

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF JANUARY 26, 2012**

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

ROLL CALL

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

ACCEPTANCE OF MINUTES

Regular Hearing – Roy Merrill made a motion to approve the minutes of December 22, 2011 as presented; seconded by Howard Pearl. All were in favor.

DISCUSSION

Steve Roy – Chairman Powelson stated that Mr. Roy was asked to attend this meeting to discuss a complaint about him doing wood processing on his property. He advised that a decision would not be made at this meeting as the complaint came through an attorney but the matter would be taken under advisement. Mr. Roy gave a timeline of when he bought the property for the purpose of wood cutting from Al Brock who had a concrete business at the same location. Mr. Roy explained the location of the property on Country Hill Road, stating that he has 17 ½ acres. He said this started as a hobby for his sons and has grown from there. Mr. Roy explained that he works full-time and does the wood on the side. He presented a sketch of this parcel to the Board for their review. Mr. Roy said he does not feel they are intruding on the neighbor at all. He said they do not have a processor but do everything by hand. Mr. Roy said the complaint lists equipment that they do not have, clarifying that they use saws, a splitter, tractors, and a conveyor. He spoke about ongoing matters with the neighbor, including the neighbor pulling boundary pins after Jeff Green surveyed the property. Mr. Roy presented Board members with a document that outlined the timeline of events with the property and the neighbor. He said there has been an ongoing business there since the '70s and Mr. Bouley has been there since 1984.

Roy Merrill said there has been a business there for a long time and if anything is needed it might be a change of use. George Saunderson suggested that it might be better to table this matter until the Board has some solid direction from the Town's attorney. Mr. Roy stated that he had no problem when Mr. Bouley asked for a reduced setback in 2004. Mr. Roy's son noted that others in town do wood processing with more equipment than his family and those do not have permits. After further discussion Chairman Powelson stated that the Board will speak with the attorney and get back to Mr. Roy.

PUBLIC HEARING

Application #Z11-13, David & Louise Osborne – Variance for Reduced Acreage – The applicant was not present.

Application #Z12-01, Jason Canney – Special Exception to revise conditions, C/I District, Map 20, Lot 58, Route 106 and Wales Bridge Road. Abutter Matt Smith and property owner Mike Milligan were present.

Mr. Canney stated that it has been almost two years since he was originally approved to operate at this location. He said he has done as asked by the town and has limited his business to service only the cars sold from his lot. Mr. Canney said the purpose of this application is to amend that condition. He said he has had a lot of people ask for service and he has had to send them elsewhere. He noted that there have been two other auto service businesses approved in town since his and neither of those have such restrictions. Mr. Canney said he feels people should be able to use who they want. Ned Lizotte said that Mr. Canney agreed to cooperate with Matt Smith with regard to sharing business. Mr. Canney said he felt pressured at that time to agree in order to get the approval. Mr. Lizotte said he is concerned about changing conditions.

Chairman Powelson went through the points of the application with Mr. Canney. Ned Lizotte asked Mr. Canney about sending business out to others in town. Mr. Canney explained that he does inspections and general maintenance but does not do engines, transmissions, or body work. He said he would still send those out to others.

Abutter Matt Smith of the Loudon Garage said that he has not seen any business from Mr. Canney. He stated that things are tight enough and he feels this would hurt his business. Mr. Smith said he has sent customers over to look at cars on Mr. Canney's lot but feels Mr. Canney did not hold up his end. He presented a list of shops in town, saying that the town needs to take a look at how many there are and stop adding more. Howard Pearl asked Mr. Smith how he feels this would hurt his business if Mr. Canney is not sending people to him now. Mr. Smith said that Mr. Canney's location is more visible and he feels Mr. Canney has enough to do with sales and warranty work. Mr. Pearl asked how many other auto sales businesses there are in town. It was stated that Stash sells cars and there are several individuals who sell out of their homes. Mr. Pearl explained that the Board has to look at the Zoning Ordinance and go with what is allowed. Mr. Canney said he feels no business should be limited if they choose to work harder and earn more.

Ned Lizotte said that when Mr. Canney first came in it was about balancing reciprocal competition. Howard Pearl said if it was balanced then both parties would be able to do it all, noting that Mr. Smith has a dealer license and could sell cars if he chose. Mr. Lizotte said he does not like to see applicants come back for changes. Mr. Pearl stated that things change for everyone and again spoke about true balance being both parties being able to do it all. Discussion continued.

Chairman Powelson reviewed the points of the application with the Board. On point #2, George Saunderson said he thinks the Board should not get into limiting a business. Jim Venne said he thinks an approval could be detrimental to another business but not the neighborhood. Roy Merrill said it is a tough situation and that he likes Mr. Smith but also cannot fault Mr. Canney for trying to do the right thing. He said things have changed and asking for this change is Mr. Canney's right. Mr. Merrill said Mr.

Canney has followed the process. Howard Pearl asked if the Board would deny someone who came in with another lot because there are too many of the same business. George Saunderson said that things do change and Mr. Canney has seen a need. He said they cannot keep the town exactly as it was 5, 10, 15 years ago. Jim Venne asked if Mr. Canney would be willing to compromise and not advertise the full service. Howard Pearl stated that whatever is decided is nothing against either party. Mr. Canney said he does not feel he should be restricted on advertising. Mike Milligan said that they spoke with Mr. Smith before the first application so things would be amicable. He said Mr. Smith then came into that meeting to block the approval so he and Mr. Canney made the concession per the Board. He said it should be about who is available and who people want to do their work. Earl Tuson asked if competition is injurious or detrimental to a neighborhood. Mr. Pearl said he would hope not. The majority of the members felt that point #2 was satisfied.

The remaining points of the application were reviewed. Earl Tuson said he would think there would be an increase in traffic if there is an increase in business. Howard Pearl said that the square footage of the building and number of parking spaces are as required. Ned Lizotte noted that the volume of traffic was addressed with the first application. **Howard Pearl made a motion to approve the application as presented; seconded by George Saunderson. A roll vote was taken: Howard Pearl – yes; Roy Merrill – yes; Dave Powelson – yes; Ned Lizotte – no; George Saunderson – yes. Yes – 4, No -1. Majority vote - APPROVED**

Application #Z12-02, Eric & Michelle Woodman – Variance for Reduced Frontage, RR District, Map 11, Lot 47, Chichester Road. There were no abutters present. Jeff Green of J L Green Enterprises represented the applicants. Mr. Green explained that there has been an existing auto repair business on this lot for many years and that the applicant came in to do a house on the lot. He said a lot line adjustment was done in 2009 and that there was no road frontage for this lot before that adjustment. Mr. Green said they tried to meet the acreage and create the required 50’ of frontage for a building lot. He explained that the bank will not release a 50’ piece of the Bonollo property that was part of the lot line adjustment so they have had to do a second lot line adjustment to reverse parts of the one done in 2009. He said this will leave 24.66’ of frontage on the Woodman lot.

Roy Merrill said the house never should have been built if the transfer had not been settled. Mr. Green explained that the problem came up when Mr. Woodman went to refinance. He said Mr. Bonollo’s bank will not release the strip, noting that the mortgage has been sold from bank to bank. Mr. Green said the abutting lots are all undersized so there is no option to get more frontage. Mr. Merrill said these need to be treated more carefully and nothing should be done until all releases are in place. Mr. Green explained the process and the changes that have occurred because of the economy. He said the Bonollo lot would be as it was before the 2009 lot line adjustment. Dave Powelson clarified that the access will remain as it is with a deeded easement over the Bonollo driveway. He said the lot gains 24.66’ of frontage and this might make the situation better, clearing up any issues with deeds.

Chairman Powelson went through the points of the application with Mr. Green. Ned Lizotte clarified that things have been alright since 2009 until trying to do the bank

process and they are now trying to correct the situation. Steve Ives asked if the business will continue on the same property as the house. Mr. Green said both were correct. Roy Merrill said the family owned both lots and sold the front lot, creating their own problem. Mr. Green explained the ownership of the lots, noting that Howard Woodman owned this lot until 2009. He explained that they applied for a variance when adding the house to the property and he reviewed the reason for the confusion with the transfer.

Ned Lizotte moved to approve the variance as presented; seconded by Howard Pearl. Jim Venne said this would seem to be the only solution. It was stated that due diligence was done on the part of the applicant. **A roll vote was taken: Howard Pearl – yes; Roy Merrill – yes; David Powelson – yes; Ned Lizotte – yes; George Saunderson - yes. Unanimous - APPROVED**

Application #Z12-03, New England Flower Farms – Variance for Coverage Area, RR District, Map 6, Lot 3, Pleasant Street. Abutter Wes Jones was present. Applicant Henry Huntington was present. Tim Bernier of T F Bernier, Inc. represented the applicants. Mr. Bernier noted that there was a typographical error on the application. The total impermeable coverage should be 25.8% not 28.5% as listed. Mr. Bernier stated that 10% building coverage is tough with this parcel due to the number of buildings. He explained the lot line adjustment that is before the Planning Board. Mr. Bernier said the applicants are doing some estate planning and there will be no change to the business or any visible changes. He pointed out that there are no lot density limits in the AFP district and that the limits in the RR district make things a little tough.

Mr. Bernier went through the points of the application. He stated that the overall density is the same; there will just be new lot lines. Dave Powelson noted that the total acreage will not change for the combined three lots. He asked what the plans might be for the open land. Henry Huntington said they want to manage the land and timber. Roy Merrill asked why they are not leaving more with the front lot. Mr. Bernier explained how many acres would be needed to meet the requirements. Mr. Huntington pointed out that the back land is not conducive to expanding. Mr. Merrill stated that Planning Board approvals for any expansions at this location were based on the size of the lot. Mr. Bernier said that 10% for buildings is tough to meet. Mr. Merrill said that runoff is an issue. Mr. Huntington stated that there will still be forty acres for runoff.

Howard Pearl asked where there is a hardship. Mr. Huntington stated that the family is growing and there are business changes. He said they are simply managing the properties and business. Mr. Pearl said that all approvals have been based on the full 97 acres for coverage percentage. He said to lessen that is going against those requirements and approvals. Mr. Pearl said the same rules were in place at the time of those approvals. He said a variance requires hardship.

Wes Jones asked about the purpose of the percentage of coverage. Roy Merrill said refers to impermeable surface. Henry Huntington asked why zoning puts 20% coverage in the Village district, none in the AFP district, and 25% in Commercial. Earl Tuson said it relates to building coverage and it was probably felt that it would work right in the RR zone. He said this parcel is RR but is not the typical RR use. Howard Pearl said the applicants are creating their own hardship. He said the future use of the land could be a question, noting that he understands estate planning but has the concern of creating a problem. Wes Jones said he would think they would want to keep it consistent.

Tim Bernier pointed out that an Alteration of Terrain, with two ponds, was done with the last expansion. Roy Merrill said that the clustering of buildings and impervious area on a large parcel is not restricted but it is not necessarily right. Howard Pearl stated that it comes down to no hardship until making the swap of ownership. Mr. Huntington said that the problem is the zoning. Tim Bernier spoke with Mr. Huntington about doing an easement. Steve Ives said it is not necessarily a bad zoning rule but this is a different situation. Wes Jones said if they are looking at changing the zoning he would ask that they look at the effect on the water table as the concentration of buildings may affect that. There was discussion of possible options.

Howard Pearl made a motion to table the application until February 23, 2012 at 7:00 p.m. in the Community Building; seconded by Roy Merrill. All were in favor. There will be no further notification.

BOARD DISCUSSION

Anonymous letter – Chairman Powelson read a letter that was dropped off at the window of the Selectmen’s office. The letter addressed a matter relative to The Villages. The Board members agreed that the author should address this directly with The Villages.

ADJOURNMENT

Howard Pearl made a motion to adjourn the meeting at 9:18 p.m.; seconded by George Saunderson. All were in favor.

Submitted by,

Donna White
Administrative Assistant