

Loudon Zoning Board of Adjustment
Meeting Minutes
June 27, 2019
7:00pm

Present:

Chairman Ned Lizotte, Roy Merrill, Earl Tuson with alternates Todd Phelps and Peter Pitman.

Chairman Lizotte called the meeting to order at 7:01 p. m.

Minutes:

Regular Hearing May 23, 2019 -Review of the minutes for May 23, 2019 meeting and the May 29 site walks. Earl Tuson stated he will abstain from voting for one of last week's site walks as he was not there, but not at the second. Mr. Merrill made a motion to accept the May 23,2019 minutes. Mr. Pitman seconded the motion. All in favor. APPROVED

Site Walk Minutes for Case #Z19-10 Diane Bullock May 29,2019 - Earl Tuson abstained from voting on the site walk as he was not there. Mr. Merrill made a motion to accept the minutes, Mr. Pitman seconded the motion. All members were in favor. APPROVED

Chairman Lizotte opened the meeting with some housekeeping items. First, he advised the public there are several members absent and alternates Todd Phelps and Peter Pitman will fill in as voting members for a full board. He introduced Karen Hayes as the new secretary.

Mr. Tim Bernier approached the chairman and advised that there would be a continuance of case #Z19-10. Tim Bernier of TF Bernier Engineering told Chairman Lizotte that if members of the public wish to speak with him regarding the plans he would be glad to speak with them out in the hallway so as not waste their time or money coming to this meeting. Chairman Lizotte addressed the public and "asked if anyone was here for case #Z19-10, as there is a request for a continuance for next month's meeting". There were no abutters present. Mr. Tuson made a motion to continue case #Z19-10 to the July meeting. Mr. Phelps second the motion. All board members were in favor.

Discussions:

James Gilbert approached the Board. He has a Gunsmith business that was already approved at the 232 Chichester Road. He is asking to be able to continue at his new location at 14A Flagg Road. Mr. Gilbert advised the board that even though he was approved last time as a major home occupation, this was not needed as he does not do business out of the home. There are no signs on the property and there is no one from the public coming to his home. All the business is done at gun shows or internet. Basically the (ATF) Alcohol, Tobacco and Firearms requires him to have an address to allow him to have a Gunsmith license. Chairman Lizotte read an email that he had from our Town Counsel in regarding the current major home occupation permit. In the email, Town Council indicates that major home occupation stays with the residence. It is non-transferable to any other location. Another question was raised: Can the major home occupation be removed from the Chichester Rd address? The answer was No. Mr. Tuson stated that 603.2 indicates that after 18 months the major home occupation lapses if nothing is done with it from the new owners of that property. Mr. Tuson read from the Zoning Ordinance book 502.1 Minor home occupation (Customary home

occupations that do not materially disturb the residential neighborhood environment) must comply with the requirement within 502.1 and its regulations. Mr. Gilbert answered "NO" to each of the ordinance's regulations A, B, D, E, F, G, H, I, J K of the ordinance. Item C, Mr. Gilbert states he is only using one room in the home for this business. The board agreed the business is a minor home occupation and that he does not need to come to the board for approval. Mr. Gilbert asked if Chairman Lizotte would be able to sign something that he can show the ATF officer. Chairman Lizotte said he would draft something up.

Public Hearings:

Application #Z19-06 James Howell Map 2, lot 8-1 Variance for Reduced Wetland Setback.

Mr. Bruce A Gilday of BAG Land Consultants of Concord NH, a wetland and soil scientist representing the owners James Howell and his wife approached the board. This meeting is about placement of a house on a 3-acre lot on Ricker Rd. There was a site walk done on June 20, 2019 with Julie Robinson of the Conservation Committee. There is an existing house on the adjacent lot. There was a proposal for a shared driveway to this house lot. Mr. Gilday reviewed the site and found that the wetlands are wider than the existing plan indicated. Board members were given a site map to review. He is requesting a variance of 25 feet instead of the 50 feet of the wetlands. The loggers did come in and cut into the wetlands and they have since planted red maple trees that will provide shade and into the set back. They will be using straw wattles along the boundary lines within the wetlands and an orange fence to alert construction vehicles along River Road. Mr. Tuson asked what type of foundation would be put in? Answer was an 8-foot concrete foundation. Julie Robinson of the conservation committee is concerned about the boundaries of the wetlands. Her concern that there is standing water. (not a good place to build). Chairman Lizotte asked when was the lot cut? Answer -three and a half months ago. The Planning Board approved a shared driveway a year-and-a-half ago. At this time Chairman Lizotte opened the meeting up to the abutters to speak: Rebecca Webber of 17 Ricker Road is concerned about having a shared driveway and the house so close to hers and the value of her property going down. Richard Bittle of 26 Ricker Rd. doesn't feel that the owner has a hardship. He feels the major issue was the flooding. Now that the town has repaired the road it appears that the issue has been resolved. Karen Schaefer from 26 Ricker Road indicated that red Maples are an invasive species of tree and this could be an issue. A question was asked regarding the driveway going to the side of the house and is there going to be a garage underneath if this is the case. Additional information is needed regarding the driveway. Mr. Gilbert said that there could be a gravel driveway and now that there is a culvert the flooding issue is corrected. Karen Shaffer indicated that the new culvert looks good now, but we don't know what it's going to be like in the future. When it is filled with debris and then the road floods again. Julie Robinson of the Conservation Committee again expressed her concern that this land is a dome and has Wetlands on three sides. Chairman Lizotte closed the public discussion and asked for a vote from the board. Mr. Tuson made a motion to deny the application as presented, Mr. Pitman seconded the motion to deny the application as presented. The Board voted to deny application as presented. A roll call vote was taken (Mr. Pitman- Yes, Mr. Merrill- No, Mr. Lizotte-Yes, Mr. Tuson-Yes, Mr. Phelps-Yes.) No hardship. Fails 1,2 and 5 of the Variance Ordinance.

Application #Z19-07 David Goley Map 20 Lot 48, Special Exception for reduced setbacks.

Mr. Goley would like a special exception regarding the building of a gazebo on the property. Mr. Goley states there was a shed on the property when he bought it. Mr. Goley did have a land surveyor come out to verify the property lines. Code enforcement officer William Lake agrees that there are no issues with the boundary lines, and it appears that there was no impact to the rear of the property. After the board reviewed article II, 203.5 for the application, Mr. Goley answered questions from the board for regulations 1-7. Mr. Tuson made a motion to accept the application as presented. Mr. Merrill seconded the motion to accept as presented. A roll call vote was taken. (Mr. Pitman-Yes, Mr. Merrill-Yes, Mr. Lizotte-Yes, Mr. Tuson-Yes, Mr. Phelps-Yes.) All in favor. Application is approved as presented.

Application #Z19-08 Joanne Fontaine Map 29 lot 86- Variance for construction of an addition for a veterinarian clinic & expansion of the existing practice with parking

Matthew Moore is a representative for Ms. Fontaine on the new proposed addition to the veterinary business moving the building to the west side of the property. Mr. Moore then presented to the board a map of the proposed changes. The abutters were asked to come forward to review the map. Mr. Moore indicated that there would be eight additional parking spaces as well as the expansion of the building 44 feet X 40 feet which is close to the same size of the existing house. Ms. Fontaine indicated that all she wants to do is join the 2 buildings together, because currently she must walk through the kitchen to get into the business. Chairman Lizotte gave a history of the Veterinary business that in 2011 was given a notice of decision for a home-based mobile clinic. Ms. Fontaine responds that notice should have said Home-Base and mobile clinic. Questions were asked from the chairman to Ms. Fontaine regarding her business. Currently, do you have employees? Responds- yes, three. How many parking spaces for employees? Responds, three. Do you have any parking for customers? Responds, Yes, four. Do you have parking for family? Yes, Responds, two. What are the hours of your operation? Responded, Monday, Tuesday & Thursdays 8 a. m. to 6 p. m., Wednesdays, 9 a.m. to 12 p.m., Friday, 8 a.m. to 5 p.m., Saturday, 9 a.m. to 12 p.m. and closed on Sunday.

Chairman Lizotte reviewed the original application and the special exception that was set up under pet groomer. It also states hours of operation will be 12 p.m. to 6 p.m. Chairman Lizotte then quoted from ordinances that are involved with this application: 204.3 RR District Uses Permitted by Special Exception, 505.2 Special Exception Use approval, S502.5 Major Home Occupation, 208.4 Driveways. (C) Standards, A residential driveway will serve 2 or fewer lots or housing units. Mr. Tuson said I don't think the wording here excludes multiple driveways. Matthew Moore showed the board he has a driveway permit from Road Agent. Chairman Lizotte reviewed the document the driveway still needs to be approved. S 205 Agriculture/Forestry Preservation District – Uses Permitted by Special Exception-(D) Kennels. Chairman Lizotte explained he drove around the local area for comparable veterinarian clinics location and districts and found them to be in zoned commercial districts. S 206 Commercial/Industrial District and S207 Commercial/Recreational. Since the town had nothing prior to 2011 when Ms. Fontaine was given the approval under pet groomer. Chairman Lizotte stated that for the proposed changes that Ms. Fontaine is looking to make that this will change from a major home occupation to commercial. Mr. Merrill said that if you read the major home occupation requirements special exceptions includes but are not limited to the following, example #9 pet groomer but she can be anything, it's not saying she can't be a vet clinic, there is nothing here that would limit her. Chairman Lizotte stated the special exception was for a mobile clinic and home base since we didn't have any ordinances for a veterinary clinic, the town voted on a space for a veterinary clinic within the Commercial/Industrial and Commercial/Recreational areas in 2012. Mr. Merrill said that doesn't mean that it can't be in other areas because it is major home occupation. Mr. Tuson stated that the original application clearly shows a major home occupation. Chairman Lizotte stated for a major home occupation the business needs to be subordinate to residential use, incidental or secondary to the home. Mr. Merrill says the only thing Ms. Fontaine has violated is the hours and Mr. Tuson agreed. It is noted that most of the Veterinarian Clinics are within Commercial/ Industrial zones and not in Rural Residential zones. Chairman Lizotte asked if these proposed changes are going beyond the major home occupation statues. The Code Enforcement Officer Mr. Lake asked where will this fall? Would we be setting a precedence if we approve this as presented? Chairman Lizotte opened the meeting to the abutters. Mr. & Mrs. George and Charles & June Atkins collectively voiced concerns with this expansion including pet sounds and smells, increase in traffic. June Atkins voiced concern as the new driveway and the new addition are right in front of the Atkins house. They do not like to look out their window and see the driveway. June Atkins asked Ms. Fontaine why can't she put the driveway around the back of the house instead of in front by my house? Ms. Fontaine responds saying that there is a leaching field back behind the house and is not buildable in that area. Mrs. Atkins asked the board to do a site walk from her prospective. Chairman Lizotte stated that a site walk has already been conducted for the application.

Mrs. Ladd voiced her approval of the veterinary clinic being in the area. She likes not having to drive into Concord and pay higher prices. Chairman Lizotte asked if there are any other questions from the public. No additional questions were presented to the board.

Mr. Moore who represents Ms. Fontaine requested for a continuance until next month, so he may do more research. Mr. Tuson made a motion to continue case #Z19-08. Mr. Pitman seconded the motion. All members of the board are in favor.

Adjournment:

Mr. Pitman made a motion to adjourn. Mr. Tuson seconded that motion. All in favor. Meeting was adjourned at 9:35 pm.

Submitted by,
Karen Hayes
Administrative Assistant