

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
MARCH 22, 2007**

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting on March 22, 2007 to order at 7:30 PM at the Loudon Community Building.

ROLL CALL:

The following members were present: Dave Powelson; Ned Lizotte, George Saunderson, Howard Pearl, and Roy Merrill.

I. ACCEPTANCE OF THE FEBRUARY 22, 2007 MINUTES:

Ned Lizotte made a motion to accept the minutes as written. George Saunderson seconded the motion. There was no discussion. All were in favor.

II. APPOINTMENT OF ALTERNATE: Ned Lizotte nominated Brenda Pearl to the position of Zoning Board alternate. Roy Merrill seconded the motion. All were in favor. Mrs. Pearl stated that she would accept the position but could not serve until appointment papers were completed and she is sworn in by the town clerk.

III. PUBLIC HEARINGS:

Case # 07-02, Stephen Robinson – Special Exception for Reduced Setback, Map 31, Lot 18. Mr. Robinson explained that he is requesting a reduced setback for the placement of a 12' x 14' shed to the side of his house. He said the shed would be next to the garage and 10'-15' from the abutting property. Mr. Robinson said that he has spoken with the abutter, Mr. King, on that side of his property and they have no problem with the proposed location of the shed. He read through each point of the application. Chairman Powelson asked if there were any questions from the Board. George Saunderson asked Mr. Robinson to point out the proposed location on the property map and asked why he could not work with the 30' setback. Mr. Robinson said the location was limited by the location of the driveway, house, and the slope of the land. He said this location would allow the best access to the shed. Dave Powelson stated that he has seen the lot and agrees that it does slope down. Howard Pearl asked if Mr. King was notified. Donna said that all abutters were notified and one came in to look at the plan (Erdahl) and another emailed (Sopper). Neither abutter who inquired about the plan had any issues with the location. One had stated that the location made sense because of the slope of the land. Mr. Robinson stated that another abutter, Mr. Stinson, had been to look at the area and had no problem with the plan. Ned Lizotte said he would like to see the site. Chairman Powelson asked Mr. Robinson if he was in a rush for an approval. Mr. Robinson said he had hoped to build in the next couple of weeks. George Saunderson said he saw nothing wrong with the plan but would be in agreement with a site walk if others felt it necessary. Howard Pearl stated that he has no objections if Mr. King does not. Ned Lizotte said he wants to get in the habit of seeing these sites as they come before the Board. It was agreed to do a site walk at 19 Clearview Drive on Monday, March 26, 2007 at 5:00pm. The chairman asked if there were any abutters present who would like to speak. There were none. Ned Lizotte asked if the Board would be remiss to give conditional approval based on no problems being found on the site walk. Dave Powelson said that could be dangerous. Mr. Robinson asked what the process would be after the site walk. He was informed that the Board would further discuss the application at the April 26th

meeting. Mr. Robinson said he would not be able to attend as he would be out of town. Howard Pearl suggested that any concerns could be discussed with Mr. Robinson at the site walk. ***Motion to continue this hearing to April 26, 2007 at 7:30 pm at the Community Building was made by Ned Lizotte; seconded by Howard Pearl. All were in favor. This will be the only notification.***

Case # 07-03, Septic Disposal Solutions – Special Exception for Processing, Map 40, Lot 7. Howard Pearl recused himself from this case. There were no alternates. Bill Gosse spoke on behalf of Septic Disposal Solutions (SDS) and introduced his partners, Paul & Darlene Johnson, land owner David Moody, and surveyor Jeff Green. Mr. Gosse explained that they have filed for a special exception under Section 206.3 F-processing. Chairman Powelson had Mr. Gosse go through the points of the application. Mr. Gosse read from their application, giving further detail as follows. Mr. Gosse stated that the entire parcel is now zoned as C/I as a result of a zoning amendment that was passed on March 13, 2007. He noted that the plans show two employee parking places and two additional parking places, saying they will have one employee. Mr. Gosse explained that this project is governed by NH Dept of Environmental Services (DES) Env-1600s that do require certain signage that is close to the Loudon regulations. He stated that they have met with the fire and police departments. Mr. Gosse said the police concern was lighting which has been addressed in the plan and the fire department concern was interior safety. He said they have discussed rate of rise heat detection and have provided MSDS sheets on all products used, noting that they have been determined to be harmless products. Mr. Gosse said they will be heating the building with propane and referred to Section 206.6. He said that section raises a question, explaining that the Planning Board brought up the storage tank issue. Mr. Gosse said the storage tanks, other than the propane for heat, would be for septage and filtrate only. He explained that it would be predominantly Best Septic Service and Gosse Septic Service using the facility and he reported that they have done a traffic study for the Planning Board. Mr. Gosse said they feel they are doing a good thing for the environment in the area as they would be reducing the load on the town's septage lagoon. To put that into a non-discharging facility where the products are cleaned up and removed from the site is a better situation.

Chairman Powelson read Section 206.6 about storage tanks. Roy Merrill said it looks like they have to have a special exception. Dave Powelson said it does not specify the size of tanks. Bill Gosse stated that he does not see where the regulations prohibit storage tanks. He noted that the wording of this section carries through all sections but then changes for this section. Roy Merrill said it still says a special exception is required. Mr. Gosse noted that the wording is different in 206.6. He asked if this relates to the 55 gallon drums because the Planning Board led them to believe they were talking about the 20,000 gallon, outside storage tanks. Roy Merrill said he would agree with the Planning Board that it is storage tanks that need a special exception, not the 55 gallon drums. Mr. Gosse again stated that he does not see where storage tanks are excluded. Ned Lizotte said this is a completely new venture and these rules did not know at the time of being written that septage would have to be included. Roy Merrill referred to Section 205.6 and noted that it refers to other tanks. Bill Gosse said wording is the same in Sections 203, 204, and 205 and then changes in Section 206. He said he was not sure if this was a typographical error as he reads it as fuels and chemicals, not water tanks, etc. Roy Merrill said it changes because it is the C/I district and goes on to other tanks due to various products that could be involved with C/I use. Mr. Gosse suggested that it needs to be clarified. Chairman Powelson said the safest thing to do is to have a special exception for a storage tank, saying it is a permissive ordinance which means if it is not written in the ordinance it can not be done. Roy Merrill said if it did not say other storage tanks he would agree with Mr. Gosse. Mr. Powelson said he was of the opinion that there would be septage stored on site. He asked the Board if this would be a special application or part of the approval. Ned Lizotte and George Saunderson stated that they felt it would be a separate application. Mr. Lizotte said

it would be clearer if separate. Roy Merrill again referred to the ordinance, saying it starts out talking about fuel and then other tanks. The chairman asked if a separate application would be required. Mr. Merrill asked what difference it made if it was to be a separate application. Bill Gosse explained that it delays the process a month and delays the Planning Board approval, noting the short building and work season. He said Section 206.6 A talks of chemicals and that is the only prohibition he sees in the regulations. He said he questions being required to do the same for septage. Roy Merrill said it refers to other tanks and does not limit to oil or gas. Mr. Gosse said he would disagree but needs to resolve the matter. He said he does not feel it is prohibited so wonders how a special exception is necessary. Chairman Powelson asked if there was any doubt among the Board that the applicants were storing septage in a tank somewhere in the process and could the Board consider it approved if they approved the application before them. Roy Merrill used Eastern Propane as an example, saying he thought the business was approved and then the tanks were approved separately. The chairman asked if it would have to be a separate application and another month. Ned Lizotte said he believes the Board has been through this on previous applications when something came up in the middle of the process, he believed it to be Volunteers of America, when something was changed mid-sentence and was a cause for concern. He said it is wise to take this one piece at a time and the Board cannot be held to a building timetable. Mr. Gosse said he argues only from the structure of the document but if that is what is needed then they will do it. Howard Pearl said it appears that Section 206.6 A specifically deals with fuels and liquid chemical and he asked if septage is considered fuel or chemical. George Saunderson said it falls under 'other'. Mr. Pearl said it addresses fuels and chemicals. Mr. Saunderson said it reads that others may be approved. Roy Merrill said he is led to believe that all tanks are included. Howard Pearl asked if even water tanks would require a special exception. Chairman Powelson said he does not think water tanks would need special exceptions. Dustin Bowles said that Harry O's has a reclaiming process and was required to have a special exception because of tank size. Jeff Green said that was because it is considered to be hazardous material because of car oils and gas. Roy Merrill said if the applicant has a loaded tank and has a spill, it becomes hazardous. Bill Gosse said it is not considered hazardous, explaining that the Env Wq 1600s cover means to disinfect for pathogens and vector control. He said they are not placarded as hazardous. Roy Merrill asked what becomes of what is removed from Harry O's tanks. Paul Johnson said it goes to Franklin Wastewater Treatment Plant. He said the waste has been tested, showing soap and dirt and he has chemical results at his office. Bill Gosse said it is not a hazardous product. Paul Johnson said that when the business was being created it may have been treated as hazardous because they did not know what might be captured for oils, antifreeze and gas. Dave Powelson said he was always of the understanding that there would be some sort of storage with this facility. He asked if Harry O's had come in for a separate tank exception as he does not recall. He asked if a separate application is needed in this situation or if an additional special exception could be added to this application. George Saunderson said they could act on this application and the tank application next month or they could hold this application for next month and consider both at that time. Bill Gosse asked if they would have to redo notices. Chairman Powelson said if it is decided that it would be two applications then new notices would be required. George Saunderson and Roy Merrill said they feel it should be a separate application. Bill Gosse said they will do that and asked to make an observation of the rules. He said for a point of clarity that he feels that section should be rewritten so it talks in terms of all storage tanks having a prohibition. He said they found that section very confusing and would have had the application here had this been clearer. The chairman said the point was well taken.

Roy Merrill said nothing is noted on the application about gallonage. Mr. Gosse said there is no place for it as it is not part of the criteria. Mr. Merrill asked how much they will take in, saying he thought the Board originally had a number that SDS wanted and now there is no limit. Mr. Gosse said it is designed as a 30,000 gallon a day facility. Mr. Merrill said when SDS

applied originally they said so much a day and so much a month. Mr. Gosse said that information was presented to the Planning Board and he did not see any place for it on a special exception application. Mr. Merrill said there needs to be some control of how many gallons are coming in to the facility. Chairman Powelson said if 30,000 gallons a day is the size of the plant, the Board could start with that and work from there. Bill Gosse said they have to go to DES and those numbers are part of the process. He explained that it would be an average of 30,000 a day and that the storage capacity has been designed based on that. He said the capability of the plant is about 30,000 gallons a day. He said this is the same operation as they operate in Pittsfield and that is a 30,000 gallon a day facility. Mr. Gosse said if the compost operation is added to it, noting that SDS does not do the composting in Pittsfield, then it takes more man hours to run both operations. He said in their discussions with DES they have written the policy as a 30,000 gallon a day facility. George Saunderson asked how many gallons a day are produced in Loudon. Darlene Johnson said the lagoon is restricted to 6,000 gallons a day and that Best Septic took in 483,000 gallons last year from Loudon. There was discussion of gallonage, the process of this separating liquid and solids, and the compost process. Dave Powelson asked how many trucks would be involved if they received 30,000 gallons. Bill Gosse said it could be eight 4,000 gallon trucks in the busy season. Mr. Powelson asked if it would be the same number of trucks removing the liquid from the site. Mr. Gosse said it would be removed in tankers so would probably be two trucks. Bill Gosse explained that there are alternate sites currently used. He said they are building this on their experience in Pittsfield where they process 2.5-3 million gallons a year and have four years of records to know what volumes are generated. He explained the process used by DES to set gallon limits for a facility. Mr. Gosse said there would be three 20,000 gallon tanks at this facility and that there are safety factors built into the facility. He said the composting facility would be the limiting factor, saying if that is full then they would stop accepting septage until that product is moved off site. He said that the town is a regulator but DES is even more stringent.

There was discussion of the market for the filtration and it was noted that using this liquid on sod farms and other applications would reduce the withdrawal from the aquifer. There was discussion of the phosphorous analysis of the by-product, the uses of the compost, that all products will leave the site, it being a Class A compost, the interest from one party who would take as much of the product as he could get, and the required DES setbacks. George Saunderson said this has to be on a five acre piece. Darlene Johnson said it is a thirty acre piece. Bill Gosse said there was discussion at the Planning Board meeting about that but because this is a thirty acre piece it was not required. Mr. Saunderson asked if they are not being asked to subdivide and put this on a five acre piece. Mr. Gosse said they are leasing the property. Mr. Saunderson asked if Mr. Moody is not being asked to subdivide so it is a lot of record. Mr. Gosse said he is not and that the discussion was if anything else takes place on the site it would then probably be required. He said because this is the only active permanent facility on the site, the Planning Board is not requiring that. Roy Merrill asked the chairman if they had anything from the town attorney about that. Chairman Powelson said the attorney had some recommendations, one being that it should be quite clear as to what portion of the parcel is being used and that there is a complete five acre lot, saying he is not sure that they have to have them subdivide it first but there has to be five acres designated for this process. Bill Gosse said it was discussed with the Planning Board to use the DES setbacks, delineate the area, and that would give them the five acres. Roy Merrill said something about the attorney having other concerns. Chairman Powelson said they have to have a pretty complete five acres and have provisions for future subdivision of Moody's lot with a road and frontage on the road. Jeff Green said that was not the Planning Board's recommendation at the public hearing the week before. Darlene Johnson asked to clarify that Mr. Powelson was saying this has been researched with the town's lawyer and this has come back. Mr. Powelson said it is one of the attorney's recommendations that this should be, saying they are dealing with a grandfathered use of Moody's lot and it has been a commercial use since zoning started and it is a bit loosely

defined. He said the attorney feels they should establish this use on five acres. Bill Gosse asked if that is a Zoning Board or Planning Board issue. Mr. Powelson said it is zoning compliance and the site plan part is up to the Planning Board. Where the five acres for this use are is up to the Planning Board as are identifying it clearly and how access to it would be provided through Moody's property. Mr. Powelson said where and how this is done is not the Zoning Board's issue, it is the Planning Board's. Mr. Gosse said this was all discussed at the Planning Board meeting the week before. Darlene Johnson asked to clarify that the Board is going to require Mr. Moody to set aside five acres for this. Mr. Powelson said it would be to identify at least five acres for this project. He said that was to set aside and clearly identify. Stan Prescott said the Board should defer to the town attorney. Dave Powelson said he spoke with Bart. Dustin Bowles said he also spoke with Bart and was told they should clearly identify the five acres with no other overlapping businesses. He said should there be future development down there they certainly do not want other business overlapping onto this one. Mr. Powelson said the attorney would prefer to see it sub-divided. Bill Gosse said it was agreed with the Planning Board to plot the setbacks that would give them the five acres on the plans and they would be in the corner of the lot which has sufficient frontage. He said because this is the first permanent structure on the property SDS was told to designate the five acre footprint which they have agreed to do. He noted that they are leasing the area and building so it did not make business sense to have to subdivide and were told to simply delineate the area on their plans. Roy Merrill said it has been recommended that the Board do differently. Mr. Gosse said he does not have the information that the Board has, adding that he wished that SDS had had it in advance of tonight's meeting as it would have been easier to be prepared. Ned Lizotte said that information had just come up. Mr. Gosse said that the Planning Board gave SDS certain requirements and SDS had agreed to do what was asked and now there is a different standard. Ned Lizotte said the Planning Board was operating with what they knew at the time and since then things have come up that this Board has to consider. Roy Merrill said this matter was discussed at Board of Permit, at which two Planning Board members were present, and he feels that when SDS goes back to Planning Board next month they will find things are a little different since then. Bill Gosse said they find this to be very frustrating and it is difficult to be prepared if the rules change. He said if the Planning Board is coming back with new rules they should get back to SDS with them. Chairman Powelson said this Board will try to get a letter to SDS to clear things up. Dustin Bowles said they will have a letter from the town attorney and will get back to SDS. He said that five acres has to be set aside so any future development does not involve any overlapping. He said the boards have to take time to set this up right. Mr. Gosse asked if that was not what was decided last week. Mr. Bowles said he wants it in writing from the town attorney.

Bill Gosse asked how SDS gets a list of what is required from the Board. Chairman Powelson said he hoped to have that by the end of the night. Mr. Gosse explained that this facility is state-of-the-art and is highly regulated. Roy Merrill asked why Loudon needs to be a donor town, why they want to build in Loudon. Mr. Gosse said it is a business 50% owned by Loudon residents and it is a good site based on its location and the activity around it. He said there are septage trucks already using the road, it is a Loudon resident doing it, they are not opening a junkyard and are not dumping in a big hole. He noted that this would be a tax benefit to the town and would take a load off the town lagoon which has had hits of nitrates that contaminate groundwater. He said they feel it is a win/win situation for the town and the municipal burden (RSA 485-A:5-b) is off the town's hands. Roy Merrill said they could do that with Pittsfield. Mr. Gosse said they have to look at it logistically as well as the costs of hauling, noting that those costs are passed on to homeowners. He said if the costs get too high people don't pump their tanks which leads to failure and is bad for the environment. He said it is better to keep it local and keep the prices lower.

Roy Merrill said that the Town of Loudon voted a couple of years ago, asking the chairman if this was clarified, to put money into a pilot program and originally this pilot program

was supposed to take affect. He said the Board was told that the selectmen chose not to and they read the minutes of the executive session and nowhere does it say that. Mr. Merrill said SDS left and did not come back, the way the minutes read. Bill Gosse said the situation was that SDS told the selectmen that, in order to be able to afford to do the program, outside material would have to be brought in and the selectmen elected not to allow SDS to do that. Mr. Merrill said the minutes do not say that. Mr. Gosse asked what difference that makes. Mr. Merrill said there was a gallonage in the previous paperwork of what SDS was going to do and now it has grown immensely from what that gallonage was. Mr. Gosse said what was proposed to the selectmen was to back a dewatering box in by the lagoon, outside, run it through the box, run the liquid back into the lagoon, and dump the solids out back behind the lagoon. He said this is a completely different process as they are talking about a 4800 SF facility that is enclosed with everything in it being sealed, tank capacity, a 4000 SF compost area that is being put down that is covered, trucks are backing inside, and this is a nice environment, nothing that the two projects are apples to oranges. Roy Merrill asked how they should answer people when they are asking why the town is not better off with the smaller pilot program than this bigger operation. Mr. Gosse said this process is much more environmentally-friendly, it does not cost the Town of Loudon anything, and is, in fact, a financial benefit to the town. Ned Lizotte read from town septage lagoon reports as follows: The town has taken in \$168,840.15 over the past five years as of 12/31/06. Dividing that by 5 = \$33,768.03. So far the expenses for testing in that timeframe have been \$7,223.09. He said he has spoken with Dusty and there is roughly \$20,000 in permitting fees. Mr. Lizotte said that would mean that the town took in about \$100,000 in the general fund.

Mr. Gosse said this facility cleans up the situation, noting that lagoons are being closed on a regular basis due to contaminated groundwater but the town's permit was renewed and he said the town can continue to operate the lagoon. Ned Lizotte reported that he has talked with Pat Hannon at DES and she said the town can operate the lagoon indefinitely. Paul Johnson said it is limited to 6,000 gallons a day and there have been nitrate hits within the last few months. Roy Merrill said that was different information than they have received. Mr. Johnson said the engineering company has all of the testing information. He said if the lagoon was closed, the town would still have to do testing because of the landfill. Ned Lizotte said the current situation pays for itself.

Bill Gosse noted that the meeting was straying from the application, saying he feels SDS has justified all of the points of the application. Dave Powelson said there is some history that may or may not be directly related to the case. He said he was a little confused as to what did or did not happen and is not sure what the warrant article did say. He asked Dustin Bowles if he had a copy. Mr. Bowles presented a draft copy of the warrant article from 2005 that established the septage lagoon trust fund. Mr. Gosse asked how that affected the SDS proposal. Mr. Powelson said he was not sure that it does. Darlene Johnson asked Ned Lizotte if the minutes of the executive session of the Board of Selectmen read that SDS was asked to get back to the Board of Selectmen or the Board to SDS. Ned Lizotte referred to minutes of 4/18/06. Mrs. Johnson said they were told that the selectmen effectively decided they were not going to go into operation with SDS. Mr. Lizotte continued to discuss the establishment of the septage lagoon fund and the cost to the town if the transfer station was closed. Bill Gosse said the town doesn't have to close the lagoon. Ned Lizotte said by putting something else in it eliminates what the town has. Mr. Gosse asked if the Board is making decisions on the regulations based on what is best for the town's pocketbook. Mr. Lizotte said he was not saying that. He said there is more to this that needs to be researched. Mr. Gosse said there is nothing to stop the town from doing the pilot program. He said they (SDS and Board of Selectmen) could not come to terms, noting that it was a proposal that was thought to be a good project, and they went their separate ways. He said that cannot be held against SDS and it has to be realized that it was not a good business decision for either party, no money was spent by the town, and there were two or three casual discussions of something that they felt would work for

the town. Roy Merrill said the selectmen's minutes read that it was necessary to process 8-10,000 gallons per day and now they are saying 30,000. He said nowhere does it say that the town said it did not want to go along with the project. Mr. Gosse said the only way they would have been able to generate that volume was to bring in other material from other towns and they did not want to do that. Discussion continued about the original pilot program and selectmen's minutes.

Chairman Powelson said the Board should get back to the application. He said there should be a separate application for the tanks and that there should be a clearly defined five acres. Mr. Gosse asked if the Board would accept what was worked out with the Planning Board, noting that they will be writing a lease with Mr. Moody and that lease will clearly state what area is being leased. Mr. Powelson said that would satisfy him and he would have to check with the town attorney to see if the lease would satisfy his concern. George Saunderson asked about the process of dumping into the lagoon and where the solids go if that was cleaned out. Paul Johnson said it is piled behind the lagoon. Roy Merrill said it becomes material the same as this process. Mr. Gosse said that was incorrect as there is no treatment of the lagoon septage, therefore pathogens are not killed and there is no vector reduction. He said the proposed process includes treatment and the material is handled completely differently. Darlene Johnson explained that the compost process heats and cleans the solids, noting the recording process of what is received into their facility and what leaves the facility.

Chairman Powelson said he understands that the town has an obligation to accept from its residents. Mr. Gosse said the obligation under RSA 485-A:5-b is to have provisions for disposal, noting that that could be by having its own facility or an agreement with another facility. Mr. Powelson asked to clarify that if the town chose to eliminate the lagoons they could use the SDS service with an agreement. Mr. Gosse said a letter between the two parties would keep the town in compliance with the RSA. Mr. Powelson asked if that would cost the town more money. Mr. Gosse said it would not generate the income that Ned Lizotte talked about but it would take the burden and liability off the town. Paul Johnson noted that it would be a tax base versus septage fees. George Saunderson asked if the applicants minded giving the Board a ballpark of how much it would cost to build this facility. Mr. Gosse said it is figured at a half million dollars. He said they are putting their livelihood on the line for this facility, therefore have a very heavy vested interest. He said DES has guided them all the way and it is state-of-the-art.

Chairman Powelson asked if abutters were notified. It was confirmed that they were notified. Mr. Gosse asked that the town attorney be asked about Section 206.6 to determine if it is all tanks or just those for fuel and chemicals. The chairman stated that the Board is not able to resolve that matter at this meeting and that one resolution would be to complete a second application. Mr. Gosse said he wants an interpretation but will do the application as well. Chairman Powelson said he would ask about Section 206.6 and the five acres as a separate defined entity or full subdivision.

Mrs. Johnson stated that there were two different meetings going on and she didn't know which to listen to, those in the back of the room or the Zoning Board. The chairman asked that side conversations quiet down and asked the Board to schedule a site walk. Donna informed the Board that the Planning Board has a site walk of this property scheduled for March 29th. Roy Merrill said that the Zoning Board would like to have their own site walk. The site walk was then set for Monday, March 26th at 5:30pm.

Mr. Merrill asked about a gallon limit. Mr. Gosse said it is in the DES permit. Mr. Merrill stated that the town needs to have something in writing on this or they have no control. Mrs. Johnson said they have to provide a copy of their management plan for DES. Chairman Powelson asked if the Board was happy with 30,000 gallons a day. Mr. Gosse said the DES permit has to be on file with the town. Roy Merrill said the Board needs to see the application before they make a decision. Mr. Gosse said he thought this was to be a very simple process tonight but there have been a lot of new rules brought up that have not been mentioned in earlier discussions with either board. Darlene Johnson said they were not aware that they had

to submit their management plan to define the word 'processing'. Chairman Powelson asked the Board if there was anything else tonight so there were no more surprises the next time. Ned Lizotte said there was new information from the town attorney that was presented tonight. Mr. Gosse asked that the Board communicate with SDS to avoid any further situations. Mr. Lizotte said this is the first time that the Board has seen the application. Roy Merrill said there may be other things next month as well. George Saunderson said if anything is learned in the next couple of weeks the Board will certainly inform SDS. Dustin Bowles said this is trying for everyone and that all boards get in situations where they have to back up a step as they are setting a precedent and want it done right so nothing infringes on them down the road. Mr. Gosse said he wants all facts up front, pointing out that SDS will give what is expected of them but they need to know what that is. He noted that the town does have the fall back of DES in the event that the town misses something or there is an issue, saying that DES requirements are far more stringent.

Ned Lizotte made a motion to continue this hearing to April 26, 2007 at 7:30pm at the Community Building; seconded by Roy Merrill. All were in favor. This will be the only notification. Bill Gosse asked if they would receive something from the Zoning office as to what is wanted from SDS. The chairman said the office would send them a clarification on the storage tank matter.

IV. APPEAL OF AN ADMINISTRATIVE DECISION

Michael Harris – Chairman Powelson stated that Mr. Harris was issued a fine by Chief Fiske and the first decision has to be if this appeal is timely. Roy Merrill said the appeal appears to be of the Board of Selectmen's decision. There was discussion of the dates involved and all were in agreement that this was filed within the 45 days timeframe of the ZBA Rules of Procedure. ***Howard Pearl made a motion to deny the appeal; seconded by Ned Lizotte.*** There was discussion about abutter notification and public hearing being required, even though Mr. Harris's appeal states 'summary judgment without hearing requested'. Ned Lizotte said he thinks it is clearly stated on the building permit that this was to be a permanent residence for one year and it is an obvious false 'yes'. He said he does not see the issue. Howard Pearl said that Mr. Harris signed the agreement. Roy Merrill said part of Mr. Harris's argument is that the penalty is not in the book, noting that many fines are not necessarily in the book and he does not feel that is a legitimate argument. There was further discussion to clarify if abutter notification is required for an appeal of an administrative decision. The chairman asked if Board members felt that abutters have to be notified. He said there could be discussion on the motion, have Mr. Harris notify abutters, and continue the appeal to the next meeting or the Board could go ahead and make a decision. RSAs were checked for notification of an appeal. Roy Merrill said they could give Mr. Harris the right to notify abutters and complete his application. The chairman asked the Board how they would like to proceed. Mr. Powelson said he does not feel that they have to notice this discussion. Roy Merrill said he would agree. Howard Pearl asked for the vote. Chairman Powelson said the motion is to deny the appeal and he called for a roll vote. **Howard Pearl – Yes; George Saunderson – Yes; Roy Merrill – Yes; Dave Saunderson – Yes; Ned Lizotte – Yes. Unanimous, appeal denied.**

V. UNFINISHED BUSINESS

VI. ELECTION OF OFFICERS

Chairman: George Saunderson nominated Dave Powelson; seconded by Ned Lizotte. There were no other nominations. All were in favor.

Vice Chairman: George Saunderson nominated Ned Lizotte; seconded by Howard Pearl. There were no other nominations. All were in favor.

VII. DISCUSSION:

Donna stated that she had an inquiry from a party that was interested in property at Map 1, Lot 57 on Staniels Road. This is C/I zoned and the party has asked if they could build a house and have a home occupation there. The Board discussed this briefly and it was agreed that a residence could not be put on C/I property.

Donna stated that she had an inquiry from a party that was interested in property at Map 21, Lot 20 on Cooper Street. This is C/I zoned and there is an existing house and garage. The gentleman builds custom guitars and would like to operate a home occupation. He has asked if it would fall under the commercial criteria or a home occupation. There was brief discussion and it was agreed that if the use meets the criteria of a home occupation then it would be considered as such. It was noted that it automatically becomes a major home occupation if a sign is erected.

VII. ADJOURNMENT:

Ned Lizotte made a motion to adjourn the meeting at 10:00pm, seconded by Dave Powelson. All were in favor.

Respectfully submitted,

Donna White, Secretary

NOTE: After the meeting the Board discovered an error that would vacate the decision on Mr. Harris's appeal. Mr. Harris was subsequently notified that abutter notification and public hearing would be required.