

COPY

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
MARCH 27, 2008**

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of March 27, 2008 to order at 7:00 p.m. at the Loudon Community Building.

ROLL CALL:

The following members were present: George Saunderson, Vice Chairman Ned Lizotte, Chairman Dave Powelson, Roy Merrill and Alternate Jim Venne. Jim Venne was appointed as a voting member in the absence of Howard Pearl.

ACCEPTANCE OF MINUTES:

Regular Hearing - *George Saunderson made a motion to approve the minutes of February 28, 2008; seconded by Ned Lizotte. All were in favor.*

Site Walk – *George Saunderson made a motion to approve the minutes of the site walk of March 18, 2008; seconded by Ned Lizotte. All were in favor.*

ELECTION OF OFFICERS:

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

Vice Chairman – *George Saunderson nominated Ned Lizotte as Vice Chairman; seconded by Jim Venne. There were no other nominations. All were in favor.*

PUBLIC HEARINGS:

Case # 08-02, George Tombarello – Appeal of an Administrative Decision, Map 4, Lot 13 and Map 13, Lot 5. There were no abutters present. Chairman Powelson gave an overview of the case to date and asked if there were any new questions or concerns. Ned Lizotte stated that there has been an increase in the proposed building size due to the acquisition of additional acreage. He said that he felt that was reasonable for the proposed use of the land and that the Board would have to determine conditions to be attached to an approval. Chairman Powelson said that this appeal is of the code enforcement officer's decision to deny a building permit and overturning that decision would be directing Mr. Fiske to issue a permit on a woodlot/wildlife management parcel. He said that the Board has to be clear on the guidance they are giving in that it is specific

to a forestry and wildlife lot and that Mr. Tombarello's plan has the approval of the Conservation Commission. Mr. Tombarello stated that he is working with Fish & Game and will have a wildlife management plan in place in the next few months. Ned Lizotte said that the Board does not necessarily need to see the management plan as long as he is working with the Conservation Commission and they are in agreement with his plan.

Mr. Tombarello showed the Board a drawing of the proposed barn. He said that the windows will be 2' x 2' fixed windows that would be 7' off the ground so that they allow light into the building but cannot be used to enter the building. Mr. Tombarello said that the design is not something that you would want to convert to a residence.

David Forbes said that it was mentioned at the last meeting that town counsel had been contacted on this request. Ned Lizotte said that the attorney had recommended that the Board devise a framework to come up with some tangibles that would give the Board, Code Enforcement Officer, and Mr. Tombarello a clear picture as to how to approach this request. Mr. Forbes said that the purpose and permitted uses in the RR District seem to call out enough options to make this possible. He said that there are regulations in place to control growth in the town and that the enforcement through the Code Enforcement Officer gives a substantial measure of control. Mr. Forbes said that a building permit for a barn would clearly be for that purpose only. Ned Lizotte said that he had come up with two parts that this fits under and that the town attorney had given clarification of the matter. He said they wanted clarity yet make it so it is not so rigid that it is not doable. Roy Merrill said that he felt that it is clear in what Mr. Mayer said that a barn would be accessory to the use of the property.

Dave Powelson said as forestry and wildlife protection activity is a permitted use, the applicant is asking for an accessory use. He said that he has largely been of the opinion that accessory needs a primary use. Mr. Forbes talked of the list of permitted uses, noting that they are not solely accessory uses and could be primary uses. There was further brief discussion of the permitted uses of Section 204.2.

Chairman Powelson asked if there was anyone who wished to speak in favor of or against the appeal. Hearing none, he closed the hearing to the public and opened it to the Board only.

Ned Lizotte made a motion to overrule the administrator's decision and authorize a permit for a barn no larger than 28' x 40' with a concrete foundation, stipulating that there will be no running water, no bathroom, no kitchen, no residential facilities, and no occupancy; seconded by Roy Merrill. There was brief discussion of power in the barn. Roy Merrill stated that he does not see a problem with having power in the barn. Chairman Powelson said that he believes it would be correct to call this an accessory use of forestry and wildlife preservation. He said that it should be noted that Mr. Tombarello is pursuing a wildlife management plan, that this is a very large parcel (now 343 acres), and he has the Conservation Commission's approval. Roy Merrill said that he would like to commend Mr. Tombarello for going to this effort in protecting the land which is a good asset to the Town of Loudon.

A roll vote was taken: George Saunderson – Yes; Ned Lizotte – Yes; Dave Powelson – Yes; Roy Merrill – Yes; Jim Venne – Yes. Unanimous - PASSED

Case # 08-03, David & Judith Briggs – Special Exception for Major Home Occupation, Map 33, Lot 43. There were no abutters present. Chairman Powelson reviewed the

request and explained that the Board had done a site walk at the property. During that site walk, the Board discussed how a car detailing business fits the Zoning Ordinance and that neighborhood.

Ned Lizotte said that the Board discussed that there would be no environmental impact as the facility would contain whatever work is done; there would be no discharge to the area or atmosphere; any other work to be done is done offsite; and no repair work is to be done. He said that the concern was licensing to get the proper plate that would allow the applicants to move a vehicle from one location to another without having to get a 20-day plate each time. Mr. Lizotte said that the location and plate are not meant to be used for repair but the transport and cleaning of vehicles for resale. Roy Merrill said that it was made clear that the applicants are not selling the vehicles at their home. George Saunderson suggested that a limit be put on the number of vehicles that could be onsite at one time but he did not see how the Board could do much to stop the applicants from purchasing and detailing vehicles for resale.

Ned Lizotte said that he would recommend stipulating that there be no more than four vehicles at one time; no service or repair work outside of cleaning, washing, waxing, or compounding paint finishes; no priming, painting, or body work for dents and repairs; and no mechanical work on vehicles to be sold. Dave Powelson said that people are allowed to buy and sell cars. He asked where the sales take place. Mr. Briggs said that they have other sites to sell the vehicles through. Mr. Powelson confirmed that the vehicles are not sold at the applicant's address. He said that these vehicles seem to be something that the applicants own and they come in, get cleaned, and go back out. Jim Venne said that it seems pretty straightforward.

Chairman Powelson asked if there were any further questions or comments. Dave Moody said that it was the term 'repair plate' that was throwing everyone off at the last meeting but this is not a repair garage. Mr. Briggs said that they have to have the repair plate in order to get the supplemental plate that allows them to test drive and transport the vehicles. The chairman stated that the business does not require signage, is fairly invisible to the road and neighbors, and is all within the building. He said the application appears to meet the criteria of Section 502.2, A-H. Dustin Bowles said that he would like to see an annual inspection as part of the approval. It was noted that it is part of the criteria. There was discussion of what happens with an approval upon the sale of the property.

Chairman Powelson closed the hearing to the public and opened it to the Board only. **Ned Lizotte made a motion to approve the special exception for a major home occupation under Section 502.2 with the following stipulations: 1) no more than four vehicles at one time; 2) no service or repair work outside of cleaning, washing, waxing, or compounding paint finishes; 3) no priming, painting, or body work for dents and repairs; 4) no mechanical work on vehicles to be sold; and 5) limited to detailing of vehicles to be sold. George Saunderson seconded the motion. A roll vote was taken: George Saunderson – Yes; Ned Lizotte – Yes; Dave Powelson – Yes; Roy Merrill – Yes; Jim Venne – Yes. Unanimous – PASSED**

BOARD DISCUSSION:

Donna asked the Board about an inquiry she had from a gentleman about putting a motorcycle sales/repair business on a commercial lot on Route 106. The gentleman had

asked for clarification that the use would be permitted. The Board agreed that the use would be permitted as retail sales and would fall under automotive repair.

Donna informed the Board of an application that has been received for a reduced setback and would be heard at the next meeting. There was discussion of doing a site review prior to that date and it was agreed to schedule the site review for April 24, 2008 at 6:00 p.m. just before the regular meeting.

Roy Merrill said that he would like to ask the Board's opinion if the town's zoning permits 'condex' units. He said the Planning Board recently discussed this and had stated that it could be done through a subdivision. Mr. Merrill said that the house would be subdivided and the land held in common ownership. There was discussion about ownership, taxation, condominium agreements, and other relative concerns. Donna was asked to contact town counsel about one lot with one building and two owners.

The Board reviewed FEMA maps for update.

ADJOURNMENT:

George Saunderson made a motion to adjourn the meeting at 8:30 p.m.; seconded by Ned Lizotte. All were in favor.

Respectfully submitted,

Donna White
Administrative Assistant