

**APPROVED**

**TOWN OF LOUDON  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF MARCH 25, 2010**

Chairman Dave Powelson called the meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chairman Dave Powelson, Vice Chairman Ned Lizotte, Roy Merrill, Howard Pearl, George Saunderson, and Alternate Jim Venne

**ACCEPTANCE OF MINUTES**

**Regular Hearing – Ned Lizotte made a motion to approve the minutes of January 28, 2010 as presented; seconded by Howard Pearl. All were in favor.**

Chairman Powelson noted that Jim Venne's term as an alternate member expires this month. He said he would like to nominate Jim for another term. Board members agreed that Jim has done a good job and been an asset to the Board. All were in favor of the appointment. Jim will see the Town Clerk to be sworn in.

Chairman Powelson said that he has been unable to reach Jonathan Huntington. He will continue to try to make contact to see if Mr. Huntington is interested in another term as an alternate member. He congratulated the recently re-elected members.

**DISCUSSIONS**

**Rodney Phillips/Faith Community Church** – Mr. Phillips spoke on behalf of the church's long-range planning committee. He gave an overview of the church and its needs. Mr. Phillips explained that they would like to replace the three-bay garage that is currently on the property across North Village Road from the church. The garage would be replaced with a 40' x 60', one story structure that would look like the existing house. He stated that they would close the current driveway and open a new one directly across from the church driveway. There would be three or four parking spaces; the building would be designed so that it could be modified if sold in the future. Mr. Phillips noted that the church is in the C/I District and the parsonage is in the RR District. He said he is looking for some feedback from the ZBA on this proposal, noting that he met with the Planning Board the week before. He said the road crossing was the main concern of the Planning Board. Mr. Phillips said that they would plan to have four to six classrooms for Sunday school in the new building. Ned Lizotte asked if they had thought of adding up on the current church. Mr. Phillips said he was not sure that is feasible on the existing structure. He said there is a second floor that is currently used for education. Roy Merrill said there did not appear to be any setback issues. Dave Powelson said the new location of the driveway would be the only area of concern that he could see. Mr. Merrill said he saw no problem with the setback. He said the traffic safety would be his only concern. He noted

that parking could be a long range problem. Mr. Phillips said they realize that and could go to a third service if necessary. Howard Pearl pointed out that the use is permitted by zoning. Dave Powelson stated that the fire department would be interested in the life safety aspect of the project.

## **PUBLIC HEARINGS**

Z10-03, Michael Milligan – ESMI Soil Application Request, Map 20, Lot 58. Mr. Milligan explained that he is developing his site at the corner of Wales Bridge Road, Route 106, and South Village Road. He said there is a section in the driveway/parking area that needs fill and he would like to use the ESMI soil for that purpose. He said the area, on the Dunkin Donuts side of his proposed building, will be paved. Ned Lizotte asked if he is using this fill because of its low cost. Mr. Milligan said that was correct. He said the area will be paved so it made sense to get free or low cost fill is possible. Mr. Lizotte asked how many yards will be required. Mr. Milligan said he estimates that he would need approximately 1,000 yards. Mr. Lizotte complimented Mr. Milligan on the work that has been done on the site thus far, saying that he has cleaned it up nicely. Mr. Milligan explained how the work is limited by the State.

Jim Venne asked about the soil tests that were done. Mr. Milligan explained that he met with Steve Raper of ESMI and Bob Fiske when he did the test pits. Dave Powelson explained that the tests were to provide background results of the lot before ESMI soil is applied. This gives them a history before adding any reprocessed soil. He explained that ESMI checks the soil before they receive it for processing, then they clean it and certify that there are no issues with it. Howard Pearl said that he feels this is a perfect application for the ESMI soil. Mr. Milligan stated that the area won't be open to runoff as it will be paved. George Saunderson asked if Mr. Milligan planned to use regular pavement. Mr. Milligan said that was correct. Mr. Pearl said that he took a walk at the site earlier in the day and it looks like the perfect site to use this soil and it all seems to be in compliance with the process. Ned Lizotte said this seems to meet the criteria for ESMI soil application.

**Howard Pearl made a motion to allow the application of up to 1,000 yards of ESMI soil; seconded by Ned Lizotte. All were in favor.**

Z10-04, Peter Johnson – Special Exception for Automotive Uses, Map 1, Lot 58, Units 7 and 8. Mr. Johnson explained that he is an electrician and did the electrical work in the new Bollinger commercial building on Staniels Road. He has two of the units that he will use for his electrical office and warehouse and for automotive diagnostics. He said that the bays have been modified to meet all required fire codes and then he learned that the building was only approved for business use which would accommodate his office and warehouse but not the diagnostics business. Mr. Johnson said that he has met with Firefighter John Reese. Chairman Powelson read a letter that was received from the fire department. The letter states that the use proposed by Mr. Johnson is acceptable based on the fire codes.

Mr. Johnson said that the bays are small so he would have a lift in one and would be dealing with one vehicle at a time. He explained that there is a 14' overhead door, a 20' x 36' bay, small office and mezzanine over the office. Mr. Johnson said that he

would be able to do repair in the second bay. He noted that there would be no stored vehicles and that the majority of his customers stay while he is doing the work. Howard Pearl clarified the type of diagnostics to be done. He said this would be more for performance vehicles than regular passenger car service. Mr. Johnson said it is a specialized market. Dave Powelson asked how much time is involved for the diagnostic process. Mr. Johnson said it is typically an hour or two. He said the vehicle is off most of the time. Mr. Johnson said he does this on the side as he is an electrical contractor full time. He said he has been doing this in Concord for six years. Howard Pearl said four to six cars a day could be diagnosed if this was full time and the market was there. Mr. Johnson said it is not a big market. He said the second bay would be used if a customer wanted an exhaust system or some other work done as a result of the diagnostics test.

Dave Powelson asked about Mr. Johnson's contractor business. Mr. Johnson said that he has two vans and three employees, one being his son. He said they do a vehicle swap in the morning and would be gone all day. Mr. Johnson said that the diagnostic business does not require parking as they bring the vehicle right in. Roy Merrill asked if there would be any retail business. Mr. Johnson said there would not be any retail business; he would simply store his tools and supplies at the unit. George Saunderson asked if Mr. Johnson would be alright with wording an approval that he could work on diagnosing performance vehicles but not do general repairs. Mr. Johnson asked if it would be a problem if he wanted to work on more vehicles. Mr. Saunderson said it runs into more parking issues if general repair is allowed but it does not sound like an issue with what has been described. Discussion continued about what type of repairs would be allowed and how to limit the use. Dave Powelson noted that the application says there would be ten cars a day. Mr. Johnson explained that he has a partner that is his cousin and he is a certified Honda master technician and wants to do some work in the units as well. Howard Pearl said that ten vehicles per day seemed reasonable. Mr. Johnson said that he cannot expand because the Bollingers own bays to the other side of him so there is no concern there. Roy Merrill asked what would be involved with working on Hondas; if Mr. Johnson meant general automotive repair. Howard Pearl said this could be controlled by the number of cars per day. He said this falls within the automotive services category. Ned Lizotte said this started with an electrical business and has now gone to general maintenance. Mr. Johnson said he did not know how particular to get with the application as it all seemed to fall under automotive services which is permitted by special exception. Dave Powelson said that light auto repair could include oil changes, replacement of clutches, brake adjustments, and other minor repairs. Jim Venne said he sees a big difference between what Mr. Johnson is proposing and a business such as the Loudon Garage. Dave Powelson said he sees it that way as well. Howard Pearl and Dave Powelson said that light automotive repair seems to work.

Chairman Powelson went through the points of the application. Mr. Powelson said when he takes his vehicles for service he will generally leave them overnight and pick them up the next day (point #5). There was discussion of parking limits. It was noted that the condominium association has this set in their documents, based on uses. Jim Venne pointed out that they are here for a special exception for automotive uses and that parking is the business of the condo association. Howard Pearl said he did not feel that it is the place of the ZBA to be policing the parking; the condo association and Planning Board have set that. Ned Lizotte said if they are doing oil changes they would

have waste oil (point #6). Mr. Johnson said that John Reese approved the use, noting that waste oil is not flammable like gas.

Chairman Powelson asked if there were any questions from the Board. Ned Lizotte asked if there would be six to seven cars on a good day. Mr. Johnson said there would be no more than one a day on his side because he does electrical work during the day. Mr. Lizotte asked about used oil being onsite if Mr. Johnson's cousin is doing repairs on Hondas. Roy Merrill pointed out that the application says there will be no waste fluids and he would like to know that it is alright with the fire department if there is waste oil. Mr. Lizotte said the discussion began as diagnostics and then repairs were brought into the discussion. He said the waste oil triggers the fire department. He asked how much oil and how long it would be onsite. Mr. Johnson said that Mr. Reese did not consider that to be a problem. George Saunderson said that he does not see the special exception as a big issue. Ned Lizotte said this is not a separate building so this business affects all of the units. Howard Pearl pointed out that the fire department submitted a letter of approval. Mr. Johnson said that he paid a consultant to analyze the whole building. He said he worked with Firefighter Reese, noting that auto shops change oil. Roy Merrill again stated that the application says no fluid storage. Dave Powelson spoke about changing oil in his vehicles and the minimal amount from an oil change. He said gas is more of a danger. Ned Lizotte asked if this should go back to the fire department for clarification. Discussion continued about waste oil, fire department acknowledgement of such, and approving the diagnostics part of the business only at this point.

Jim Venne made a motion to approve the application with the stipulation that waste oil will be stored no longer than five days. Howard Pearl said that waiting a month for fire department clarification would be beneficial. There was no second on the motion.

**Howard Pearl made a motion to continue until April 22, 2010; seconded by Ned Lizotte.** Mr. Pearl said this would allow Mr. Johnson to discuss this further with the fire department and amend his application to be more specific. Ned Lizotte said that he has no issue with approving the application; he would just like more details. **All were in favor of the motion to continue.** The hearing will continue on April 22, 2010 at 7:00 p.m. in the Community Building. There will be no further notification.

## **BOARD DISCUSSION**

Variance application – Copies of a revised application form were handed out for review. Chairman Powelson explained that changes were necessary due to the passage of legislation and subsequent changes to the Zoning Ordinance. He said that he has reviewed the proposed form and compared it to the new language in the Zoning Ordinance. **Howard Pearl made a motion to accept the new application form as presented; seconded by Ned Lizotte. All were in favor.**

## **ELECTION OF OFFICERS**

**George Saunderson made a motion to re-elect David Powelson as Chairman and Ned Lizotte as Vice-Chairman; seconded by Howard Pearl.** Mr. Powelson and Mr. Lizotte agreed to continue in those positions. **All were in favor.**

**ADJOURNMENT**

Ned Lizotte made a motion to adjourn the meeting at 8:47 p.m.; seconded by Howard Pearl. All were in favor.

Respectfully submitted,

Donna White  
Administrative Assistant