

**TOWN OF WARNER – PLANNING BOARD**  
**Approved Meeting Minutes**  
**June 19, 2017**                      **7:00 PM**  
**Warner Town Hall, Upper Level**

**Members Present: Chairman Ben Frost, Vice Chair Barbara Annis, Selectman’s Representative John Dabuliewicz, Ben Inman, Ken Millender, James Gaffney Alternate, Don Hall, Peter Anderson Alternate**  
**Also Present: Land Use Secretary Lois Lord**

**1. OPEN MEETING**

Chairman Frost opened the meeting at 7:00 p.m.

**2. ROLL CALL**

Roll was taken with eight members present. Chairman Frost asked James Gaffney to continue voting in the place of Aedan Sherman who has resigned from the board.

- 3. MINUTES APPROVING** – The meeting minutes of May 15, 2017 were reviewed with several changes. A MOTION was made by Barbara Annis to approve the minutes as amended, seconded by Selectman Dabuliewicz. A voice vote was taken with all in favor. 7-0-0

The June 5, 2017 meeting minutes were discussed with a few changes. Ken Millender made a MOTION to approve the minutes as amended, seconded by Selectman Dabuliewicz. A voice vote was taken with all in favor. 7-0-0

**4. NEW BUSINESS**

**Aubuchon/State Liquor Store Site Plan Notice of Decision Fulfillment – Architectural and Sign Design**

**Property Owner:** DSM MB LLC

**Property Location:** Route 103 and North Road, Map 14 Lot 007, Zoning District C-1

**Representative:** John Matthews, Owners Representative

Chairman Frost noted what they have before them is the final information on the Aubuchon expansion which is Market Basket property which includes the architectural and sign design.

John Matthews from RMD Inc. DSM Realty introduced himself. He presented the plan and noted the State Liquor Store is complete and is opening on July 18<sup>th</sup>. The expansion of Aubuchon is the last piece of the project and is 2500-2600 sq. ft. Mr. Matthews stated that last September he presented a preliminary concept of architecture which involved extending brick and canopy with a door directly off where the existing door is. It was decided that that design was too heavy with all the brick so they took design cues from the liquor store and are now using brick only up to 3’4” and will pick up the same clapboard as what’s on the liquor store. The canopy will have some design elements similar to Market Basket. Mr. Matthews pointed out these changes on the site plan drawing.

Chairman Frost asked about signage and Mr. Matthews replied that is up to the tenant and they would probably like to have a sign over the side entrance and will be applying for a sign permit. Barbara Annis noted she was at the site today and they were putting in the crosswalks between where the parking is and she assumes where the pavement ends and the Aubuchon entrance begins. She asked what the distance is of the paving as she is concerned about people parking and whether or not there will be a barrier.

Mr. Matthews said Aubuchon is building out 25' and the sidewalk is a good 14'. Barbara said she understands the canopy is going to be on steel girders which will be in brick so what is going to prevent someone from backing up and hitting those. Mr. Matthews noted there is about a 30' driveway so it won't be that close. Barbara said that in the notes on page 7 of 19, numbers 23 and 24, it says in the event there is any conflict between the design and the actual work the engineer would be notified. She suggested adding that the towns building inspector and compliance officer be notified.

Barbara Annis noted that on page H1 the HVAC Floor Plans the legend does not include HVAC. Mr. Matthews noted that is a mechanical drawing and he doesn't believe it is subject to the site plan. Chairman Frost said it's just a matter of adding it to the legend and asked Mr. Matthews to add it in.

Peter Anderson asked about exterior lighting at the side entrance. Mr. Matthews said there will be lights under the canopy at that entrance. (Peter had an additional question which was not audible on the recording).

There were no further questions from the board and they were in agreement that this meets their expectations. Barbara Annis made a MOTION to accept the plan as presented with the correction of the notes on sheet 7 and the addition of HVAC to the sheet H1 legend. Motion was seconded by Ken Millender. There was no discussion and a voice vote was taken with all in favor 7-0-0.

## 5. OLD BUSINESS

### **Continuation of Site Plan Application from June 5, 2017 Meeting**

**Applicant:** Dragonfly Holdings, LLC – Eric Miller

**Property Owner:** Richard M. George

**Property Location:** Warner Road, Map 3, Lot 33, Zoning District C-1

**Site Plan** for new construction of two buildings connected by a breezeway for use as an indoor gun range and retail store.

### **Approve, Deny or Continue Meeting**

Chairman Frost noted this is the boards 6<sup>th</sup> meeting on the application, a public hearing was held on the 17<sup>th</sup> of April. The board has received substantial public comment which has been really helpful. He stated that for everyone's benefit he, in advance of this meeting tonight, prepared a draft of Findings of Fact and sent it out to the board, not for the purposes of engaging in an electronic meeting of the board but simply to move the process along.

He did ask any board members who had comments to call him or submit those to him directly, again not replying to all board members and he heard back from James Gaffney and Barbara Annis with some suggestions. Chairman Frost stated for the purposes of tonight's discussion he has also prepared a draft motion which the board may choose to go with or not, that is fully up to the board to decide. The motion is for a conditional approval of the plan with fairly extensive conditions.

**Lead** - Chairman Frost said the board received a report from the boards consultant Aries Engineering regarding the issue of lead and the potential for lead contamination and things that might be done on the property to reduce the hazard of lead contamination both environmental and physiological. He had encouraged Aries to be in contact with the applicant to facilitate development of a plan of action. That did happen so the board has 2 reports from Aries and a report in response to the initial report from Aries, done by Dragonfly. Chairman Frost reviewed the sequence of events which was the board hired Aries to look at the information that had been submitted to the board up to 3 weeks ago, they came up with an initial report with a series of recommendations, Dragonfly responded to that and the board has a second response from Aries Engineering with a few further recommendations.

Chairman Frost noted the first report from Aries was dated June 15<sup>th</sup>. The applicant responded to that with changes to the Operations Maintenance Management and Monitoring Plan (OM&M) proposed and Aries responded a day later on the 16<sup>th</sup> of June which the Chairman submitted to the board by email over the weekend.

Chairman Frost summarized the Aries report and said generally speaking what they concluded was that the OM&M Plan submitted by Dragonfly was consistent with their recommendations. There were a couple further recommendations that he would suggest, if the board chooses to approve the application to include those in the conditions of approval. He then opened up discussion to the board.

Selectman Dabuliewicz asked Chairman Frost if he had an order in which he would like to discuss things and Chairman Frost replied that since they have a lot of fresh information on lead they would begin with that. Selectman Dabuliewicz said he would like some clarification on what's in the OM&M Plan. Chairman Frost noted they can ask the applicant questions.

Selectman Dabuliewicz directed the boards attention to page 10 of the OM&M Plan item i(1) under Exterior ground testing and suggested it might be useful to number the document differently for identification of sections. Under item i(1) it says the tests will be done Bi-annually which is twice a year and did he mean to say biennial which is every other year. Eric Miller agreed that should be changed. Chairman Frost said it might be simpler to say every two years. Selectman Dabuliewicz noted that starting on page 12 under Maintenance & Cleaning; he questions what the daily cleaning will entail and what would be done monthly and annually. Eric Miller replied that in terms of the sally port, the breezeway and (inaudible) those will be cleaned daily.

The discussion continued on the cleaning frequency and Eric Miller noted that maintenance of the ventilation system will depend on how busy the gun range is and it may be on more than a quarterly basis. He stated that every time you touch that system you need to then do the cleaning that's associated with that. Selectman Dabuliewicz asked that the document identify which cleaning tasks are not daily and make it clearer as to the frequency of the other maintenance.

Barbara Annis had a question on page 13 which was where is the location of the cleaning station. Eric Miller replied it is in the breezeway. Barbara said that is not indicated. Selectman Dabuliewicz said that on pages 8 and 11 you use the word *calipers* and probably meant to use the word *calibers*. That was clarified with Eric Miller who apologized and stated he had to rush to do this document. Chairman Frost made the point that it is a draft.

Selectman Dabuliewicz noted on page 15 under Handling of lead shot within ballistic wax, item 3 it talks about the weight of the suspended lead shot reaching 300 lbs. Under 2a on that page it talks about the RSO determining frequency of removal of the waste to not be greater than semi-annually. He asked if those two things are in conflict and is the handling of lead shot not considered waste? Eric Miller replied that if you recall, the lead shot will hit steel targets and go into ballistic wax. That element is what we are referring to with the weight being in the attic and there were concerns with having a lot of lead there. In direct reference to that lead that is suspended in the ballistic wax, we estimated when it gets to roughly 300 lbs. it would be picked up and recycled. We do not need an external reclamation company to do that. We heat up the wax which has a melting point of 120 degrees and the lead has a melting point of around 640 degrees so we heat up the wax, pour that off and what's left is the lead which gets delivered for recycling. Eric Miller said the lead shot will be based on weight and the filters we will have picked up twice a year. He continued that his estimate is that the range will generate about 100 lbs. a month so there is no possibility that pickup will go over 6 months.

Selectman Dabuliewicz asked, with the amount of cleaning that has to be done, will most of it be done after the public is gone? Eric Miller replied that it will be done in the morning before we open at 10:00 a.m. and the staff will be done well before that. Selectman Dabuliewicz offered to share his editorial suggestions with Eric. Chairman Frost said his understanding is that the lead that's in the ballistic wax will be treated as scrap metal and the lead that's in the HVAC and HEPA filters, the hand wipes, the disposable Tyvek suits is all considered hazardous waste, is that right? Eric replied yes and it will be treated as hazardous waste and removed by a licensed lead removal outfit.

Barbara Annis stated on page 9 under Inspections/Testing, the first sentence reads *At least once every two years the range shall undergo comprehensive inspection*. She asked who would be doing the inspection. Eric Miller replied that came out of the Government Service Association protocol which says you would end up having a thorough testing of all equipment including the HVAC, targeting systems, condition of the floor traps, the condition of the firing tables and partitions between the pieces so this is companywide. It isn't one particular discipline but is to reassess where we are in terms of maintenance and standards that we're adhering to. Chairman Frost stated, we could say *inspections are to be done by qualified independent professionals*, which Eric agreed with.

Barbara Annis noted on page 11, item iv(4) it talks about *the following items while completing the daily cleaning* and mentions respirator, Tyvek suit, gloves and work shoes. She asked if the work shoes will be left at the facility or can someone walk home in them. Eric Miller replied that the employees will have street clothes and street shoes that will be kept in a locker and they will be responsible for preventing cross contamination between work and street clothes. There will be bins for the soiled uniforms so they will be in a separate area. Chairman Frost said he had the same question because it refers to lockers and street clothes. He asked if shoes are included in clothes. Eric replied they are and the primary source of lead mobility out of the range comes from shoes. Chairman Frost said that given there is confusion, the document should specify that there are street clothes and show that the uniform includes shoes that will stay on the premises.

Barbara Annis asked about item i(2) under Signage on page 8 which reads *Prohibition against Eating/Drinking/Tobacco*. She agrees with this and had suggested to the Chairman that there be a sign in the parking lot stating *No Alcohol on Premises*. That would cover all areas such as someone drinking in the car in the parking lot.

There were no further questions from the board at this time. Chairman Frost noted in the June 16<sup>th</sup> letter from George Holt at Aries there are a couple of other recommendations. He asked Eric Miller if he had any concerns about those. Eric said he had the opportunity to talk to the state in regard to what they call the ambient air and they explained what the process and he has no issues with it.

Barbara Annis questioned the June 15<sup>th</sup> letter from Aries, page 3 under Recommendations item 1.c and what is the exit CRZ mentioned? Eric Miller replied that is the 29' long breezeway. He explained there will be a rubber mat for customers to wipe their feet on when leaving. There was some discussion of a sticky mat and after 30 years of risk management experience he didn't think that was a good idea to use with people with loaded firearms. The CRZ is the 29' mat from the time that you leave the range through the breezeway until you enter the store. He noted the signage includes one that warns of a potential tripping hazard that the mat may pose. Chairman Frost noted that in the OM&M Plan, page 8, last paragraph it reads *All occupants of the range shall enter or exit the range through the Contamination Reduction Zone (CRZ) which is the twenty-nine-foot-long breezeway*.

Chairman Frost asked the board if there were any other concerns of the board with regard to lead. He said as part of these draft conditions, he has proposed the following as possible conditions regarding lead:

1. That the HVAC RTAP which is Regulated Toxic Air Pollutants Report is to be sent to the Planning Board clearly stating whether an RTAP permit is required pursuant to NH Department of Environmental Services Administrative Rule ENV-A 1400. That is the standards of the Department of Environmental Services of the state regarding toxic air pollutants. Further if an RTAP permit is required that a copy of the permit and all subsequent renewals shall be submitted to the town Health Officer and Planning Board. Chairman Frost explained that is only if a permit is required.
2. Similar to the alcohol sign in the parking lot, there be a sign at the entrance to the range area which shall feature a sign emphasizing the hazards of lead poisoning (“Lead is toxic – the smallest amounts can be extremely hazardous to children. Be lead safe!”)
3. Following up both on what’s in the OM&M Plan and the June 16<sup>th</sup> communication from Aries, and consistent with both he is proposing as a condition that *The firing range is to be closed to the public if interior air testing does not meet a standard of 30 micrograms/cubic meter or if the exterior air testing does not meet a standard of 0.15 micrograms/cubic meter. The interior air standard is to comply with the OSHA Permissible Exposure Limit for an 8-hour time-weighted average of 50 micrograms/cubic meter.* Chairman Frost noted that the standard that Eric Miller is proposing is actually lower than OSAs. He continued *the exterior air standard to be consistent with the National Ambient Air Quality Standard of 0.15 micrograms/cubic meter measured and shall comply with the NH DES 24-hour Ambient Air Limit for lead. The Town Compliance Officer and the Planning Board shall be immediately notified of such closure, if the range has to be closed to the public. The range may reopen to the public only at such time as it has been demonstrated by an HVAC contractor that appropriate standards have been met.* Eric noted that on the ambient air testing, the state requires it be done at the property line. Chairman Frost said he would add that to this condition. Eric Miller clarified that the interior testing would be done at the firing line.

**Noise** - Chairman Frost said those were the only proposed conditions he had regarding the lead and directed the discussion to the issue of noise. He stated they had the fairly extensive Thalheimer Report which came from Attorney Alfano and provided really good documentation of noise impact and he did include in his draft findings a fairly extensive write up on noise impact.

Chairman Frost summarized what he wrote by saying he noted that the Planning Board recognizes Mr. Thalheimer as an expert and concludes that it does not need to retain its own expert to evaluate noise issues. The report indicates that based on available information the noise at the boundary between the abutter’s property and the subject property are likely to approach 49 dBA at those times when all pistol and rifle lanes are used simultaneously. This is comparable to the expected daytime background noise level of 45 dBA, although the Thalheimer report also notes that a change in noise of 5 decibels can easily be perceived, especially where noises are impulsive instead of constant (e.g., gunshots, rather than traffic flow). While the report notes that there may be other avenues of sound transmission, the report also states that “the noise levels being discussed here are orders of magnitude quieter than anything that could be considered dangerous.” Rather, the noises to be anticipated from the proposed indoor shooting range are characterized by the Thalheimer report as an “annoyance.”

He further suggested the following language: *Therefore, the planning board concludes that the Thalheimer estimate of 49 dBA at the property boundary may be considered a maximum anticipated noise transmission under most circumstances. The planning board further recognizes that the subject property is located in a Commercial zoning district and is surrounded for considerable distances in all directions by similarly-zoned parcels of land. As such, the noises of commercial activity are to be anticipated in this area, including on the subject parcel and on those abutting it.*

Chairman Frost stated what he proposed as a conclusion was: *based on the information presented as part of the application, including the methods and materials of construction, the planning board deems the noise likely to be*

associated with the use of the property as an indoor shooting range to be consistent with other uses permitted in this Commercial zoning district. He said he did, in the proposed draft conditions, suggest a noise level maximum as follows: Noise levels associated with guns used in the range are not to exceed 45 dBA at any time, measured at the westerly property boundary. Chairman Frost noted that is the boundary between the gun range and MadgeTech.

Chairman Frost said that is the only condition he proposed relating to noise and asked the board if they had any concerns or issues related to noise. Chairman Dabuliewicz noted that he visited Manchester Firing Lanes which was very helpful and when he was standing in the parking lot on the Brown Avenue side, perhaps 20' from the building, he could hear the firing going on inside. It wasn't overly loud and when trucks went by on Brown Avenue you couldn't hear the firing at all. He is satisfied that considering that Eric is planning to double the insulation that they have, it shouldn't be too much of a problem.

Ken Millender asked a question regarding the 45 dBA at the westerly property boundary and if it can't be exceeded at any time is there going to be anyone sitting out there with a decibel meter fulltime to measure that? Chairman Frost said that would be an issue of complaint and follow-up by the Board of Selectmen as they would have the ability to enforce these conditions. Ken clarified that the recourse for someone who is aggrieved at the level of noise would be to bring it to the Board of Selectmen.

Don Hall asked if the signage for the alcohol should there also state there be no drugs. In the society we live in today you just don't know. Chairman Frost replied that maybe it should state *drugs illegally used*; he gets Dons point but is concerned about someone having a prescription medicine which would be considered a drug. James Gaffney asked if it would be a question more of no utilization of the range while under the influence of any sort? The discussion continued that this would cover things in the range and that you can't control who walks in off the street but can control what they do in the facility.

Chairman Frost said to Eric Miller that he assumes this would be a concern of the Range Safety Officer and if he witnesses anyone who appears to be impaired, what would be the action taken? Eric replied that there is zero tolerance. We could have a situation with someone for instance, taking cough medicine. They need to be alert and aware and not a danger to themselves or others. That is a subjective call on behalf of the RSO and management will support the decision made by them. You also have the likelihood of legalization of marijuana for recreational use. They will be faced with a number of challenges but it really is zero tolerance for anyone on mind altering substances. The contract signed by anyone coming in to use the range makes it clear that this is the law of the RSO and if they don't like it, they are out.

Ken Millender asked Eric Miller if there is any kind of training for RSOs. Eric replied that part of the NRA certification program deals with the evaluation of people coming into the range. We use a combination of the NRA and one called SAFE and it is common that RSOs end up being off duty police officers simply because we advertise the position with a certification requirement. There may be external training they have already done and we will make that judgement.

Chairman Frost asked if there was a suggestion for additional language regarding signage. At this time there was none and he directed the discussion back to noise. Don Hall asked Chairman Frost if at this point, has the Planning Board of Warner fulfilled all of their obligations on this application and is there anything we have forgotten? Are we in compliance with our rules and regulations? Chairman Frost replied that he believes so. Don Hall made a MOTION to vote. Chairman Frost stated he would like to have more discussion, especially on the findings.

**Traffic** - The discussion continued on to traffic. Chairman Frost stated he would summarize what he had written in the fact finding document on traffic and noted the board had received extensive concerns from the public and from the town of Hopkinton and CNHRPC regarding the potential for traffic impact and requests by both of those parties to have an independent traffic analysis done by a transportation engineer. The board chose not to do that having concluded that there was really nothing that a traffic study could recommend that the board would anticipate adopting such as signalization or intersections or turning lanes or the like. It's indisputable that there will be traffic impact on the road and the question is what you do with that impact. What he suggested and believes is consistent with what board members have said in the past few meetings is that most of the proposed traffic to this site would be via Exit 7 on I-89. There would be some traffic going into Contoocook on Warner Road/Kearsarge Avenue but he believes the board's conclusion is that it would not be that significant.

Selectman Dabuliewicz questioned page 2, second paragraph under Traffic on the fact finding document which talks about trips generated by this facility. It mentions 440 vehicle trips at a maximum and in the next paragraph you use the term "trip ends". Are those the same? Chairman Frost clarified that they are the same thing to which Selectman Dabuliewicz suggested they both use the term "trip ends" for consistency.

James Gaffney noted that some of the traffic is also deconflicted compared to existing business in that area due in part to hours of operation. The portion of peak hours, to his understanding will be after 5 p.m. Cyr Lumber closes by 5, Schoolhouse at 2 but is open till 6 for pickups and the other peak hours of the site will be during the weekends when many of the businesses will also be closed. The traffic gets spread out over non peak hours. Chairman Frost stated that James Gaffney had suggested to him the following sentence: "*A further mitigating factor in the estimated 12% increase in traffic is the expected peak use hours anticipated to be outside/adjacent to the normal business hours of surrounding establishments (after 5p weekdays and on weekends).*" It was suggested that be entered into the fact finding document under traffic.

**Property Values** - The board discussed impact of the gun range on property values. Chairman Frost said that is not normally the Planning Boards consideration especially when the Zoning Board of Adjustment has already weighed in on it. This is not a variance where impact on surrounding property value is a criterion. He stated the board has already concluded that it does not see the need to have an independent study done on the impact on property values. There was no more discussion by the board on property values.

**Safety** – Chairman Frost noted a lot of concerns were raised about safety mainly with relation to people off the property, that is pedestrians and bicyclists using the road and proximity to the Hopkinton Middle and High Schools. He read from the draft fact finding document the following:

*The planning board recognizes the validity of peoples' general concerns regarding gun violence, but believes that those who would use the proposed indoor shooting range for target practice are unlikely to be the perpetrators of crime. Rather, the planning board believes that such users will be likely to be responsible gun owners. The planning board also observes that what is proposed is an indoor shooting range with significant structural protections against accidental escape of discharged rounds, including concrete walls and hardened steel ceiling barriers.*

*The planning board also recognizes the protections of gun ownership provided by the 2<sup>nd</sup> Amendment to the United States Constitution and Part I, Article 2-a of the New Hampshire Constitution. The planning board believes that proper training and practice that would be provided at the proposed indoor shooting range is an essential aspect of responsible gun ownership.*

Chairman Frost clarified that these are his words, not the boards at this time. He noted James Gaffney had some alternative language that he had suggested. Chairman Frost read this as follows: Proposed modification: "The planning board recognizes the validity of peoples' general concerns regarding safety, but believes that those who would choose to use the proposed facility are unlikely to be the perpetrators of unlawful activity. The planning board also observes that what is being proposed is an indoor shooting range with significant structural

protections against accidental escape of discharged rounds, including concrete walls and hardened steel ceiling barriers". Chairman Frost said the point James made is that not everyone using the range will be a gun owner, some people will be renting guns. He proposed incorporating this language.

**Business Impact and Regulatory Consistency** – Chairman Frost noted the board had received testimony from the abutter that he may have to relocate his business because some of his employees have expressed concerns about having the shooting range located on the neighboring property. He stated the first point he would make is that the proposed indoor shooting range is consistent with the zoning ordinance. The Zoning Board of Adjustment has granted a Special Exception for the use. It has been challenged but the decision at this time stands. Chairman Frost said he stated in the fact finding document that *it would be inappropriate – indeed, illegal – for the board to choose winners and losers among commercial establishments. Rather, the board should seek to ensure that established standards of commercial activity are met – both those included in the Town's zoning ordinance and those in the planning board's site plan regulations. The planning board understands that some employees and the owner of the abutting commercial enterprise have concerns about the presence of guns on the subject property, but the planning board's process does not provide them with a veto over a neighbor's use of his or her property, where such use is permitted and consistent with established standards of land use. While their concerns about guns and gun violence may be legitimate, those concerns must be expressed in a different venue, such as in the New Hampshire Legislature or the United States Congress.* Chairman Frost clarified again that this is his language and not the boards.

Barbara Annis said what Eric Miller is requiring of his employees, this is not going to be minimum wage salary as he is requiring schooling and training so that this is not somebody just walking off the street saying they want a job. Chairman Frost said he suspects that to be true. Barbara continued, I'm sure that MadgeTech individuals have to be trained too so everyone is being trained for what they are being used for.

Eric Miller asked to comment on the sound and Chairman Frost said the suggestion is a maximum of 45 dBA at the westerly property boundary. Eric said he would encourage the board not to put in a provision that can't be enforced. With I-89, studies show that interstates on average have been 60-70 dBA. At this point Attorney Alfano interjected and asked for the opportunity to respond. Chairman Frost said, no this is a response to a condition of the Planning Board and this is not a Public Hearing. Attorney Alfano said he would like to see the study, our whole efforts.... Chairman Frost said sorry, please stop at which point Attorney Alfano stopped talking.

Eric continued, the noise that comes from the interstate would be alien noise that would be out there in addition to the operations of Knoxland and MadgeTech. Chairman Frost said we have the Thalheimer Report and we have estimated measurements of background ambient noise whether it's from the woods, from I-89 or from other businesses in the area. What I'm specifically asking you to comment on is the proposed 45 dBA limit at property boundary and in your view is that a reasonable limitation. Whether it's enforceable or not is for this board to be concerned about.

Eric Miller said that if the ability exists to test that solely based on noise coming from my facility then the answer would be yes. Chairman Frost said this would be the subject of scientific analysis by someone qualified in the field, not someone standing there holding a sound meter. Chairman Frost directed the board to the draft conditions of approval. James Gaffney asked, regarding the Thalheimer report that references 49 dBA, is there a reason for the choice of 45 over 49? Chairman Frost said no and if you want to suggest it be 50 dBA that would be acceptable. James said that is what he is thinking. The discussion continued that as the Thalheimer reported 49 and the board accepted that as expert testimony, 50 is a good round number to go with.

Chairman Frost stated that the reason he proposed 49 dBA is that it matches the background noise, whether it's discernable or not because of its impulsivity, that's a different issue. James Gaffney said his concern is that in a commercial district, he thinks we've all experienced incidences where there is periodic noise that exceeds that. James said that rounding it up to 50 dBA is a good target. At this point Norm Carlson, owner of MadgeTech who

is an abutter spoke up and Chairman Frost reiterated that this is not a public hearing. Ken Millender asked if the 45 level would be more conservative and he doesn't want to quibble about 4 or 5 dBA. The conservative number might be more protective of the neighborhood and proposed that it be left at 45.

Chairman Frost said before running through the complete draft notice of conditions he would like to get a sense of whether or not the board is going to approve this application. He asked for a straw poll and if the board is leaning toward approval they will go through the conditions. If it is leaning toward denial then someone else can come up with a motion. A roll call straw poll was taken with all members voting to approve the site plan except for Ken Millender who voted against approving it.

Chairman Frost noted he would like to run through the draft proposal for a motion and conditions of approval. Selectman Dabuliewicz stated he would like to qualify by saying, looking back on what Chairman Frost said at a previous meeting with regard to the fact that the Planning Boards job is to see whether something that is allowed meets the requirements of the Planning Board with appropriate conditions. We're not here to judge whether it's a good idea to have this kind of a business in Warner, we're not here to decide whether it's a good idea to have it at this location versus another. We have to deal with what's presented to us and that's our job, not to make judgements. Chairman Frost read the draft motion as follows: (with some revision upon the boards discussion during the reading of the document which are included. Note the final notice of decision as signed by the Chair of the Planning Board is included at the end of these meeting minutes).

*The board approves the application of Dragonfly Holdings, LLC for a retail store and indoor gun range located on Warner Road, Map 3, Lot 33, based on a plan prepared by Moser Engineering dated March 3, 2017, revised April 14, 2017, subject to the following conditions:*

*All materials submitted by the applicant as part of the planning board's review and all statements made by the applicant during planning board meetings on the application and all communications sent to the board and to the Land Use Office by the applicant are deemed material conditions to the board's approval.*

*Conditions Precedent, to be met within 30 days of approval (these conditions to be met before the plan will be signed):*

- 1. Operations, Maintenance, and Monitoring (OM&M) Plan revisions consistent with Aries Engineering letter of June 16, 2017 and as discussed at the Planning Board meeting of June 19, 2017 to be provided to the Planning Board.*
- 2. Revised range design plans and equipment specifications to be provided to the Planning Board, including caliber limitations.*
- 3. Escrow payment of \$150 for inspection by Compliance Officer to be provided to the Planning Board.*
- 4. Additional escrow payment of \$305 for final invoice from Aries Engineering to be provided to the Planning Board.*
- 5. Revised dated lighting plan be submitted indicating the pole height of freestanding light fixtures (labeled P3 and P4), height not to exceed 15 feet to be provided to the Planning Board.*
- 6. Description or visual depiction of exterior building materials and colors to be provided to the Planning Board.*

*Conditions Subsequent, which will run with the land (to be met on an ongoing basis after final approval and signature of the plan):*

- 1. Compliance with all aspects of the approved plan, including written supplementary materials such as the OM&M Plan.*
- 2. Inspection and monitoring reports cited in OM&M Plan are to be done by a qualified independent professional and are to be sent to Town Compliance Officer and Planning Board as they are received by Dragonfly including, but not limited to:*

- a. *Biennial inspection reports (starting six months from start-up)*
  - b. *Periodic exterior ground testing, exterior air testing, interior firing line testing*
3. *HVAC contractor Regulated Toxic Air Pollutant (RTAP) demonstration report to be sent to the Planning Board clearly stating whether an RTAP permit is required pursuant to NH Department of Environmental Services Administrative Rule Env-A 1400. If an RTAP permit is required, a copy of the permit and all subsequent renewals shall be submitted to the Town Compliance Officer and Planning Board.*
4. *Hours of operation not to exceed 10 AM to 10 PM, except up to 3 nights per month for competitive tournaments.*
5. *Lighting of exterior sign at entrance to be downcast and to be turned off at the close of business.*
6. *No alcoholic beverages or illegal drugs are permitted on this property; a sign at the entrance to the property is to be prominently displayed (“No alcohol or illegal drugs permitted on the premises.”).*
7. *Noise levels associated with guns used in the range are not to exceed 45 dBA at any time, measured at the westerly property boundary.*
8. *Entrance to the range area shall feature a sign emphasizing the hazards of lead poisoning (“Lead is toxic – the smallest amounts can be extremely hazardous to children. Be lead safe!”)*
9. *The firing range is to be closed to the public if interior air testing does not meet a standard of 30 micrograms/cubic meter or if the exterior air testing does not meet a standard of 0.15 micrograms/cubic meter. The interior air standard is to comply with the OSHA Permissible Exposure Limit for an 8-hour time-weighted average of 50 micrograms/cubic meter. The exterior air standard to be consistent with the National Ambient Air Quality Standard of 0.15 micrograms/cubic meter measured at the property boundary and shall comply with the NH DES 24-hour Ambient Air Limit for lead. The Town Compliance Officer and the Planning Board shall be immediately notified of such closure. The range may reopen to the public only at such time as it has been demonstrated by an HVAC contractor that appropriate standards have been met.*
10. *In addition to the ability of the Board of Selectmen to enforce relevant zoning and site plan regulation standards, including any appropriate conditions of this approval, the Planning Board reserves the right to initiate revocation of this approval, consistent with RSA 676:4-a.*

Chairman Frost stated he had two remaining questions regarding fencing of the property and planting of shade trees. He noted fencing has never been discussed but it’s a thought that has occurred to him and as if this is a commercial zone he’s not sure it’s at all necessary. The planting of trees was discussed with clarification from Eric Miller that they will be alternating crabapple and Japanese maples. The board agreed that no fencing was necessary and that the trees planned are adequate.

Chairman Frost noted those are the proposed conditions of approval and asked if anyone wanted to make a MOTION. Don Hall made a MOTION to approve the site plan, motion was seconded by Barbara. Chairman Frost stated the MOTION is approval of the site plan with the conditions as discussed and these conditions will be embodied in a Notice of Decision by the board.

James Gaffney asked about the RTAP demonstration and that it can’t be done until the facility is operational and is that a fair assessment? Chairman Frost said yes and that’s why it’s a condition subsequent so it comes after the approval. Barbara Annis stated she has a problem with the Health Officer being notified. She realizes lead is a health issue but the Health Officer is not a fulltime job and the governing of the Health Officer falls under the Selectmen. She suggested that the Compliance Officer be notified instead. After further discussion the Planning Board agreed to replace “Health Officer” with “Compliance Officer” in numbers 3 and 9 of the Notice of Decision subsequent conditions. Chairman Frost noted this will be a friendly amendment of the MOTION made by Barbara and seconded by James Gaffney and asked if the mover was okay with that which they were.

Chairman Frost called for a vote on the MOTION to approve the site plan application with conditions, all those in favor signify by saying Aye.

At this point Attorney Alfano interjected and asked to speak to which Chairman Frost replied “you may not” and asked Attorney Alfano if it was a point of order. Attorney Alfano said it was two points of order; 1 – you received supplemental information from the applicant on Friday and a supplemental report from Aries and I have not seen either of those. Chairman Frost stated it is part of the record. Attorney Alfano replied that the public is entitled to a meaningful opportunity to review anything the applicant submits and not the day prior to when you are voting on this. As far as he is concerned he has amended his original application. His point number 2 was it sounds like some documents have been emailed around to the board prior to tonight and that’s improper. Any deliberations, any draft motions, all that has to be done in public in front of us so we can see it. Sounds like there was an email from Mr. Gaffney that recommended some changes and I think that’s improper.

Chairman Frost stated Attorney Alfano’s objections are noted and are part of the record and continued that as stated at the outset of the meeting he emailed these things to the board under “blind carbon copy” so that they could not respond as a group. The Findings of Fact were sent out in the mail as part of the meeting package and there was no deliberation whatsoever because there was no iterative meeting under the right to know law which I think you understand quite well.

Selectman Dabuliewicz asked if the board was voting on the MOTION as amended and Chairman Frost clarified that they are voting on the amendment which is to change “Health Officer” in two instances in the conditions to “Compliance Officer” as well as all the other changes as discussed. Chairman Frost explained that is part of the underlying motion and the amendment to the motion is to change “Health Officer” to “Compliance Officer”.

Chairman Frost called for a voice vote on the MOTION for the amendment to change “Health Officer” to “Compliance Officer”. All board members were in favor with the result of 7-0-0.

Chairman Frost continued asking for a vote on the underlying MOTION which is conditional approval with all the changes as discussed including the change in the supplemental motion. There was no further discussion. A voice vote was taken with all in favor 7-0-0.

Chairman Frost said this has been an experience with an extraordinary amount of public input which has made the board’s decision much stronger and the efforts are appreciated. At this point (8:52) a five minute break was called by Chairman Frost.

The meeting resumed at 8:59.

## 6. COMMUNICATIONS AND MISCELLANEOUS

**Chairman’s Report** – Chairman Frost noted he had nothing further to report.

**Compliance Reviews** – The Land Use Secretary stated there were no new reviews.

**Secretary’s report on Land Use Application Submittals** – Lois said there were no new applications.

**Selectman’s Representative Report** – Selectman Dabuliewicz stated the Fire Station design is being worked on and they will have it to the committee on July 15<sup>th</sup>.

The town has just hired a consultant to do a Compensation Study which is included in the budget. There will be a town employee meeting regarding it on June 29<sup>th</sup> at 1:30.

An agreement in principal has been reached on the Odd Fellows building.

Peter Anderson expressed what a great job Chairman Frost had done in leading the board through the site plan application approved tonight.

## 7. PUBLIC COMMENT

Audience member Christine Frost said she was the Executive Director of the Regional Planning Commission for many years and sat in on many Planning Board meetings throughout the state with lots of interactions with the community. She continued, I don't know if you all realize that all your interactions, respectfulness and thought for this process and the amount of work you do is really to be commended.

## **8. ADJOURN**

Chairman Frost noted the next meeting is scheduled for July 3<sup>rd</sup> which is not particularly a good date to meet so he suggested the next meeting be held on July 17<sup>th</sup> which is the workshop date. The board was in agreement.

Chairman Frost declared the meeting adjourned at 9:06 p.m.

APPROVED



**TOWN OF WARNER**  
**P.O. Box 265**  
*Warner, New Hampshire 03278-0059*  
*Telephone: (603)456-2298, ext. 7*  
*Fax: (603) 456-2297*

Planning Board  
Ben Frost - Chairman

## Notice of Decision

**Date of Decision:** Monday, June 19, 2017

**Applicant/Property Owner:** Dragonfly Holdings, LLC/Richard M. George

**Property Location:** Warner Road, Map 3, Lot 33, Zoning District C1

**Description:** Retail store and indoor gun range to consist of new construction of two buildings connected by a breezeway. The larger of the two buildings is the indoor gun range while the other is the retail store with a square footage of 9,400 and 2,400 respectively.

You are hereby notified that the Warner Planning Board voted to accept for review the application noted above, and approved the application following a public hearing by a vote of 7-0-0.

The board approves the application of Dragonfly Holdings, LLC for a retail store and indoor gun range located on Warner Road, Map 3, Lot 33, based on a plan prepared by Moser Engineering dated March 3, 2017, revised April 14, 2017, subject to the following conditions:

All materials submitted by the applicant as part of the planning board's review and all statements made by the applicant during planning board meetings on the application and all communications sent to the board and to the Land Use Office by the applicant are deemed material conditions to the board's approval.

Conditions Precedent, to be met within 30 days of approval (these conditions to be met before the plan will be signed):

1. Operations, Maintenance, and Monitoring (OM&M) Plan revisions consistent with Aries Engineering letter of June 16, 2017 and as discussed at the Planning Board meeting of June 19, 2017 to be provided to the Planning Board.
2. Revised range design plans and equipment specifications to be provided to the Planning Board, including caliber.
3. Escrow payment of \$150 for inspection by Compliance Officer to be provided to the Planning Board.
4. Additional escrow payment of \$305 for final invoice from Aries Engineering to be provided to the Planning Board.
5. Revised dated lighting plan be submitted indicating the pole height of freestanding light fixtures (labeled P3 and P4), height not to exceed 15 feet to be provided to the Planning Board.
6. Description or visual depiction of exterior building materials and colors to be provided to the Planning Board.

Conditions Subsequent, which will run with the land (to be met on an ongoing basis after final approval and signature of the plan):

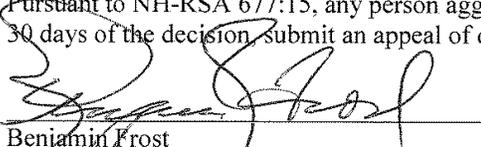
1. Compliance with all aspects of the approved plan, including written supplementary materials such as the OM&M Plan.
2. Inspection and monitoring reports cited in OM&M Plan are to be done by a qualified independent professional and are to be sent to Town Compliance Officer and Planning Board as they are received by Dragonfly including, but not limited to:

Page 1 of 2

- a. Biennial inspection reports (starting six months from start-up)
  - b. Periodic exterior ground testing, exterior air testing, interior firing line testing
3. HVAC contractor Regulated Toxic Air Pollutant (RTAP) demonstration report to be sent to the Planning Board clearly stating whether an RTAP permit is required pursuant to NH Department of Environmental Services Administrative Rule Env-A 1400. If an RTAP permit is required, a copy of the permit and all subsequent renewals shall be submitted to the Town Compliance Officer and Planning Board.
  4. Hours of operation not to exceed 10 AM to 10 PM, except up to 3 nights per month for competitive tournaments.
  5. Lighting of exterior sign at entrance to be downcast and to be turned off at the close of business.
  6. No alcoholic beverages or illegal drugs are permitted on this property; a sign at the entrance to the property is to be prominently displayed ("No alcohol or illegal drugs permitted on the premises.").
  7. No individual determined by the Range Safety Officer to be under the influence of mind-altering substances shall be permitted on the firing range; a sign at the entrance to the firing range is to be prominently displayed ("No individual determined by the Range Safety Officer to be under the influence of mind-altering substances shall be permitted on the firing range").
  8. Noise levels associated with guns used in the range are not to exceed 45 dBA at any time, measured at the westerly property boundary.
  9. Entrance to the range area shall feature a sign emphasizing the hazards of lead poisoning ("Lead is toxic – the smallest amounts can be extremely hazardous to children. Be lead safe!")
  10. The firing range is to be closed to the public if interior air testing does not meet a standard of 30 micrograms/cubic meter or if the exterior air testing does not meet a standard of 0.15 micrograms/cubic meter. The interior air standard is to comply with the OSHA Permissible Exposure Limit for an 8-hour time-weighted average of 50 micrograms/cubic meter. The exterior air standard to be consistent with the National Ambient Air Quality Standard of 0.15 micrograms/cubic meter measured at the property boundary and shall comply with the NH DES 24-hour Ambient Air Limit for lead. The Town Compliance Officer and the Planning Board shall be immediately notified of such closure. The range may reopen to the public only at such time as it has been demonstrated by an HVAC contractor that appropriate standards have been met.
  11. In addition to the ability of the Board of Selectmen to enforce relevant zoning and site plan regulation standards, including any appropriate conditions of this approval, the Planning Board reserves the right to initiate revocation of this approval, consistent with RSA 676:4-a.

The deadline to satisfy the conditions of approval is July 19, 2017 at which time the applicant will appear before the Planning Board at their regularly scheduled meeting. A paper version of the Site Plan with these conditions may be submitted for approval prior to submitting a Mylar of the same.

Pursuant to NH-RSA 677:15, any person aggrieved by any decision of the Planning Board may, within 30 days of the decision, submit an appeal of decision to Superior Court.

  
 Benjamin Frost  
 Planning Board Chair

cc: Applicant's File, Town Clerk, Selectman's Office, Building Inspector, Assessor's Office

6/19/17

**Findings Relative to Dragonfly Holdings, LLC  
Site Plan for a Proposed Indoor Shooting Range  
Warner Road, Map 3, Lot 33**

The Warner planning board has conducted a review of the site plan application of Dragonfly Holdings, LLC for an indoor shooting range, proposed to be located on Warner Road on property at Map 3, Lot 33. A public hearing was held on April 17, 2017, and the record remained open for additional public comment through noon on May 16, 2017. The planning board approved the site plan with conditions at its meeting on June 19, 2017.

In addition to the minutes of the planning board, which include further findings and information pertinent to the planning board's decision, the planning board makes the following specific findings regarding this site plan application. These findings are intended to support the planning board's approval of the project with conditions:

**NOISE.** During the public hearing on this application, an abutter to the subject property submitted a noise report prepared by Erich Thalheimer, "a renowned expert on noise." Based on his qualifications presented with the report, the planning board recognizes him as an expert and concludes that it does not need to retain its own expert to evaluate noise issues. The Thalheimer report correctly observes that the Town of Warner has no noise ordinance or enforceable noise standards included in the planning board's site plan regulations. The report indicates that based on available information the noise at the boundary between the abutter's property and the subject property are likely to approach 49 dBA at those times when all pistol and rifle lanes are used simultaneously. This is comparable to the expected daytime background noise level of 45 dBA, although the Thalheimer report also notes that a change in noise of 5 decibels can easily be perceived, especially where noises are impulsive instead of constant (e.g., gunshots, rather than traffic flow). While the report notes that there may be other avenues of sound transmission, the report also states that "the noise levels being discussed here are orders of magnitude quieter than anything that could be considered dangerous." Rather, the noises to be anticipated from the proposed indoor shooting range are characterized by the Thalheimer report as an "annoyance."

The planning board observes that the times when all lanes in the proposed indoor shooting range are in use and firearms are discharged in each lane at precisely the same time are likely to be limited. Therefore, the planning board concludes that the Thalheimer estimate of 49 dBA at the property boundary may be considered a maximum anticipated noise transmission under most circumstances. The planning board further recognizes that the subject property is located in a Commercial zoning district and is surrounded for considerable distances in all directions by similarly-zoned parcels of land. As such, the noises of commercial activity are to be anticipated in this area, including on the subject parcel and on those abutting it. The fact that such noises may be perceived at a property boundary is to be expected. While the planning board is empowered by its site plan regulations to include emanations of noise as a factor to be considered in reviewing proposals, it cannot arbitrarily require the elimination of all noise. Based on the information presented as part of the application, including the methods and materials of construction, the planning board deems the noise likely to be associated with the use of the property as an indoor shooting range to be consistent with other uses permitted in this Commercial zoning district.

**TRAFFIC.** During the public hearing many people expressed concerns about the impact of the traffic resulting from the proposed indoor shooting range. As the planning board deemed this project to be one with a potential for regional impact because of its proximity to the municipal boundary with the Town of Hopkinton, the planning board also solicited the input of the Town of Hopkinton and the Central New

Hampshire Regional Planning Commission, consistent with RSA 36:57. Both parties recommended that the planning board hire an independent consultant to evaluate the traffic impact of the proposal. Most of the concerns expressed by members of the public related to the impact of site-generated traffic traveling to and from the village of Contoocook in the Town of Hopkinton, located to the east of the subject property along Warner Road (named Kearsarge Ave. in the Town of Hopkinton).

The planning board recognizes that the proposed indoor shooting range, if built, will generate traffic. But the board also believes based on its experience that most of the traffic will access the site from I-89 Exit 7, which is easily accessed from this site. Even making a very generous assumption that if 25% of the traffic generated by the proposed indoor shooting range traveled to and from the site along Kearsarge Avenue, at an anticipated maximum 220 users per day each using his/her own vehicle – or 440 vehicle trip ends – then an additional 110 vehicles would traverse the road from Contoocook. This is in comparison to the existing traffic of almost 900 vehicles per day, or an approximate 12% increase. A further mitigating factor is the estimated 12% increase in traffic is the expected peak use hours anticipated to be outside/adjacent to the normal business hours of surrounding establishments (after 5pm weekdays and on weekends).

The planning board believes that this is less than the anticipated traffic that will be generated on Kearsarge Avenue by the residential subdivisions approved in that area by the Hopkinton planning board in recent years. The Institute of Transportation Engineers recognizes that approximately 9.5 daily vehicle trip ends are generated by single-family residential uses. The roughly 20 residential lots created in those subdivisions on Hopkinton's municipal boundary with Warner may be expected to yield approximately 190 trips ends daily when the subdivisions are fully built. Given that these will be residences within Hopkinton, it may reasonably be expected that a significant portion of those trips will be oriented toward Contoocook, resulting in a substantially greater impact on the roadway than the proposed indoor shooting range in Warner.

Additionally, the planning board observes that the pavement condition on Warner Road in the vicinity of the site is very good, as is the vehicle operator sight distance exiting from the site. The geometry of the intersection of Warner Road with NH Route 103, which leads to I-89 Exit 7, is 90 degrees and the sight distance is excellent. The planning board concludes that there are no improvements that could reasonably be required to accommodate the relatively small anticipated traffic impact of this development. When asked during the public hearing about the need for an independent traffic evaluation, a representative of the Central New Hampshire Regional Planning Commission stated that it was recommended because of "the amount of controversy associated with the project." The planning board does not consider the mere controversy of a project alone to be a suitable reason to require any applicant to spend several thousand dollars to hire an independent consultant.

Some concerns were expressed about people traversing Kearsarge Avenue/Warner Road to reach the subject property who are unfamiliar with the road, thereby increasing hazards to pedestrians and bicyclists using the road. To the contrary, the planning board believes that those who would access the proposed indoor shooting range by this route are likely to be those who are familiar with the road. Others are likely to access the site by I-89, Exit 7 and NH Route 103.

Finally, the planning board concludes that because of the substantial overflow parking area, the parking proposed to be provided on site will be adequate to meet the demands of the proposed indoor shooting range.

**IMPACT ON PROPERTY VALUES.** Although what is before the planning board is a commercial site plan application and not a zoning variance, a number of people have expressed concerns about the impact of a shooting range on property values. An abutter to the property also submitted a letter from a Realtor, who cited an article that appears on the website of the National Association of Realtors (at

<http://www.realtor.com/news/trends/things-that-affect-your-property-value/>). The article states that property values in ZIP Code areas where there is a shooting range are on average 3.7% lower than those of the remainder of the county in which that ZIP Code area is located.

The planning board does not regard this article to be a credible source of reliable statistical data, given – among other reasons – that other uses are found to have a much greater negative impact on property values, such as funeral homes and cemeteries. The article also does not distinguish between indoor and outdoor shooting ranges. The article’s methodology is flawed because of its very small sample sizes, and furthermore it does not purport to provide reliable scientific conclusions – in fact, it specifically disclaims that correlation is not a demonstration of causation. The planning board concludes that it has been presented with no reliable data to substantiate claims that property values will be negatively affected if the proposed indoor shooting range is established on the subject property.

The planning board observes that the Warner zoning board of adjustment, when it granted a special exception for this use on March 8, 2017, determined that the proposed indoor shooting range “will not impair the integrity and character of the district.” While this is not a specific finding relative to impact on property values, the planning board recognizes that the proposed use is consistent with other uses allowed in the C-1 Commercial District. Both the zoning ordinance generally, and the decisions of the zoning board of adjustment specifically, are presumed to include consideration of impact on property values from uses such as those proposed in this instance.

**SAFETY.** Of great concern to many members of the public is the perceived impact on public safety from the presence of guns on the site, particularly with regard to the high school and middle school located in the Town of Hopkinton approximately two miles from the subject property. Many comments were made regarding the Hopkinton school athletic teams that use Kearsarge Avenue/Warner Road as a training route, and the safety of the runners on the road as they pass by a site where guns are actively used. Others expressed simple concern about the presence of guns in the vicinity. A letter from the Hopkinton School Board states: “The existence of a gun range in close proximity to Hopkinton Middle and High Schools impacts the students and faculty sense of security.”

The planning board recognizes the validity of peoples’ general concerns regarding safety, but believes that those who would choose to use the proposed facility are unlikely to be the perpetrators of unlawful activity. The planning board also observes that what is proposed is an indoor shooting range with significant structural protections against accidental escape of discharged rounds, including concrete walls and hardened steel ceiling barriers.

The planning board also recognizes the protections of gun ownership provided by the 2<sup>nd</sup> Amendment to the United States Constitution and Part I, Article 2-a of the New Hampshire Constitution. The planning board believes that proper training and practice that would be provided at the proposed indoor shooting range is an essential aspect of responsible gun ownership.

**BUSINESS IMPACT AND REGULATORY CONSISTENCY.** The planning board has been told by the owner of the abutting property that he may have to relocate his business because some of his employees have expressed concerns about having a commercial shooting range located on the neighboring subject property. Others have said that the planning board should give preference to existing businesses already located in the community – in particular, the abutter’s high-tech business that sells internationally and employs approximately 60 people – over those that might seek to be established later.

The planning board first recognizes that the proposed indoor shooting range is consistent with the zoning ordinance. The Town's Zoning Board of Adjustment has granted a special exception for the use as an "other amusement and recreation service, indoor," pursuant to section XI.B.20 of the zoning ordinance. The proposed use is permitted, subject to the grant of special exception. The planning board observes that it would be inappropriate – indeed, illegal – for it to choose winners and losers among commercial establishments. Rather, it seeks to ensure that established standards of commercial activity are met – both those included in the Town's zoning ordinance and those in the planning board's site plan regulations. The planning board understands that some employees and the owner of the abutting commercial enterprise have concerns about the presence of guns on the subject property, but the planning board's process does not provide them with a veto over a neighbor's use of his or her property, where such use is permitted and consistent with established standards of land use. While their concerns about guns and gun violence may be legitimate, those concerns must be expressed in a different venue, such as in the New Hampshire Legislature or the United States Congress.

**LEAD.** Many members of the public expressed concern over the potential public health hazard posed by the use of lead ammunition at the proposed indoor shooting range. Some stated concerns related to the potential poisoning of users of the range and of its employees; others were concerned about the potential contamination of groundwater through the range's septic system, transported by customer and employee use of bathroom facilities; still others expressed concerns about the transportation of lead to other public and private venues, where other persons may be exposed to lead particles associated with the discharge of weapons at the subject site.

The planning board recognizes the substantial risk posed by lead poisoning, particularly to children under the age of 6 years, who may suffer permanent neurological and cognitive damage from exposure to minute amounts of lead. While it is true that children of that age would not be present in the shooting lanes, lead particles may be transported to other places on the clothing and bodies of customers and employees. In addition to the extensive public comments on lead, the planning board also received two reports from StoneHill Environmental, Inc., commissioned by an abutter to the subject property. The StoneHill reports raised a series of questions regarding lead controls that might be used in association with the proposed indoor shooting range. Because of these questions and the planning board's concern over the potential impact of lead poisoning, the board commissioned a review of the proposal by Aries Engineering (Aries), a professional environmental engineering and hydrogeological consulting firm with experience in mitigation of lead hazards associated with shooting ranges.

In reports dated June 15, 2015 and June 16, 2017, Aries states that it has reviewed a variety of documents associated with the site plan for the proposed indoor shooting range and has made a series of recommendations. These recommendations generally fall into two categories: (1) those associated with the construction, operation, and maintenance of the proposed indoor shooting range; and (2) those associated with monitoring and enforcement by town officials. The planning board accepts these recommendations.

The planning board has received a draft Operations, Maintenance, and Monitoring (OM&M) Plan from the applicant in response to initial communications between him and Aries, and the planning board expects to receive a revised OM&M Plan in response to the Aries report and as reviewed by the planning board at its meeting on June 19, 2017. The planning board expects the applicant to meet the recommendations of Aries in all respects, and the planning board will adopt as conditions of site plan approval the reporting and enforcement regime proposed by Aries.