

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
FEBRUARY 28, 2008
REGULAR HEARING**

Vice Chairman Ned Lizotte called the Loudon Zoning Board of Adjustment meeting of February 28, 2008 to order at 7:00 P.M. at the Loudon Community Building.

ROLL CALL:

The following members were present: Howard Pearl, Vice Chairman Ned Lizotte, George Saunderson, and Alternate Jim Venne.

Jim Venne was appointed to sit as a voting member in the absence of member Dave Powelson. Also present were Fire Chief Burr and Selectmen Bowles and Ives.

I. ACCEPTANCE OF MINUTES:

Regular Hearing ***George Saunderson made a motion to approve the minutes of January 24, 2008; seconded by Jim Venne. All were in favor.***

II. PUBLIC HEARINGS:

Case # 08-01, AAM Builders, Inc – Special Exception for major home occupation, Map 38, Lot 8-? (newly subdivided, no # yet assigned) A letter was received from Tony Merullo on behalf of the applicants requesting that this application be withdrawn.

Case # 08-02, George Tombarello – Appeal of an Administrative Decision, Map 4, Lot 13 and Map 13, Lot 5. There were no abutters present. Mr. Tombarello explained that he went to the building department for a building permit after last month's ZBA meeting. He said that he told Mr. Fiske of the Board's thoughts on building a barn on his property based on Section 204.2, K & L. Mr. Tombarello said that Mr. Fiske did not feel that the minutes reflected a clear directive to him about issuing a permit and that he did not feel that he could issue a permit unless he had something in writing from the Board. Mr. Tombarello stated that he met with the Conservation Commission about his plan to create and maintain wildlife food plots and manage the land and forestry. He said that he feels that his plan for the land goes along with the Master Plan. A letter supporting Mr. Tombarello's plan was received from the Conservation Commission and copies were given to each Board member and Mr. Tombarello.

Vice Chairman Lizotte stated that the secretary had spoken with the town attorney about Mr. Tombarello's project, the Board's discussion at the January meeting, and the referenced zoning ordinance. Mr. Lizotte said that Mr. Mayer thought the Board would be within their authority to authorize a permit for a barn. Mr. Lizotte said that the Board is leaning in favor of the appeal and that they want to cover the bases in terms of conditions such as no running water, no kitchen, no residential facilities at all. He said that they would like to take some time to think about the things that they need to be very clear on as far as what can be done so that they would have a clear indicator for Mr. Fiske and he has something to work with. Mr. Lizotte said in making the decision to allow the permit stipulations would be given. Mr. Tombarello said that the Conservation Commission had asked him what type of floor he would have in the barn, noting that they would like to see it remain dirt. He said that he told them it would be a concrete slab so that it would be better when working on the equipment and would avoid the risk of rodents and animals getting in the barn. Ned Lizotte said that he has a family member who has a 24 x 36, three stall barn with a loft and cement floor. He said that it houses tractors and

outdoor wood equipment. Mr. Lizotte said that he was not able to visualize the size of the barn at last month's meeting, but as he got thinking about it he realized that it makes perfect sense and realized that the space can be filled pretty quick with that kind of equipment. He said that having a solid foundation is best with equipment and he is much more understanding with what Mr. Tombarello wants to do than he was last month. Mr. Lizotte said because the Board is minus some members at this meeting they would like to have those members back to make sure that they get the full Board's input. With that he suggested that the case be continued to next month so that they can give a clear approval with conditions clearly stated.

Howard Pearl said that he did not see a huge issue with having the barn but he was concerned at the last meeting with it headed in a different direction and going too far. He said that the Board has to be careful to have everything in line and clear so that other people can't use this as a stepping stone to do something else. Mr. Tombarello said that he had almost decided to give up on this plan but then Mr. Fiske had suggested that he could get a septic design done, apply for a building permit, and he would give him the permit to put up the barn. He said he contacted the gentleman that Mr. Fiske told him about and in that conversation the surveyor encouraged him to pursue the barn alone rather than tie up a building permit that someone else might need to build a home. Mr. Lizotte said that they are leaning toward approving the appeal but want to be sure that everyone is clear on all points and the code enforcement officer has something clear to work with. George Saunderson asked Mr. Tombarello if he was agreeable with having no water. Mr. Tombarello said that he was and that he never had intentions of having water there. Mr. Saunderson asked about wiring. Mr. Tombarello said that he might like to have it wired for a generator but if that was a restriction then he could still get by. Mr. Saunderson agreed that he might need a generator to run lights when working on equipment in the barn. Mr. Lizotte asked what the problem would be with a generator. Mr. Saunderson said that it would not be a problem and that he just wanted to be sure there were no surprises.

Howard Pearl made a motion to continue this case to March 27, 2008 at 7:00 p.m. in the Community Building; seconded by George Saunderson. All were in favor. There will be no further notification.

Case # 08-03, David & Judith Briggs – Special Exception for Major Home Occupation, Map 33, Lot 43. There were no abutters present. Mr. & Mrs. Briggs explained their business of purchasing vehicles at auction, reconditioning them for re-sale, and the reason for the special exception. Mrs. Briggs went through the points of the application. Ned Lizotte asked what the typical length of stay is for a vehicle. Mr. Briggs said that it depends on the method of sale but it could be anywhere from one to five days typically. George Saunderson asked how many cars they would have at any one time. Mr. Briggs said it would only be what could be kept in the garage which is a maximum of four. Mr. Saunderson asked the applicants if they would be alright if approved for five cars. Mr. Briggs said that would be very acceptable. He said that all vehicle reconditioning is done in the garage which is on a slab and there are no floor drains.

Vice Chairman Lizotte explained that the applicants received a letter from the Board of Selectmen after reviewing their application for a permit for a dealer repair/supplemental plate for sale of vehicles. He said that the letter stated that it was felt that this would be considered a home occupation and would need ZBA approval. Mrs. Briggs said that their current permit is due for renewal and that the state is holding their current application open pending the ZBA approval. Mr. Lizotte asked if anyone would like to speak in favor of the application. Hearing none, he asked if anyone would like to speak against the application. Chief Burr said that he is not necessarily opposed to the application but he did want to note that the permit is marked as a repair garage. Mrs. Briggs said that was not correct. Mr. Briggs stated that it is marked as a repair plate that is specific to reconditioning and reselling vehicles. Chief Burr said that if it is a repair garage it then falls under different codes. Mrs. Briggs said that they are not a repair garage. She explained that by state law they get paperwork on each car that they purchase and

the ownership is in their name. George Saunderson clarified that they are not repairing their neighbors cars but have their own series of cars that they clean up and sell. The applicants said that was correct. Chief Burr said that the codes are more stringent if it is a repair shop as compared to buffing.

George Saunderson asked if a site walk should be scheduled. Ned Lizotte asked the applicants about the timeframe of the renewal of their current permit. Mr. Briggs said that it has to be renewed by the end of March. Mr. Lizotte pointed out that the next ZBA meeting would be March 27th and asked if that would work for the applicants. Mr. Briggs said that he would have to renew the current permit because they would otherwise lose it and have to start the process over. Howard Pearl said that he does not want this to turn into a repair shop and understands that they have been assured that it will not but asking for a repair plate raises a red flag. Mrs. Briggs explained that they have to have the repair plate in order to get the supplemental plate. Mr. Pearl said that he would think that reconditioning could include mechanical repairs or anything that makes the car fit to sell. Dustin Bowles asked what they are applying for. It was stated that they are applying for a special exception for a major home occupation. Mr. Bowles said that he thought zoning regulations limited a home occupation to 50% of the first floor of the home. He said that the selectmen have done some dealer plates before but when they saw repair plate marked on the permit they realized those are not typical. He said this sounded more like a business and that is why it was sent to the ZBA. He said detailing is one thing. Ned Lizotte noted that there had been a similar situation on Upper Ridge Road a couple of years ago and that was for detailing of motorcycles. He said everyone got uncomfortable with that but it had not sounded like it was for repairs. Mr. Bowles said that the Board needs to be very careful as one thing leads to another and this could be turned into a full-fledged garage, noting that these special exceptions stay with the property even if the current owners move on. He asked if the applicants have applied for a dealer plate. Mr. Briggs said that they were told that they have to have commercial property in order to get a dealer plate. Mr. Bowles said that there are several people in town who have dealer plates. Mrs. Briggs stated that she and her husband are bonded dealers but in order to have a dealer plate they would have to have a commercial site. Chief Burr said that the special exception stays with the property and the use could be changed and then be against codes. Vice Chairman Lizotte said that the application is for detailing, not for repair. He noted that a Board member has a similar business where he does motorcycle application. He said that the owner has vehicles coming in so he can do the applications but he does no repairs. Mr. Bowles said that the Board has to be sure that they are clear with whatever they decide so that the files show what they did or did not approve. He said he would again caution the Board about the 50% of the living quarters being what is permitted for a home occupation. Mr. Lizotte pointed out a cabinet refinishing business that is done in the homeowner's garage. Mr. Bowles said that that was approved so that the work is done in the house and the garage is used for storage. George Saunderson said that he does not find anything in the ordinance about the restriction noted by Mr. Bowles but pointed out that Section 502.2 C was deleted in 2005 and that may have been the reference Mr. Bowles was thinking of. Howard Pearl said that the only limitations that he could find are Section 502.2 F about needing one parking space for every 300 SF of space and then Section 502.5 B that limits the parking to four spaces. He said that would mean that they can use no more than 1200 SF of building space.

Howard Pearl asked about the site walk. Mr. Lizotte explained that the Board is trying to do more site walks in order to have the full details outlined for a decision. He said that they need to be sure that it all falls within the regulations. Mrs. Briggs said that the purpose of this is to get the plates and eliminate having a tow truck or trailer bring in the vehicles, as well as being able to drive the vehicles to Harry O's for washing them and cleaning the upholstery. She said it would be a better situation all around. Howard Pearl said that they are on the right track and that the Board has to be sure to do due diligence. He said that part of the Board's duty is to guide the applicant through the rules. Mr. Lizotte said that they do site walks so that they are

fully aware of what is there. He asked the applicants if the delay would create a problem for them. Mr. Briggs said that it would create more expense but would not be the end of the world. He said that they would have to renew their current license and get the additional one after approval. A site walk was scheduled for Tuesday, March 18, 2008 at 5:30 p.m.

Howard Pearl made a motion to continue this case to March 27, 2008 at 7:00 p.m. in the Community Building; seconded by George Saunderson. All were in favor. There will be no further notification.

IV. UNFINISHED BUSINESS:

V. BOARD DISCUSSION:

Donna informed the Board of the Spring Planning & Zoning Conference.

VI. ADJOURNMENT:

Jim Venne made a motion to adjourn the meeting at 8:10 p.m., seconded by George Saunderson. All were in favor.

Respectfully submitted,

Donna White
Administrative Assistant