

APPROVED

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

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting of March 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, Roy Merrill, Vice Chairman Ned Lizotte, George Saunderson and Alternate Jim Venne.

ACCEPTANCE OF MINUTES:

Regular Hearing – **Howard Pearl made a motion to approve the minutes of February 26, 2009; seconded by Jim Venne. All were in favor.**

Site Visits – **Howard Pearl made a motion to approve the minutes of two site visits on February 26, 2009; seconded by Jim Venne. All were in favor.**

PUBLIC HEARINGS:

Case # 09-02, Tony Merullo – Special Exception for Steep Slopes, Map 38, Lot 8. Abutters have been notified; none were present. A letter was received from Mr. Merullo to withdraw this application due to a zoning change that was approved at town meeting, making the special exception unnecessary.

Case # 09-04, Cathy & Fred Miller – Special Exception for a Home Occupation, Map 12, Lot 35. Abutters have been notified; none were present. Mrs. Miller explained that she would like to have an esthetics salon in their home. She read through the points of the application. Ned Lizotte asked Mrs. Miller what her hours of operation would be. Mrs. Miller said that the hours would be 2-7 p.m. right now as she is working another job and is expecting to keep this part time. Howard Pearl asked Mrs. Miller if she would anticipate more than two clients at a time. Mrs. Miller said that there would be one client scheduled at a time and the only time there would be two clients would be when one was coming in for their appointment and another was leaving. Mr. Pearl asked if she was familiar with the sign regulations and if there was sufficient off-street parking. Mrs. Miller said she is aware of the sign regulations and that there is ample parking. George Saunderson asked if the last client would be out by 8 p.m. Mrs. Miller said that would be correct. Dave Powelson said that he did not see specific hours of operation on the application. George Saunderson asked Mrs. Miller if she would be in agreement if the Board stipulated she was to be done by 8 p.m. Mrs. Miller said that would be fine.

Chairman Powelson asked if there was anyone from the public wishing to speak in favor of or against the application. There were none. Ned Lizotte asked if there would be any toxic chemicals used in the salon. Mrs. Miller said that she would be doing organic skin care. The chairman asked the Board if they felt this fit as a home

occupation. All agreed that it does. Chairman Powelson closed the hearing to the public and opened it to the Board only.

Ned Lizotte made a motion to approve the application as presented; seconded by Roy Merrill. Mr. Lizotte asked the Board if they wanted to give Mrs. Miller until 8 p.m. Howard Pearl suggested allowing her 8 a.m. to 8 p.m., that way she would not have to come back in the event that she decides to take on more clients. Ned Lizotte said that this is a low impact business with minimal traffic volume. Howard Pearl said that there does not appear to be a need for a site visit. **Ned Lizotte amended his motion to include the hours of operation as 8 a.m. to 8 p.m.; Roy Merrill seconded the amended motion. A roll vote was taken: George Saunderson – Yes; Ned Lizotte – Yes; Dave Powelson – Yes; Roy Merrill – Yes; Howard Pearl – Yes. Unanimous – PASSED**

Case # 09-05, Stephen J Leclerc – Abutters were notified; none were present. Chairman Powelson explained that the property being discussed was an apartment that became a pet grooming shop under the premise that the Village was to become more shops and businesses as stated in the applicant's letter. Mr. Leclerc said that was correct. He read through the points of the application.

Roy Merrill asked how many apartments are in the building. Mr. Leclerc said there are currently three apartments and the dog grooming shop. Ned Lizotte said that there were previously four apartments. Mr. Merrill asked about the septic system. Mr. Leclerc said that the system is adequate, as shown on the paperwork that was submitted with the application. He said there will be less water usage with an apartment than with the grooming business. Howard Pearl asked if a special exception was granted before to put in the dog grooming shop. Ned Lizotte said that there was a previous special exception where they had tried to make a non-conforming property no worse or more non-conforming. He said it was done at a time when the town was trying to bring the Village to something a little more commercial. Howard Pearl asked the applicant if he would be willing to give up the previous special exception. Mr. Leclerc said that he would be in agreement with giving up the previous special exception. Roy Merrill asked if there was anything in the former approval that stipulates that this cannot go back to an apartment. Dave Powelson read from the ZBA minutes of October 2004. Mr. Leclerc said that the ZBA at the time did not want the groomer to be able to live there as well as use the unit for business.

Chairman Powelson asked if there was anyone wishing to speak in favor of or against the application. There were none. He said that the biggest part of the decision is if the Board agrees that the nature of the Village has changed since the previous decision. Ned Lizotte stated that it was an apartment before and it could go back to an apartment but the special exception for a business would be gone. Mr. Leclerc said that he is alright with that. Roy Merrill asked about accesses and egresses. Mr. Leclerc explained that it had to comply to ordinances when the business was put in so it is better than it was originally. Mr. Merrill asked if there are two egresses. Mr. Leclerc said that there are two egresses. Mr. Merrill said his only concern would be that they are not putting it back to an apartment that is not to code. Chairman Powelson asked if a site review and an opinion from the fire chief were needed. Denise Leclerc said that Chief Fiske and Chief Burr have been there. Ned Lizotte said that the building had to meet codes with mixed

use. Jim Venne stated that he has been there and the entrance and exit are fine. Roy Merrill said that he would feel better if they had something from the building inspector or fire chief. Mr. Leclerc said that he is not opposed to them inspecting the unit. Mrs. Leclerc stated that there are hard-wired fire detectors, lit exit signs, and fire extinguishers as required.

There was discussion on how to proceed. Chairman Powelson closed the hearing to the public and opened it to the Board only. **Howard Pearl made a motion to approve the application with the condition that they meet all codes as set forth, letters of approval be received from the code enforcement officer and the fire chief, and the original special exception be removed; seconded by Ned Lizotte.**

Howard Pearl said that Mrs. Leclerc came to the Board last month for discussion and she was advised that this would be changing from one non-conforming use to another non-conforming use. He said that the Village District is going backward and this would bring the building back to four apartments rather than three, therefore the building would be back to its pre-existing condition. He said it would not be fair to hold them to what they tried to do when the plan of the Village changed.

A roll vote was taken. Howard Pearl – Yes; Roy Merrill – Yes; Dave Powelson – Yes; Ned Lizotte – Yes; George Saunderson – Yes. Unanimous – PASSED

Case # 09-06, NH Motor Speedway – Special Exception for Filling of Wetland Area, Map 61, Lot 5. Roy Merrill recused himself as an abutter of the property. Jim Venne was appointed to sit as a full voting member for this case.

Mark Sargent of Richard Bartlett & Associates represented the applicant. General Manager of NHMS Jerry Gappens, wetland scientist Cindy Balcus, and civil engineer Chris Adams were present. Mr. Sargent explained the four areas of proposed work/impacts. He said they have made application to the State for site specific and wetlands permits. Mr. Sargent said that they anticipate receiving the site specific soon and the wetlands in about one month.

Mr. Adams went through the plans with regard to the engineering aspect of the project. There were several questions from the Board about areas, size, and types of piping. Mr. Adams said that the system would be providing treatment to stormwater before it leaves the field. He explained that there will be three stormwater collection areas before the water pipes to the channel. Mr. Adams said that the stormwater will pass through the water quality units before it merges back with the brook. He said the stone areas are to be used for water storage. Howard Pearl asked Mr. Adams if he felt they have enough storage. Mr. Adams said that they will. George Saunderson noted that there were three treatment areas on the lower pipes shown on the plans but none on the upper section. Mr. Adams explained that the upper section is where the brook is passing through and no treatment is needed. Ned Lizotte asked about the reduction of pipe from 72” to 60” to 42”. Mr. Adams explained that the piping currently under the grandstands is 72” (non-perforated) so they have to stay with that for a distance and then go to the 60” (perforated). He said the 42” culverts are already there.

Mr. Adams said that the plan includes adding an additional lane of traffic, another treatment area to treat the runoff from that asphalt, removing the weir as part of widening the road and upgrading the culvert under the road as an egress for Homeland Security,

and creating a mitigation area. Dave Powelson asked who owns the land that the culvert is on. Mark Sargent said that the Speedway owns the property. He explained that they went to the Board of Selectmen and found that the area is not part of the Class VI road. Mr. Sargent said that the Speedway has upgraded the road and there is a segment that is still in rough shape. He said they will probably come to the town at some point to upgrade that section.

Cindy Balcius explained the wetland system and gave functions and values of the different areas. She said there will be a 12,000 sf impact at the top of the plan by Route 106 and a 58,000 sf impact at the interior of the track. She said that a lot of the areas being worked on are man-made and parts of previous permits. Ms. Balcius outlined the impacts on the four areas. Howard Pearl asked about the disturbance area of sections 3 and 4 on the plans. Ms. Balcius said that the impact to widen the access road is 9,000 sf. There was discussion of the location of the different areas of proposed work. Ms. Balcius passed pictures around to the Board so that they could see the various areas of impact. She said that federal, state, and NHMS representatives agree that the proposed plan is the best for the area. Ms. Balcius said that they are making an existing degraded site a lot better. She said that they looked at three options to move the brook but there were many issues and constraints that made the options impractical.

Mark Sargent went through the points of the application. He explained the four areas of work: 1) hospitality area is currently bisected by wetland; this will make a safer, better access; 2) infield, this will make a better productive use by correcting some imperfections, line of sight issues, and better functionality of the entire infield; 3) increase the width of the access road and increase safety; and 4) flood storage area, noting that water impoundment and roadway functions (culvert) are allowed by special exception.

Ned Lizotte said that the site visit was very helpful, making this all come together when hearing the presentation. Howard Pearl asked what the timeline would be. Mr. Sargent said that they have a very aggressive construction schedule. He said that they have asked the Planning Board for consideration to allow a phased approach by starting the improvements outside of wetland areas until they receive the wetland permit. Mr. Sargent said that this is the major project for the 2009 season and they would like to have the bulk of it done by the first race. Howard Pearl asked if the infield was the biggest priority. Jerry Gappens said that the infield and the hospitality area are where the emphasis would be placed in order to get them done before fans arrive. Mr. Gappens spoke about the proposed work, the improvements that have already been made, and the timeframe for the work to be completed.

Chairman Powelson asked if there were any abutters wishing to speak in favor of the application. Hearing none, he asked if there were any abutters wishing to speak against the application. There were no comments from the public. Mr. Powelson said that the Zoning Ordinance requires a thirty day notice to the Conservation Commission, Planning Board and health officer. He explained that the Planning Board was present at the site visit and seemed tentatively in favor of the proposal and that the Conservation Commission is in favor of the project. He said there is no need to wait another thirty days for comments but did feel it would be good to go through the Wetlands Conservation District criteria. Mr. Powelson said that most of what is being done is an improvement. Jim Venne said he felt the project was a great improvement. Chairman

Powelson read Section 301 of the Zoning Ordinance, pointing out areas that would cover the different sections of work. He said that the work at the three roads (Gues Meadow, Access, and unnamed access) would seem to fall under the section's permitted uses. Mr. Powelson said that the excavation by Gues Meadow Road and the truing up and re-aligning of the brook, as well as most of the infield and hospitality areas, would be considered water impoundment. Dave Powelson asked about notes relative to excavation and fill for pedestrian bridge abutments. Cindy Balcius explained that this was in wetlands area #3 and would be for a future bridge crossing. Ned Lizotte asked when Homeland Security came into play at the track. Mark Sargent said there have been ongoing discussions and changes. Mr. Lizotte asked if they would be using permeable pavement. Ms. Balcius said it is not proposed for this project. George Saunderson asked if they would have all permits in order for the Planning Board next month. Mark Sargent said they are very sure on the site specific but not sure of the wetlands permit, therefore the request to start in the upland areas. Howard Pearl asked to confirm that it would not slow the project down if the Board approved the application contingent upon the receipt of the wetlands permit. Mr. Sargent said that was correct and that they would like that as a condition of approval and not have to come back in April. Mr. Pearl said that the representatives did a great job explaining the project.

Chairman Powelson closed the hearing to the public and opened it to the Board only. **Ned Lizotte made a motion to approve as submitted with the condition of the wetland permit being forthcoming.** Chairman Powelson pointed out that Section 301.5 A 4 requires that the wetlands permit be submitted. There was brief discussion. **Howard Pearl seconded the motion.** Ned Lizotte said that it was a great presentation. Howard Pearl said that they very much demonstrated hardship and the need to make changes. He said they are doing it in an appropriate manner and there are unique actions needed, noting that the proposal is very ecologically sound. **A roll vote was taken: George Saunderson – Yes; Ned Lizotte – Yes; Dave Powelson – Yes; Howard Pearl – Yes; Jim Venne – Yes. Unanimous - PASSED**

Roy Merrill returned to the Board.

ELECTION OF OFFICERS:

Chairman – **Howard Pearl 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 Roy Merrill.** There were no other nominations. **All were in favor.**

ADJOURNMENT:

Howard Pearl made a motion to adjourn the meeting at 8:25 p.m.; seconded by Roy Merrill. All were in favor.

Respectfully submitted,

Donna White
Administrative Assistant