

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
AUGUST 23, 2007**

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of August 23, 2007 to order at 7:30 PM at the Loudon Community Building.

ROLL CALL:

The following members were present: Howard Pearl, Roy Merrill, Chairman Dave Powelson, Vice Chairman Ned Lizotte, George Saunderson, and Alternate Jonathan Huntington.

I. ACCEPTANCE OF MINUTES:

Jonathan Huntington made a motion to accept the minutes of July 26, 2007 work session, July 26, 2007 regular hearing, and July 28, 2007 site walks; seconded by George Saunderson. All were in favor.

II. PUBLIC HEARINGS:

Case # 07-13, Debra Rattee – Special Exception for Wetland Crossing, Map 38, Lot 7. Ned Lizotte recused himself and Jon Huntington was appointed as a voting member. Tracy Sweeney of Richard Bartlett & Associates represented the applicant. There were no abutters present. Mr. Sweeney stated that a site walk was done on July 28th with Dave Collier of Richard Bartlett & Associates and he felt there was positive discussion on the special exception. Chairman Powelson said that one thing discussed at that site walk was the concern voiced by Roy Merrill about the need to widen the shoulders. Mr. Sweeney said they have discussed this with the applicant and are comfortable with doing what they can within and what is required for the driveway, but the desire is not to disturb any wetlands beyond those impacted by the driveway crossing. Roy Merrill said the edge of the road drops off, they are adding traffic, and he thinks it is a must to bring the slopes up in both directions. Mr. Sweeney stated that he is before the Board tonight for the crossing and that the shoulder widening belongs in the Planning Board forum and can be conditionally approved upon that approval. The chairman asked Mr. Sweeney if they have an objection to widening the shoulder as described. Mr. Sweeney said there is no problem with widening the appropriate width for safe turning to the driveway but they have no desire to disturb further wetland. Dave Powelson said that he thinks that is what was discussed. George Saunderson said he agrees and asked if they are talking 50' or 75'. Roy Merrill said they were talking at least 75' in the beginning but now Mr. Sweeney is saying they would be doing only where the driveway is.

Mr. Sweeney said they feel it would be reasonable to do 50' to either side of the driveway. Jon Huntington asked Mr. Sweeney if they feel they would be encroaching on the wetlands by doing that. Mr. Sweeney said that they do not feel they will be in that distance and stressed that it is their desire not to encroach into the wetland upstream. George Saunderson asked if they would improve the shoulder 75' to the west and 50' to the other side, which is the less problematic area. Roy Merrill said that Mr. Sweeney is talking from the center of the 30' access, not from the edges of the driveway. Ned Lizotte asked how many driveways this involves. Dave Powelson said it is for one driveway and that the other driveways do not need wetland crossing. Mr. Sweeney said it is a reasonable request but they do not want to encroach on the wetland. Roy Merrill said they should get whatever permits are necessary and should

widen out the shoulders for public safety. Mr. Sweeney stated that their request is for one driveway crossing wetlands.

George Saunderson asked if they would be willing to extend 75' to the east. Mr. Sweeney said to the east is more problematic but they will improve the shoulder to the best of their ability. The chairman asked if members were satisfied with that plan. George Saunderson and Jon Huntington said they were. Roy Merrill said he did not think that was what was discussed at the site walk. Jon Huntington said it was more to the west than east that was discussed that day. Mr. Merrill said that the edge of the road drops right off and he personally does not feel the Board is asking a lot to straighten it out. Mr. Huntington asked if they would be encroaching on the wetlands more to the east than west. Mr. Sweeney said that was correct and that the west was easier because the wet goes deeper into the parcel and they could do it without additional regulatory permitting. Chairman Powelson said he remembered some discussion of additional regulatory permitting but did not think the Board was asking for that. He said the thought they were asking for what could be done in the drive. Mr. Sweeney said that the request to extend to the west could easily be done and they would do the best they can to the east. Ned Lizotte asked Mr. Sweeney what to the best of their ability implied. Mr. Sweeney pointed out the wetland and said they would stake out the edge of the wetland and start tapering the slopes up from there. He said it would be a slight improvement. Mr. Lizotte asked what that would look like. Mr. Sweeney said it would be 1 ½ :1, very steep.

Chairman Powelson asked if there was anyone who wished to speak in favor of or against the application. Hearing none, Mr. Powelson stated that this application is to cross a wetland to provide access to buildable land. He noted that members have suggested improving the shoulder. The chairman closed the hearing, to be brought up under Unfinished Business.

Ned Lizotte returned to the table.

Case # 07-14, Loudon Woods Estates – Special Exception for Wetland Crossing, Map 2, Lot 23. Tom Murphy of Holden Engineering represented the applicant. Abutter Bob Ordway was present. Mr. Murphy stated that this application is for the disturbance of 6,869 SF for a new road. He noted that a site walk was done, DES approval has been received, and conditional approval was received from the Planning Board, contingent on the approval of this application.

Chairman Powelson asked if there were any questions from the Board or public. Hearing none, he closed the hearing, to be brought up under Unfinished Business.

Case # 07-15, Charles Dore – Special Exception for Major Home Occupation, Map 1, Lot 12. Mr. Dore stated that he does hobby woodworking in his garage and would like to be able to hang an open flag. Chairman Powelson went through the points of the application. He asked if Mr. Dore's pieces are sold elsewhere. Mr. Dore said he currently has some items at the Pine Bough in Concord. Mr. Powelson asked if the intent was a few may stop by at Mr. Dore's residence. Mr. Dore said that was correct. Jon Huntington asked if there would be a sign. Mr. Dore said he would have a sign. Howard Pearl asked if Mr. Dore had a design of the sign with him. Mr. Dore said he did not but it would be a simple wooden sign. Howard Pearl asked about the distance to the nearest neighbor. Mr. Dore said it was about 150'.

Donna read a letter from abutter Patricia Scott Bowen that stated she was in favor of the application. George Saunderson asked if the hours would be something like 8 a.m. to 5 p.m. Mr. Dore said that was correct. Chairman Powelson asked if the Board felt there was a need to see the location. Jon Huntington said they have pictures of the house and garage. George Saunderson said that nothing new is being built and nothing is being added. Roy Merrill said all they would see is the garage that is in the pictures. Ned Lizotte said this sounds like a minor home occupation other than the sign. Howard Pearl asked if the sign would be placed so that it would not block sight. Mr. Dore said it would be on the lawn, out of the line of sight.

Chairman Powelson asked if there was anyone who wished to speak in favor of the application. Abutter Ivan Stevens stated that he lives about 200' from Mr. Dore and has no problem with the request and he never hears any noise from the property. There was nobody wishing to speak against the application. The hearing was closed, to be brought up under Unfinished Business.

V. UNFINISHED BUSINESS:

It was suggested that the applications be taken up in reverse order.

Case # 07-15, Charles Dore – Special Exception for Major Home Occupation, Map 1, Lot 12.

Ned Lizotte made a motion to approve the application; seconded by Howard Pearl.

Chairman Powelson asked if there was any discussion. Howard Pearl said it is a straightforward request. Ned Lizotte said it is a pretty mild case. The chairman asked if all were in agreement that the request meets all criteria. The Board agreed that it does. The chairman stated that they have a motion to approve. ***Roll vote: Howard Pearl – Yes; Roy Merrill – Yes; Dave Powelson – Yes; Ned Lizotte – Yes; George Saunderson – Yes. APPROVED***

Case # 07-14, Loudon Woods Estates – Special Exception for Wetland Crossing, Map 2, Lot 23.

George Saunderson made a motion to approve the application; seconded by Roy Merrill.

Mr. Merrill said this appears to be pretty minor and the wetlands people are happy with it. Chairman Powelson asked if anything formal had been received from the Conservation Commission. Donna said there has been nothing received. Jon Huntington asked if there are any concerns. He said the Planning Board has seen the area and the applicant has state approval so he is not sure why it is even before this board. The chairman asked if the Board feels that all criteria have been met. The Board agreed that they have been met.

Roll vote: Howard Pearl – Yes; Roy Merrill – Yes; Dave Powelson – Yes; Ned Lizotte – Yes; George Saunderson – Yes. APPROVED

Case # 07-13, Debra Rattee – Special Exception for Wetland Crossing, Map 38, Lot 7. Ned

Lizotte stepped down and Jon Huntington was appointed as a voting member for this case.

George Saunderson made a motion to approve the special exception with the provision that shoulder work would be done from the edges of the driveway of Lot 4, 75' to the west and 50' to the east; seconded by Jon Huntington.

Roy Merrill said he thinks they should get wetland permits and have the shoulders brought up. He said it is his opinion that they are trying to get out of it. Mr. Merrill said this should be done under the current ownership and it would be a pretty simple process to go to the wetlands bureau and get the proper permits to do the job right. Jon Huntington asked where the town's responsibility come in for safety's sake. Mr. Merrill said he does not think that the town is going to do anything. He pointed out that Mr. Aversa has to widen Bee Hole Road as part of his subdivision and he said he does not think it is asking too much of this applicant to fix the shoulder the way it ought to be. Mr. Huntington asked if more permitting for wetlands was required if they do more work to the east. Mr. Merrill said it might require a little permitting and may take a little time but those permits are given out all the time. George Saunderson pointed out that the reason for asking for the improvements is for safety and the west is much more of a safety concern in that somebody might drift off the road and into the embankment, which is crossing the wetland. Roy Merrill said the shoulder drops off the whole length of this subdivision. Mr. Saunderson said they are trying to prevent a situation where they are making it more dangerous and that the west is more important than the east, noting that to the east the ditch is clearly there. Roy Merrill said this is for public safety and was discussed at the site walk but now it appears they have backed away. Mr. Saunderson said it was discussed but there were no commitments made that day. Dave Powelson said that there was a strong implication at the site walk that Mr. Collier would let the

Board know if there were any objections from the applicant. Roy Merrill said he personally feels they discussed it and then did not want to go through the process.

George Saunderson said they are asking for one driveway to one lot. Mr. Merrill said they are gaining a lot if the Board gives this but they could lose that lot. Mr. Saunderson asked if there is any case to be made that the Board would be arbitrarily devaluing a piece of land because they are sticking on this one lot, noting that the land is developable once over the little hump. Roy Merrill said this may be one lot but there are several lots in the project. George Saunderson asked if Mr. Merrill would agree to 100' in each direction. Mr. Merrill said he would agree to that. Mr. Saunderson asked about 75' in each direction. Dave Powelson said he thought that shoulder width is more the issue. Roy Merrill suggested that they could taper to the stonewall. Jon Huntington asked if they already have a driveway permit. Mr. Merrill said that is what they are asking for. There was brief discussion about the driveway permit process. Dave Powelson said the road is pretty straight in this area and the sight distance is sufficient. He said he thought the issue is an errant vehicle leaving the road. Roy Merrill said the issue is that it is too narrow at that point and the time to do it is when it is being subdivided. He said this is not asking a lot of the developer in widening the shoulder. George Saunderson asked again if Mr. Merrill would be happy with 100' to either side. Mr. Merrill said that he would. Mr. Saunderson asked about 75' either side of the 30' driveway. Mr. Merrill said he would go along with that. Mr. Saunderson said the provision is for 75' to the west and 50' to the east and asked Mr. Merrill if he would be happy if they added another 25' from the edge of the driveway. Mr. Merrill said yes, with a total of 180'.

Kelly Sweeney said he feels they have issues with managing the shoulder development easterly because of the physical environment constraints. He said he does not feel they have issues as they head westerly and the point has been taken well. Mr. Sweeney said with the agreed upon 75' they can flatten the area to the west to a 2:1 slope but easterly they have run out of room without more wetland impact that they have worked to keep at a minimum. Roy Merrill stated that they would have to get a minor wetlands application. George Saunderson asked if Mr. Sweeney was clear that this is not figured from the center of the driveway. Mr. Sweeney said it is from the edge of the 12' driveway and that 75' to the west and 50' to the east is being proposed. Howard Pearl noted that it would be an improvement to what is there now. Mr. Saunderson agreed. Mr. Sweeney said they would start at the edges and go the distances. Mr. Merrill said they need to go get the wetlands permit. Mr. Sweeney said there seemed to be some unreasonableness here, noting this is one lot, Lot 4, where the issue exists. He said he thinks what has been offered is reasonable and takes into consideration the Board's requirements. Roy Merrill said there are two spots where the road is low. He said this could fix one. Again he said that he personally feels that the Board is not asking much of the applicant to add five lots.

Chairman Powelson restated the motion and went over the points of the application. On point two, he said it would appear that there is adequate sight distance and that the applicant made a good faith promise to work on the shoulder to the limit that George Saunderson proposed. On point four, Mr. Powelson said he does not believe there will be any additional demands created by approving this application. On point five, he said that ten trips a day seems the standard. George Saunderson said that would not be a problem for that road. On point six, Mr. Powelson said it appears that the applicant has minimized the impact to the natural environment and the Board agreed. On point seven, Mr. Powelson said that the applicant stated that the special exception would not have an impact on groundwater resources and the Board agreed. **Roll vote: Jon Huntington – Yes; George Saunderson – Yes; Dave Powelson – Yes; Roy Merrill – No; Howard Pearl – Yes. Yes – 4; No – 1 APPROVED**

VI. RULES OF PROCEDURE:

The draft Rules of Procedure were presented to the public for review and comment. Jon Huntington asked about the term of an alternate and about an alternate's jurisdiction if sitting on the Board. Chairman Powelson said that it is officially the five-member board that votes until an alternate is appointed in the absence of a voting member. He said an alternate can participate in discussions but does not vote unless appointed for an absent member or a member who steps down from a case. There was brief discussion. There were no other comments on the draft rules. They will be presented again next month.

VII. DISCUSSION:

Alternate – There was discussion on seeking another alternate or two for the Board. Jon Huntington leaves for the winter so it is felt that there should be at least one other alternate available. It was asked if the Board would like to run an ad but they agreed that mentioning it in the minutes might suffice. Members agreed that an interested candidate would be civic-minded and that there are provisions allowing the Board to set criteria for suitable candidates.

An application for a special exception for reduced setback was received after the deadline for the August agenda. The applicant wants to get the slab for the proposed garage poured before it gets too cold and would like to not have to wait until the October meeting for an answer. It was suggested that the Board might do a site walk of the property prior to the hearing in September. The Board agreed to do a site walk at 358 Lower Ridge Road on Thursday, August 30, 2007 at 6:00 p.m.

VII. ADJOURNMENT:

Jon Huntington made a motion to adjourn the meeting at 8:45 p.m., seconded by Howard Pearl. All were in favor.

Respectfully submitted,

Donna White
Administrative Assistant