

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF November 25, 2019**

Chairman Ned Lizotte called the meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chairman Ned Lizotte, Roy Merrill, Howard Pearl, Earl Tuson, Charlie Aznive, Todd Phelps-Alternate.

ACCEPTANCE OF MINUTES

Regular Hearing – October 24, 2019, Earl Tuson made a motion to accept the minutes as written, seconded by Howard Pearl. All in favor. Yes.

Site Walk- October 29, 2019, For Application #Z19-18 and #Z19-19 Ford Map20 Lot 46 & 99. Howard Pearl made a motion to accept the minutes as written. Roy Merrill seconded the motion. Earl Tuson abstained from the vote as he was not at the site walk. All in favor. Yes.

Chairmen Lizotte read for the record some information regarding easements as some of the upcoming applications pertain to this.

DISCUSSIONS

Darlene M. Johnson- Map 49, Lot 124-Change of Use of already approved inground storage tanks at 16 Shaker Brook Park. Darlene came forward and spoke to the board. She stated that this isn't a change of use but a new application for the tanks. The tanks are fuel grade and they want to use as holding tanks for septic. The state application was just submitted. The current property has a special exception for the storage tanks. The board stated that Darlene would need to submit a special exception application stating the intended use of the tanks.

Harrold Maclauchlan- Map 44, Lot 2 in the AFP district-Mr. Maclauchlan and his daughter Steffanie Albear came forward to discuss a building on the lot on Kenney Road that code enforcement has asked him to come before the board to discuss. Mr. Maclauchlan owns two parcels of land on Kenney Road that are not contiguous. The Chairman asked if code enforcement would give the board some history on this issue. Chief Blanchette said that Harry O came to the department regarding having power brought in for the shed that is on the property that is just under 400 square feet of floor space and on cement blocks. The Chief indicated that code enforcement can't issue a building permit for this structure as it doesn't meet the regulations, therefore it is a non-compliant structure. There currently is a portable toilet on the property. Code enforcement did give permission for the temporary power as well as a driveway permit. As it stands code enforcement would need to issue a cease and desist as this structure is not allowed. There seems to be confusion on whether this building is considered a tiny house or an accessory building. Chairman Lizotte said that there is a Zoning workshop on December 4 where they will be discussing this matter for more clarity and he thanked Mr. Maclauchlan for talking with the board.

PUBLIC HEARINGS

Application #Z19-18 John and Karen Ford-Special Exception for a Minor Home Occupation Map 20, Lot 46 & 99- Mr. Ford has a business called Les Vants Aerial Photos out of an office in his basement

on lot 46. Chairman Lizotte read the questions on the application and Mr. Ford answered. Mr. Tuson said that on pages 56 & 57 of the zoning ordinance describes the criteria of a minor home occupation S 502.1. Chairman Lizotte read through each of the criteria and Mr. Ford responded "no" to each. Mr. Tuson said I believe this application fits the criteria of a minor home occupation, therefore no application for a special exception is needed. Mr. Tuson made a motion to make a resolution that the board finds the activity presented by Mr. Ford in application #Z19-18 meets the criteria of a minor home occupation. Mr. Pearl said I believe we need to ask the abutters if they have any questions or comments. Mr. Jim Soucy of Alfano Law Offices came forward representing Mr. & Mrs. Stys who are objecting to this application. Mr. Soucy disputes the board's understanding of the town of Loudon Ordinance 204.2 (RR District Permitted Uses) and S 502.1 (Minor Home Occupation). After a lengthy discussion of the ordinances, the chairman closed the public portion of the hearing for board only discussion. Mr. Pearl made a note that a petition was received with 50 signatures of Loudon residents that object to this application and request the board to deny this application. Chairman Lizotte noted that there was a previous motion made by Mr. Tuson. Mr. Pearl seconded that motion. All were in favor of the resolution. The #Z19-18 application was withdrawn by Mr. Ford. Chairman Lizotte said the board will take a 10-minute recess.

Application #Z19-19 John and Karen Ford-Special Exception for a Major Home Occupation Map 20, Lot 46 & 99- Mr. Ford has a business called Grasspatch Aero where he performs aircraft maintenance, annual inspections such as oil and filter changes, tire rotation or replacement. Chairman Lizotte read the questions on the application and Mr. Ford answered under S 502 section 2/6 page 59 of the Loudon Ordinance for a major home occupation. Chairman Lizotte opened the hearing to board member questions. Mr. Pearl asked Mr. Ford on question 3 of the application, how do you handle fuel storage and used oil recycling. Mr. Ford said I do not store fuel on the property, I get fuel at the Concord Airport and I take the used oil at Casella the old recycling center next to the airport. Mr. Tuson said as we did earlier tonight, we need to go over the criteria for a major home occupation noted on pages 58 and 59 in the ordinance. Mr. Pearl asked Mr. Ford. Do you repair these planes within your residence? Mr. Ford replied, no, I repair them in an unattached hanger. Mr. Tuson restated under S 502.2 (A. The use shall be conducted within a residence and carried on by inhabitants thereof and no more than three other persons. Mr. Pearl stated the definition of residence in the town of Loudon Ordinance states: The dwelling plus customary accessory buildings. Mr. Ford stated it is an accessory building. Mr. Pearl then stated from the ordinance- (B. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, lighting, signs or the emission of sounds, noise or vibrations. I would say that an airplane hangar is not a customary accessory building in most residential neighborhoods. But your neighbor has a similar building which seems to be a characteristic of your neighborhood. The board opened the hearing to abutters. Mr. Shane Parrish stood up and stated that he is fine with this application. Next up was Mr. Soucy of Alfano Law Office came forward to represent Mr. & Mrs. Stys who are objecting to this application. Mr. Soucy made note of the ordinance S 502.2 Major home occupation requiring a special exception include but are not limited to the following: #6. Small engine repairs, excluding automobiles, motorcycles, and snowmobiles. He states he doesn't believe an airplane engine would be considered a small engine. He also made note of that the airstrip located on Cooper Street is registered by the New Hampshire Department of Aeronautics as a private, non-commercial use under section 422, also registered with the FAA as a non-commercial airport. Mr. Phelps asked Mr. Soucy is the airstrip located on lot 99? Yes. Mr. Soucy continued noting that this application doesn't meet the requirements of ordinance S 502 A, B & G. and 502.5 major home occupation shall not distract from the residential character of the neighborhood. He reminded the board of the petition he gave them with 50 names and signatures being against this application. Mr. Phelps commented that lot 99 is in the C/I district not the RR district and wasn't sure how this relates in conjunction to Mr. Soucy's

presentation. Mr. Tuson stated we have in the ordinance 201.4 that if a property is 60% in a district then the property is considered in that district. It was noted that this application is clearly in the RR district as the home is on lot 46 which is in the RR district. The chairman opened the floor to abutters. The abutters, each had a chance to address the board with their concerns. Many of the abutters were against this application for a major home occupation. After the public comments, the chairman closed the hearing to the public and opened for board discussion only. Mr. Pearl made a motion to deny the application as it did not meet criteria 1, 2 & 6. Mr. Tuson seconded the motion. All were in favor. Application denied.

The chairman stopped the hearing for a 10-minute recess.

Application #Z19-20 Ronald & Mona Morse-Special Exception for an ADU Map 42, Lot 13-

Jeffrey Hebert spoke on behalf of the Morse's Mr. Herbert presented plans for an in-law apartment. Extending an existing garage by 24 feet. The apartment will be approximately 1100 square feet. Mr. Tuson noticed that not all abutters had been notified. Mr. Herbert asked for a continuance of this application until next month to allow for notification of the additional abutters. Mr. Pearl made a motion to continue application #Z19-20 until next month. Mr. Tuson seconded the motion. The board voted to continue the application until next month's meeting on December 26. Chairman Lizotte requested to do a site walk on December 5th at 4:00 p.m.

Application #Z19-21 Robert Dufour-Special Exception for reduced side setback for a driveway. Map 20, Lot 6- Mr. Dufour stated that the previous owner did not show on the deed a shared driveway that he and his neighbor Ms. Wittenberg have shared for years. He was taken to court and lost and is requesting a reduced side setback of 4 feet to allow him to construct a driveway. Chairman Lizotte read the questions on the application and Mr. Dufour answered. Chairman Lizotte asked if there were any questions from the board. None. Chairman Lizotte opened the hearing to abutters. Chris Wittenberg of 158 South Village Road spoke to the board and she requested the board vote to have the proposed driveway be placed on the other side of the property away from her property. She explained the driveway is not a shared driveway. The previous owners were 2 sisters. The sister that lived in the house that Mr. Dufour currently owns was disabled in her later life and the area between the house and the driveway that Ms. Wittenberg owns was paved for convenience, it was not meant to be a driveway. Ms. Wittenberg showed pictured of the driveway on the right side of Mr. Dufour's house back when the sisters owned the property. Mr. Tuson noted that the driveway in question was not a legally shared driveway. It was noted that on the right side of the house there is a well, so a driveway can't go on that side of the house. Several people stood up in approval of Mr. Dufour's requested driveway. The chairman closed the public portion of the hearing for board discussion only. Mr. Pearl made a motion to reduce the side-line setback to 5 feet. Mr. Tuson seconded the motion. All in favor.

BOARD DISCUSSION: None

ADJOURNMENT

Mr. Aznive made a motion to adjourn the meeting at 10:59 p.m.; Mr. Tuson seconded the motion. All were in favor.

Submitted by,
Karen Hayes, Administrative Assistant