

**TOWN OF LOUDON  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF FEBRUARY 28, 2013**

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

**ROLL CALL**

The following members were present: Chairman Dave Powelson, George Saunderson, and Alternates Jim Venne and Earl Tuson

**ACCEPTANCE OF MINUTES**

**Regular Hearing – Earl Tuson made a motion to accept the minutes of January 24, 2013 as written; seconded by Jim Venne. All were in favor.**

**DISCUSSION**

Paul Askew - Mr. Askew said he is interested in purchasing the lot at the corner of Rtes. 129 & 106, M30, L23. He explained that he went to the building department and was referred to the planning office. He met with the Planning Board and was referred to the Zoning Board. Mr. Askew explained that he would like to remove the existing trailer from the lot and replace it with a log home. He would like to operate an antique/craft shop out of the basement of the new home. Mr. Askew said that the current owner has kept the water, sewer, and electric operable while it has been vacant. There was discussion of the proposed use, the lot being in the C/I District, the continuation of the residential use, and possibility of having a home occupation. Jim Venne said he would not see the property as abandoned since it has been maintained. Other board members agreed. It was decided to send the matter to the Board of Permit scheduled for March 5<sup>th</sup> where it can be determined if the lot can still be used as residential and if a home occupation would work.

**PUBLIC HEARING**

Application #Z13-02, Claudette Burke – Special Exception for Wetland Buffer Crossing, Rural Residential District, Map 59, Lot 48 on Greenview Drive. Abutters Alan Gray and Al Brock were present. Jeff Green of J L Green Enterprises represented the applicant.

Mr. Green explained that there is an existing woods road on the property; the road goes through the wetland buffer. He said he would like to know the Board's thoughts on if this special exception is needed since the road already exists. He stated that the Planning Board requested that it come before the ZBA. Mr. Green referred to Section 600, specifically non-conforming buildings or structures, of the Zoning Ordinance. He said he feels the road has been there prior to zoning. Mr. Green explained that the snowmobile trail and access road have been there since the '70s and he feels they meet the definition of non-conforming structure. He pointed out that there are two wetlands connected by a culvert and that this is only a buffer crossing.

Earl Tuson pointed out an area on the lot where the plan shows an angle off the end of the road, asking if that is part of the existing road or if it would be an expansion. Mr. Green stated that it is the access to the buildable area of the lot, noting that the snowmobile trail goes straight through the lot. Upon clarifying that this lot would be the result of a subdivision from the main parcel, Dave Powelson asked if the road would be graveled as part of a sub-division. Mr. Green stated that it would probably be graveled but not widened because it is an existing road, and they are not making an impact. Mr. Tuson noted that the trail is clearly marked but there is nothing noted about the road.

Chairman Powelson stated that the Board has reviewed pictures submitted by the Conservation Commission. Mr. Green showed additional pictures. He spoke about the dam being gone and the water receding, no longer breaching. He explained that there is a 2' elevation difference at this time and that the beavers are gone so the wetland should level out and maintain the lower level. He said the question is if the existing use is allowed and if the woods road would be considered a structure. Mr. Powelson said that the woods road/access to the land exists. He said he is not sure it would make a year-round driveway without seeing it. He said making a woods lot road/trail to a residential lot/driveway would require work, earth moving, shaping up, etc. George Saunderson said he would like to see the lot and asked Mr. Green if another month would be too long to wait for a decision. Mr. Green asked if that meant they are going forward with the application. Chairman Powelson spoke about the Zoning Ordinance with regard to the Wetlands Conservation District. He said he feels it is better to go through the process and have a cleaner view and response.

Earl Tuson noted that Mr. Green had brought another idea to the Planning Board. Mr. Green said that was correct but it did not go real well and there were still questions so in consideration of time he still came to the ZBA. He explained that there was concern about the contiguous buildable area since the required 1 ½ acres is beyond the wetland. He said the Planning Board feels he needs access to that area to consider using it toward the buildable area requirement.

Chairman Powelson stated that the Wetlands Conservation District includes the wetlands, buffer, and surface waters. Mr. Green stressed that he is not crossing wetlands; this is the buffer only. He said there is no wetland impact and no need for a wetland crossing. Mr. Powelson offered Mr. Green the option of waiting for a full five-member board for a hearing. Mr. Green said he was ready to go forward and that it was up to the ZBA. Mr. Powelson said he wants a response from the Conservation Commission specific to this application rather than their general observations as submitted to the Planning Board.

George Saunderson suggested that the Board look at the area and then discuss the application. Earl Tuson agreed. After brief discussion Chairman Powelson went through the points of the application with Mr. Green. The chairman noted that the application lists Section 301.6-1 but he feels it should be Section 301.5, special exception for a wetland buffer. Mr. Green explained that he used 301.6 because this area pertains to the buffer. He used 301.5 later in the application as it applies specifically to the request for a special exception. On point #2 Mr. Powelson asked if the grade would be raised and surface treatment might have an impact. Mr. Green explained that the only change that might be required would be to surface the road. He said there would be no width change, the elevation would be slightly different, and whatever might be needed for material to

level it out. The chairman asked if there were any questions from the Board. There were none. He asked if there were any abutters wishing to speak in favor of the application. There were none. He then asked if there were any abutters wishing to speak against the application. Alan Gray stated that he walked across the woods road this past summer and there was definitely water across the road. Al Brock said if the beaver come back in there will be the same problem. He added that if someone builds back there and the water comes back up they will have a problem. He said he is in the concrete business and he would not take his trucks out there; he was also not sure any building company would either. Mr. Brock noted that underground power is required which means creating an impact. He said the lot drops off about 9' from the road to the back area.

Dave Powelson noted that this lot is bigger than others in the area. He said he was not sure if the area is conducive to beavers. Mr. Green said beavers have definitely been there but are being removed. He said the dam has been removed by State rules and regulations in order to lower the water. Mr. Powelson asked who owns the fire pond at the other side of the main parcel. Mr. Green explained that it goes with the road. Jim Venne said he would be concerned if the snow will go away enough to see much on a site visit. Donna informed the group that the Planning Board has a site visit scheduled for March 14<sup>th</sup> at 4:00 p.m. with an alternate date of March 19<sup>th</sup> at 4:00 p.m. It was agreed that the ZBA would plan to attend at the same time.

**George Saunderson made a motion to continue the hearing to the site visit of March 14, 2013 at 4:00 p.m. and then to the meeting of March 28, 2013 at 7:00 p.m. in the Community Building; seconded by Jim Venne. All were in favor.** There will be no further notification.

### **ADJOURNMENT**

Earl Tuson made a motion to adjourn the meeting at 8:07 p.m.; seconded by Jim Venne. All were in favor.

Submitted by,

Donna White  
Administrative Assistant