

APPROVED

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF FEBRUARY 26, 2009**

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of February 26, 2009 to order at 7:00 p.m. at the Loudon Community Building.

ROLL CALL:

The following members were present: Chairman Dave Powelson, Howard Pearl, and Alternate Jim Venne. Jim Venne was appointed as a full voting member for this meeting.

Chairman Powelson explained the hearing process with fewer Board members.

ACCEPTANCE OF MINUTES:

Regular Hearing – **Howard Pearl made a motion to approve the minutes of January 22, 2009; seconded by Jim Venne. All were in favor.**

DISCUSSION:

Denise Leclerc – Mrs. Leclerc explained that she owns a multi-unit property on South Village Road. She spoke about the Village Committee plan that was being proposed at the time that she purchased the property but has not happened. Mrs. Leclerc said that the dog grooming business that is in her building is moving to Concord for better visibility and location. She said she would like to convert the building back to four apartments as it was when she purchased the property. Dave Powelson noted that permitted uses for the Village District allow multi-family dwellings of not more than three dwelling units per building. Mrs. Leclerc said that she would like to return the unit to an apartment and leave it that way. Mr. Powelson said that it was his recollection that it was four apartments which was non-conforming and one was turned into the grooming shop which made it more conforming. Mrs. Leclerc stated for clarification that the property was four apartments when she purchased it five years ago.

Howard Pearl asked what was done to create the shop. Chairman Powelson stated that a special exception for a dog grooming shop was granted in October of 2004. He read from the minutes of that meeting. Mrs. Leclerc noted that there was a lot of conversation about the Village District being built up and that is why the groomer chose to set up there. She said that it had been proposed that the post office was to come to the Village and there would be shops and sidewalks. Howard Pearl said that he was not sure that the Board has the authority to approve this back to a non-conforming status. The chairman read from the non-conforming section of the Zoning Ordinance. Mr. Pearl asked if three units and a small business make the property a conforming use or if it would still be non-conforming. Mr. Powelson said that it was made less non-conforming when it got the special exception. He said if the owner could make a case that the Village

plan had changed the apartment might be more appropriate than an empty shop. Mrs. Leclerc spoke about the Yankee store being empty and that the Village is not the plan as discussed when she bought the property. Howard Pearl said the only way he could see relief was in Section 602.2. He said the owner could say that the Village District is not what they had hoped and apply for a special exception to change one non-conforming use to another non-conforming use. The chairman explained the application process. Mr. Pearl read from Section 602.2. Jim Venne asked if any physical changes are needed to put the unit back to an apartment. Mrs. Leclerc said that no structural changes would be necessary.

PUBLIC HEARINGS:

Case # 09-02, Tony Merullo – Special Exception for Steep Slopes, Map 38, Lot 8. Abutters have been notified; none were present. Mr. Merullo spoke on behalf of the owner, Peter & Gary, LLC. He stated that a site walk was done earlier in the day where the Board members viewed the property. Mr. Merullo said that they are trying to create a 1.5 acre contiguous buildable area using some 25% slopes. He said that it was his understanding that there is an amendment on slopes coming up for a vote on the ballot in March. Chairman Powelson explained the proposed change. Mr. Merullo explained that the lot is dissected in half by wetland. He said in order to get 1.5 acres of contiguous area without using the slopes they would have to cross the wetland and buffer to get to the back of the property.

Mr. Merullo asked if pockets of steeper areas create a steep slope district. Chairman Powelson stated that that was part of why they would like to see the definition changed, noting that the current ordinance does not give any area of size. Howard Pearl concurred with Mr. Powelson's statement, saying that any knob has to be counted as the ordinance is currently written. Mr. Merullo said that he applied for a special exception to use some of the 20-25% area as driveway and building area. He said that he understood the Zoning Ordinance to include more and asked if the Board has the power to change from 20% to 25%. Mr. Powelson said that the Board does not have that power and explained that they have done similar things through variances. He said that the Board could grant special exceptions to build driveways, roads, and utility lines in steep slope areas. Mr. Merullo discussed the area that would be disturbed for the driveway. Discussion continued about the total area of disturbance.

Howard Pearl asked if the shaded area of the plan depicts slopes. He said what is being asked is beyond the power of the ZBA. There was discussion of options: move the driveway, wait for the vote on the amendment, apply for a variance. Mr. Pearl said that some things have been mentioned that could be hardships and that Mr. Merullo has to decide which way is best. Mr. Merullo asked to have this application tabled until next month. **Howard Pearl made a motion to continue this application to the March 26, 2009 meeting at 7:00 p.m. in the Community Building; seconded by Jim Venne. All were in favor.** There will be no further notification. There was discussion of when Mr. Merullo could modify this application and the deadline for submitting a new application.

Case #09-03, Tony Merullo – Special Exception for Driveway in Setback, Map 38, Lot 8-6. Abutters have been notified; none were present. Mr. Merullo spoke on behalf of owner Patrick Picardi. He explained that this property is at 7336 School Street and is a two acre parcel in the RR District. Mr. Merullo said that the existing driveway was

installed for a log landing and he is asking to allow it to remain in that location as the approved residential driveway. He read through the points of the application. Mr. Merullo stated that he spoke with the abutters to the driveway location (DeHart) and they have no problem with the request. He explained how moving the driveway to the east would put it in the higher area with outcroppings of ledge and closer to the new PSNH pole and wider section of the PSNH right-of-way.

Mr. Merullo stated that they are asking for a 10' setback. He said that a tape was pulled at the site earlier in the day and it was thought that 15' might work. Mr. Merullo explained that the current location gives proper room for swales to each side of the driveway and he thinks that it would be best to ask for 10' because of the drainage. Howard Pearl said that his questions have been answered between the site walk and Mr. Merullo's presentation. Jim Venne said that he had no questions.

Chairman Powelson closed the hearing to the public and opened it to the Board only. **Jim Venne made a motion to allow the Special Exception, reducing the westerly side setback from 30' to 10' for the purposes of a driveway; seconded by Howard Pearl.** Mr. Pearl said that the best location for the driveway would be at the 10' setback based on having been on the site walk and the case being made for the ledge to the easterly side of the driveway. Dave Powelson said that it has been the tradition of the Board to go half of the setback to 15' but he believes that 10' is best in this situation. **A roll vote was taken: Howard Pearl – Yes; Dave Powelson – Yes; Jim Venne – Yes. Unanimous - PASSED**

ADJOURNMENT:

Howard Pearl made a motion to adjourn the meeting at 8:00 p.m.; seconded by Jim Venne. All were in favor.

Respectfully submitted,

Donna White
Administrative Assistant