Road, asks if we have a time frame for the answers. T. Yasenchak states that after we adjourn this public hearing we will have discussion amongst ourselves and ask the applicant to provide those. Ms. Luse asks if there would be another public hearing. T. Yasenchak states that when we adjourn a public hearing, there will be another one. T. LaRoche thanks the Board and states that he understands what the Board is up against and the Board is doing a great job. Krista Reville, Middle Grove Road, states that she has been thinking a lot about this and how if it weren't for people like M. Ballestero who are willing to go in and salvage things, we would all be in a lot of trouble. If there weren't people who would be willing to go to sites and take roll offs and sort them, we would all be in trouble. She is grateful that that is a business that he

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is in. She just knows that when she purchased her house and property, that she put her whole heart into, she did it thinking that it was MDR1. She bought into what she believed to be a rural residential area where she expected to have residential neighbors and processes taking place. When she hears the talk over the last meetings about his plans for this, she then starts to get nervous because while she has such regard for what he does, she does not believe that it belongs in the MDR1 zoning. It just seems like any kind of variance for the different types of things and if you go back in time, and if her neighbor who is pro-business goes back and reads minutes, the applicant listed all the possible things he would want to do. As we look at all of this, that is where the neighbors start to get nervous, because she does not want huge trucks coming in and out of that and disturbing all the beautiful birds that nest in the trees above her house. She does not want the population of wildlife to be disturbed. She does not want her water to be affected. She does not want these things. She does want the applicant to have a successful business. She does not necessarily think its place is across the road from her house. There being no further public comments, this public hearing is adjourned at 8:00.

T. Yasenchak states that the Board did visit the property since the last meeting and that the applicant had been asked for some additional information to be added to the map. We have not received those plans as of yet. M. Ballestero states that he got them late and brought them with him tonight. T. Yasenchak states that we are not going to review those at this time since we just got them, but the applicant can explain what he added to the plans. M. Ballestero states that he added the location of the truck parking and the dumpster storage. He states that this is basically what it is. He hears a whole lot about industrial activity and he does not know where that came from. He did not say it and does not believe it is in the minutes, so he does not know where people got that from. T. Yasenchak asks the sizes of the containers. M. Ballestero states 10 yards, the pad is probably about 40' wide and 60 or 80' long, it will be a rubble pad. T. Yasenchak states that we still need some information on these drawings that are on the list. She asks if he is in the process of getting those. M. Ballestero states he is. C. Baker states that he has no comments tonight. The map needs to show exactly what it is the applicant is proposing, the exact size of the pad, fixed dimensions. M. Ballestero asks if they need that for the driveway also. C. Baker states that the Planning Board's job is to review this plan for the worst case scenario so that we can provide a decision. In order for us to do that, we need to see exactly what is proposed. T. Yasenchak states that C. Baker had asked for a runoff study. C. Baker states not yet because he does not know what the total acreage of coverage is, that may come. If there is more than an acre of coverage, then we will look for a SWPPP. B. Duffney asks if the applicant knows what the total area of disturbance is going to be. M. Ballestero states that he is not clearing anything; they might clear some underbrush, ¼ acre of underbrush. B. Duffney states that he knows that there is nothing but underbrush. B. Duffney asks out of the 35 acres, is he going to use an acre of it. M. Ballestero states that he did not measure it, but with what is on there, probably an acre. B. Duffney states that the 100' wetland buffer is on the plans, the roadways, the buffers. The Board saw the buffers when they visited along with the berm, the natural buffer of the trees which he thinks could take care of some of the sound from the equipment. T. Yasenchak states that it would be helpful, to go along with B. Duffney comments, to have the engineer or whoever drew the map actually be able to measure the amount of disturbance and the area that they will be taking down for the road, the pad, any area of disturbance. Along with that B. Duffney talked about the buffer. She states that when they were out there, they did see that there was a substantial berm at the top of the hill, it is over 8' tall, which does not show up on the plans. She thinks that would be very helpful to see for the Board, it would be helpful to show the neighbors, etc. When it is on the plan, then we know going forward that that berm is there and it is part of the site plan. B. Duffney states that apparently when B. Gaba owned it, he built the berm, planted the pines there – they have been planted, it is not natural. He states that he thinks that B. Gaba had gone above and beyond to try to keep everything contained behind a barrier for the neighbors. T. Yasenchak states it just doesn't show on the plan. R. Roeckle states that we talked before about somehow getting an overlay of where the existing cars are on the property so we can see exactly what would have to be removed. We have an aerial photograph that can be overlaid if it was done to scale. We would clearly be able to see what has to come out and the extent of the eventual dragging out of the cars or however they are going to get them out. C. Baker states that he agrees with that. It has to be part of the plan in order for the Planning Board to be able to determine exactly what the disturbance will be. T. Siragusa states that he had a question from last time in his notes that the applicant was not sure – and one of

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the comments was about process. One of his concerns and other peoples' concerns are other things other than storage that are happening on the property. With the cars, when they are brought to that pad and then the applicant is talking about having them disassembled using the grapple. What happens after that, it was still an open question of whether they would be crushed on site or taken away. M. Ballestero states that they would be loaded into containers and hauled away. The debris will be hauled in one container; the cars and metals will be loaded into a different container and hauled off site. T. Siragusa states not crushed. M. Ballestero states no, not crushed, they would just compact the container. T. Siragusa asks how many vehicles can be put in one container. M. Ballestero states probably 5. T. Siragusa asks when the applicant is doing that kind of processing, when the price or time is right, how often does he think they will do that. M. Ballestero states that is not his business, so it is going to be a part time job. It would be when they have time. Whether it would be a couple of days this week and then not for 3 weeks, or 3 days in a row. It definitely would not be at night and it would be within hours. He states that they are here to work with the neighbors. As far as noise goes, it is not crazy noise, it is not a big machine running, grinding – as he said before – it is taking apart some cars and putting them in a container. He does not know where the industrial processing came into play. That is not at all what he said they were doing. T. Siragusa states that for him it is still going to come into play for the definition of a large contractor storage yard and how that is interpreted by the Board and whether we ask for someone's opinion. That is something that he thinks the Board is going to consider, what constitutes a storage yard according to the code and what is an exception to that and is any kind of processing, not necessarily the word 'industrial', but any kind of processing is that inside or outside the scope of a definition of a large contractor storage yard, because there is sorting of materials and they happen to have – it is not a junkyard - but they happen to have cars there and it is an opportunity to get rid of the stuff and do it the right way. For him that is going to come up as a question. M. Gyarmathy states that he thinks it is important for this Board to separate these two issues. Quite honestly he does not know how we do it, but M. Ballestero's business is not a junkyard business. He has come to us for a large contractor storage yard. M. Gyarmathy states that he is a contractor and he understands once a job is done, you bring all your stuff to your yard, you sort your tools, you sort the materials that you have left over, so there is always some kind of a sorting process involved with that. He thinks that what is hindering M. Ballestero here is these cars and the quantity of the cars on this property is making the residents of this town nervous because there are so many of them there and how long the applicant is going to take to get them out of there and how he is going to do that. He is wondering if there should be some kind of a plan that the applicant could come up with, timetable wise, of getting those out of there because he thinks that is what most of the concerns are. M. Ballestero states that is not what he is here for. He does not know what action he has to take to not remove the cars by next year. He is here to work with the board and do what we can do, but what he is here for is a contractor storage yard to store his trucks in the yard and with that he will clean up the site. He will not be bringing more cars in; they will be taking them out. He would like to haul them all out next year, if the price of metal goes up, he will haul them out next year. He is not going to go broke hauling them off, it is a junk yard, it was a junk yard for 35 years and they are going to do their best to clean up the site. He does not have a timetable to say when they can take them off. He does not know how many, maybe once they are started, he can come and say that they can do 50 cars per year or 200 cars per year. He does not know that answer. T. Yasenchak asks if there is something that we could come up with, an estimate of a certain number, maybe not a number of years, but a number of cars, because no one actually knows the number of cars on that site. Or an area, would that be a possibility. We don't know the number of cars and they are stacked on top of each other. Something like a ½ acre per year or an acre per year. Maybe if the applicant could think about formulating something like that. M. Ballestero states that their goal is to get rid of all the cars, how long it is going to take, he doesn't know. They could estimate a time by saying there are 700 – 900 cars there and they could do this many and this is what it is going to take if all goes smooth and the cars are easily accessible. They can try to put something together. T. Yasenchak states that she is saying more of an area. In order to build the proposed pad, they do have to remove vehicles. The Board saw them stacked up there. In that area, maybe that is a ½ acre or an acre. The applicant might say this is my plan, I am going to start here and do an acre, then I am going to work here and do an acre and then just kind of work around so that the Planning Board has an idea and it will help the Town Engineer when we are looking at this, how this is being cleared up when we know where it is going. An idea of what area is being worked on when, something like that

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might be a little more appropriate. M. Ballestero states that he can try to put a plan together and come up with an estimate. C. Baker states that one comment that was brought up by the attorney who spoke earlier is that, and he does not know the answer to this, if it is in fact true that this Board should not be reviewing an action that has a violation. He thinks that we should have M. Schachner take a look at that and advise us as to whether or not that is true. If it is then maybe we need more of a timetable from M. Ballestero to say that he is going to remove 100 cars the first year, 100 cars the second year, etc., something like that so that there is a fixed number attached to the permit. That is just an idea, but it is something that we should consider. T. Yasenchak states that G. McKenna has not mentioned that there is a violation, but we can ask the Town Attorney about that. J. Streit states that the Town Engineer just brought up his first point which is that one of the neighbors went to the time, trouble and expense to hire an attorney to raise questions, and he thinks that those questions should be put into a codified form and sent to our Town Attorney because those are important issues. There are many types of concerns voiced by the town members and the primary one sounds to him like water contamination, the possibility of pollution and a secondary concern, wildlife. He states that he does not know if the DEC does studies and asks if they perform studies that can answer those questions regarding the topo, ground level water, the rock ledge – can we get answers to those kinds of questions from the DEC? Can they comment on the wildlife? T. Yasenchak states that the DEC does not do that, we cannot ask them. A professional would be hired to do that. T. Yasenchak states that we would have to ask the applicant to provide that from a licensed professional. J. Streit states that that should be answered by the proper person. C. Baker states that typically that would only come into play if there was a known violation on the site. J. Streit asks if a known potential would be the same thing, the same level of concern. C. Baker states that from his experience with the DEC he does not believe that you are going to get that kind of input from them. Unless there was a violation. We could certainly take a look at that. J. Streit states the he would like that looked into. One thing that everyone in the room can agree on is that the removal of the cars would be beneficial to the Town. He states that if there is such a person as a ‘spill recovery specialist’ that we can contact, he would like them to study the number of cars there, how they could be dismantled in a way that is safe from the fluids of those cars. We also don’t know how many cars are there, we have had estimates in the letters sent to us of from 30 to 1100, we need to narrow down that gap. T. Yasenchak states that she does not know if we are ever going to get to know that number. We could look at the area of the cars. She states that J. Streit was there and saw the cars all stacked on top of each other. She does not think that there is a way for anyone to possibly count them. J. Streit states that there are from 1 to 4 cars stacked high, so he thinks that the area is not as valid a determination as if we could possibly achieve some cognition of the number of cars. Then we could ask for a number of cars to be removed per each unit of time. He thinks if a spill recovery specialist can tell us what the dangers are of dismantling the cars and what would be a reasonable timetable to remove the number of cars that are there. We also have the issue of the price of scrap being a concern to the applicant. We heard comments about a traffic hazard. He states that he lives on a corner where there are many accidents. He states that someone used the term that this was on a ‘blind curve’. When the Board was out there it seemed to him that the driveway location was on the inside of a slight curve and there was pretty much good sight distance in both ways, but he thinks that we should have a professional study done in that regard. There was a concern for Nosie and J. Streit states that we have no way to measure noise or definition of how much noise, so he thinks that we need to look into that further and figure out a way that we can analyze that. Until we receive that information, J. Streit states that he would not know how to make a fair decision, a decision to approve or disapprove. He states that the Board has to be fair to the applicant, to the people who live in the area and to the Town itself. T. Yasenchak asks C. Baker if that is something that the Board could do as far as asking the applicant to hire a professional to come up with a plan, not just the number of cars but a how to. C. Baker states that he is sure that there are professionals out there. There are environmental engineers who specialize in cleaning up gas stations and doing environmental studies, etc. As far as something specific to a junk yard, he is sure that there probably are professionals who deal with that. T. Yasenchak states that an environmental engineer would be a good start. J. Streit asks if the state has an agency that calculates the danger of HAZ MATs. C. Baker states that the State has a reviewing agency for exactly what he was just saying, environmental cleanups. J. Streit asks that they have a responsibility to the citizens of the State to perform that study, he would assume. C. Baker states that the State will not perform it. They will review the engineer’s plans, but the States does not typically

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perform those operations. M. Gyarmathy states that he does not think that it is fair of this Board to ask the applicant to do any further work on this project until we have consulted with our Town Attorney. We should table this until we have spoken to him. Board concurs. J. Bokus states that as M. Gyarmathy said, there are two aspects to the property - one being the recycling business that the applicant wants permission for and the other the junkyard. He asks if the applicant applied for a junk yard license. M. Ballestero states that he did and it was tabled. He has not proceeded with that application. J. Bokus asks if the Town said he had to clean up this site. M. Ballestero states no. J. Bokus states that then there is no timetable that he has to adhere to. M. Ballestero states that is correct. J. Bokus states that when the Board reviewed the property M. Ballestero said that he had recently had a well drilled and they went down 'x' number of feet and hit water. M. Ballestero states it is 160'. J. Bokus asks at what point the first water. M. Ballestero states 40' and that it was dirty, as in surface water. J. Bokus states that they then went down to 160' and the well is sealed. M. Ballestero states that it is and it is clean water. J. Bokus states that the applicant currently has a roll off business and can the applicant give us some idea of how many trucks per a timeframe – day, week, month. M. Ballestero states that is correct and he states that a truck might go in and out of the yard twice a day, it might go in 4 times a day. When it is all good, it is not in the yard; it goes from job to job to job and goes home at night and parks. If he gets done early, the truck could be parked at 1:00. J. Bokus reiterates that then the most vehicle trips could be 4 trips a day and he asks how many trucks. M. Ballestero states that is probably the average. He has 7 trucks but he only has 2 drivers, and sometimes one driver is on a shovel and not in the truck. Sometimes there is only one truck running. J. Bokus states that then the most trips would be 8. M. Ballestero states that it would be a lot if they had 8 trips in and out in one day. J. Bokus states that this is a county road – the county hauls on it, the Town of Greenfield hauls on it, there is a lot of truck traffic on that road that exists due to the nature of where the towns are and where the material is. That is not going to change – it is not going to decrease. B. Duffney states that dealing with hydraulics every day, for the applicant to grab these cars, shake them up and knock holes in the oil pans, etc., the fines thru DEC for oil spills, antifreeze spills, etc., are astronomical. It would not be in the applicant's best interest to poke thru them. He states that he has been in several junk yards and when they bring in a car – he does not know if B. Gaba did that when he prepped the cars, but he is sure he did on some – the gear oil is drained, the transmission fluid is drained, the power steering fluid is drained, etc. He reiterates that the fines are huge for spills. T. Yasenchak states that if we have the applicant come up with a plan that helps the Board, the neighbors and the applicant. She reiterates that before we ask the applicant to continue with further information, she does think that we need to consult with the Code Enforcement Officer and the Town Attorney about the definition of violation. The Code Enforcement Officer has not stated that there is one, but we will ask the Town Attorney to verify that we are in the correct process. She states that a few of the Board members have voiced concerns about the definition of a contractor storage yard large and she asks their opinion on that and whether they agree with the Code Enforcement Officer and his interpretation about that, or do you feel that you need a better interpretation from him and/or the ZBA. She reads the definition. J. Streit states that the definition states “but not limited to”, then we have to deal with the process such as T. Siragusa was alluding to. T. Siragusa states that it is stating that it is not limited to what you do; it is limited to the definition of who a contractor is not how you define that – carpenter, electrician, etc. T. Yasenchak again asks if the Board agrees with the Code Enforcement Officer or do they feel like they would like to see a written interpretation and/or the ZBA. J. Streit states that we can ask G. McKenna to embellish on his interpretation. T. Siragusa states that he would like another interpretation. B. Duffney states that what they are asking for is a contractor storage yard where they are going to store their trucks, their roll offs, etc. The only part of that is sorting of their recyclables. He does not know that they are going to bring in anything other than metals, but as the M. Gyarmathy said earlier, you work a construction job, he brings in lumber from jobs and sorts it, and then takes it out on another job. So, with the salvage, sorting, because M. Ballestero said there was going to be no processing, he will be sorting the metals. M. Ballestero states that 99% of the sorting is of the metals that are on the property now. It is not an industrial site where they are going to be hauling container after container of stuff to be processed. B. Duffney asks how much sorting on average the applicant does. M. Ballestero states a dumpster a week or every two weeks, 15 yard dumpster. Once again, he reiterates, that this is not their business. It is a side business. B. Duffney asks during the process of sorting one of these containers, about how many hours do they put in on site with the machine.

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M. Ballestero states 2 hours on what they bring in. B. Duffney reiterates that M. Ballestero stated that they might do a 15 yard container and then not do another for a couple of weeks. He states that this is a byproduct of the business. M. Ballestero concurs. B. Duffney states that brings him back to contractor storage yard, that is his main thing - storing his trucks, containers, working on his equipment in his shop. He agrees with G. McKenna saying contractor storage yard large because of the amount of trucks. T. Siragusa asks if this would be exactly the same conversation if there weren't 700 to 1100 vehicles on the property. B. Duffney states that he is taking out the vehicles. T. Siragusa states that you can't do that, because we know that that is a use, we know that that is something that is going to happen on the property. B. Duffney states that once the cars are gone it would be a contractor storage yard. T. Siragusa states that he is going to say that the applicant is operating as a junk yard in the removal of the vehicles and it is the Planning Board's responsibility to treat it as operating as such. That is why he would like to have someone else's interpretation other than the building inspector. We have other things happening other than storage - disassembling vehicles on the property. He is not saying good or bad; he is saying that he cannot look at it necessarily as just a storage yard. Even with the side sorting is enough to raise that question. The fact that there are a 1000 vehicles - that is a lot. If you process 5 at a time, you are going to do that 200 times. He thinks that the Board needs to consider that and that is why he is asking for the ZBA's opinion on whether this use encompasses a contractor storage yard. He states that there were a lot of comments about this being a residential area - read the whole book. There are a lot of small businesses in this town. We all live in a rural neighborhood, we all live in Greenfield, we all moved here because it was green in Greenfield, but there is a tremendous number of small businesses in this town that operate in their backyards and their homes, and we are also going to do the best we can to support those small businesses. Not everything can be put into one zone, that is why the code offers a special use permit. We treat that just as importantly as the impact on the neighbors' houses. J. Bokus asks if T. Siragusa would like it better if the applicant didn't process the cars, if he just left them there. T. Siragusa states it is not a 'like' thing. He is not saying whether he likes it, it is not his opinion, and it doesn't matter whether he likes it or not. He would like all the cars magically removed tomorrow with no environmental consequences. J. Bokus questions what would be better for everyone concerned, that they were removed. T. Siragusa states that it would be better for the community if the cars were removed. J. Bokus states that operating a junk yard entails bringing cars in, selling parts off the cars, scraping some cars. He does not see that as what M. Ballestero is proposing to do. He is not bringing in cars; he is not operating a used parts lot. T. Siragusa states that those parts will now become for sale - even if it is wholesale. How is that not a junk yard? Isn't that what a junk yard does - make profit off of parts of cars. If things come out of there - radiators, motors - even if 100% get recycled to a scrap yard. He states he is asking for an opinion. J. Bokus states it is a recycling operation. T. Siragusa states that if it is a recycling operation, that is also not a contractor storage yard. B. Duffney states that if the cars weren't there, what would we be looking at - a contractor storage yard. The cars are a huge factor, there are a lot of cars back there, but like the definition of a contractor storage yard large - that is what he is applying for. Yes, there are a lot of cars in there but somehow there needs to be a little compromise. M. Gyarmathy states an interpretation by more than just the Planning Board, more than just the building inspector. That's why it is a good idea that we ask the building inspector, our Town Attorney. T. Yasenchak states that the Town Attorney will not give us an interpretation. He will only advise us if we are following the process correctly and how to go about that process. If we feel uncomfortable with the definition that our Code Enforcement Officer has given us, then we can, as part of the process, ask the ZBA to also interpret that. M. Gyarmathy states that he understands what B. Duffney is saying - if there were 20 cars there, it wouldn't be an issue, but there are a lot of cars. R. Roeckle states that on the contractor storage yard, he has expressed at the zoning code meetings that he does not like the definition, it is vague and ambiguous. He thinks it would be good to have G. McKenna give us the reasons why he decided it was a contractor storage yard large, that would be something to go off from. We cannot interpret the law, that is G. McKenna's job. We can disagree with him, but then there is another method. In regard to the junk yard, we have no control over junk yards - they are mentioned in the law, but they are not allowed. We cannot approve them, it is controlled by the Town Board, and they have the final say over junk yards. R. Roeckle states that we should get a clear and concise reason why G. McKenna determined that this was a contractor storage yard large and we are going to need that if we chose to say no, that is not right. J. Streit states that he thinks he heard the attorney who spoke say

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that junk yards are expressly forbidden in Greenfield. B. Duffney states that the Town Board can give a junk yard permit. J. Streit states that the opinion was expressed that they did not want junk yards in this town and perhaps the decommissioning of what is essentially now a junk yard might point more towards the goal of the town. It is very important how it is done, how fast it is done - separate issue, but a key issue. Getting rid of those cars with the condition that no additional cars be brought in is a desirable thing for the town. The decommissioning of a junk yard agrees with the Town fathers. R. Roeckle states that would be their decision. T. Yasenchak states that is not within our purview to review. B. Duffney states that it is not that the Town does not want junk yards; there are people who don't want junk yards. He states that Casey Cornell is a perfect example – a few years back they wanted him to be put out of business because he took his father's business over. There were a lot more small junk yards in town years ago and over the years the land owners have passed on. You can't say that the Town does not want junk yards – there is a need for that, recycling used parts, tires. C. Cornell does an excellent job and keeps his yard clean. B. Duffney states he was thru B. Gaba's yard years ago. T. Yasenchak states that we are here to follow the process that was given to us. It is up to the Town Board and when the Planning Board does review anything we do look at the Comprehensive Plan and the Zoning regulations. She states that we are going to be asking our Code Enforcement Officer, G. McKenna, to write up an official interpretation of why he has forwarded this to the Planning Board as a contractor storage yard large. We are also going to ask him as well as the Town Attorney about a violation that may or may not be in place because there is an existing junk yard, although not operating, without a permit and how we go about labeling that or what definition do we continue forward in seeing that, as Dr. Streit has said, "decommissioned". She states we are not going to ask the applicant for anything else right now until we can get those two issues figured out so that then we are asking the applicant for the appropriate information. The applicant has heard all the comments, there are the items in the code, so if he would like to start working on that – that would be advantageous to the applicant as far as a timeframe, but as we continue we will be asking for those anyway. We have spoken about traffic. Whether or not it is a county road, a county official can come out and give him a driveway permit, but he is not an engineer who is saying that it meets sight distance. T. Yasenchak states that we have adjourned the public hearing and we will not be reopening it again until we feel that we have enough information. We do not send notices again; anyone can look it up on the website to see when we are actually having a meeting and when this project will be on the agenda. She states that the Board welcomes any comments from the public.

Meeting adjourned 8:57 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary