

**TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF MAY 23, 2013**

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, Ned Lizotte, Earl Tuson, and alternates Jim Venne and George Saunderson.

ACCEPTANCE OF MINUTES

Regular Hearing – **Earl Tuson made a motion to approve the minutes of April 25, 2013 as written; seconded by George Saunderson. All were in favor.**

Site visit – **Earl Tuson made a motion to approve the minutes of the site visit for Greenpeace Nominee Trust as written; seconded by Howard Pearl. All were in favor.**

DISCUSSION

John Reese – Mr. Reese came in to talk about the Lovejoy Farm Bed & Breakfast. He said the house has been empty for almost a year, and he was wondering if the special exception that was granted on the property was still good or if the process would have to be redone. He explained that there are five rooms and the carriage house that could be used. He said the plan would be to convert the barn to a function hall, similar to Dell Lea Country Club in Chichester, for weddings, conferences, etc. Chairman Powelson referred to a file on the property from 1994 when a six-room bed & breakfast was approved for Art Monty. He explained that special exceptions and variances are permanent and run with the land. Howard Pearl referred to Section 204.3 J, accessory uses, saying this would seem applicable for the function hall. George Saunderson said he would agree, adding that there would probably be conditions, such as hours, attached. It was felt that the proposed use could be considered under Section 204.3 J.

PUBLIC HEARING

Application #Z13-09, Jodi Doody – Special Exception for Reduced Setback, RR District, Map 12, Lot 12 on Bee Hole Road. Abutter Rob Radcliffe was present. Ms. Doody explained that there is currently a shed at the back of her property but the area is down over a slope and it is hard to get equipment up the hill. She said she wants to place a new shed at the side of the property for better accessibility. Ms. Doody described the area, noting that there are trees at the side that would limit pushing the shed back. She also pointed out the area of her septic system which would limit the placement.

Chairman Powelson went through the points of the application. Ms. Doody stated that she is proposing to use a shed that is 12' x 16' or smaller. The chairman asked if

there were any abutters wishing to speak in favor of the application. Mr. Radcliffe stated that he got a special exception for his shed in 2004 and he is fine with this proposal. Ms. Doody explained that the shed would be placed slightly ahead of where Mr. Radcliffe's is located on the other side of the property line.

Chairman Powelson appointed Jim Venne as a voting member on this case in the absence of Roy Merrill. **Howard Pearl made a motion to approve the application as presented with the front setback of 15' and the side setback of 20'; seconded by Ned Lizotte. A roll vote was taken: Jim Venne – Yes; Howard Pearl – Yes; Dave Powelson – Yes; Ned Lizotte – Yes; Earl Tuson – Yes. Unanimous – APPROVED**

Jim Venne returned to the Alternate position. George Saunderson was appointed as a voting member for the next case.

Application #Z13-10, Beth Mulleavey – Special Exception for a Home Occupation/Day Care, RR District, Map 23, Lot 30 on Route 129. There were no abutters present. Mrs. Mulleavey explained that she has been operating as a pre-school. She has recently learned that the fire marshal requires commercial grade setup with fire alarm system, fire-rated walls, etc. if considered a pre-school. Mrs. Mulleavey said she is working with the State on day care licensing, and the fire department has inspected and they are in agreement with the numbers. There was discussion of the number of children. Mrs. Mulleavey explained that she would like up to twelve, noting that she falls within the State's requirements with square footage. Chairman Powelson read a letter from abutter Pat Chagnon who stated she was in favor of the application.

Chairman Powelson went through the points of the application with the applicant. There was discussion of hours and parking. **Ned Lizotte made a motion to approve the application as submitted, changing the approval from a pre-school for up to six children to a day care for up to twelve children; seconded by George Saunderson.** Jim Venne said he wasn't sure if the applicant was still in business as there has been no visible sign of a home occupation. Howard Pearl said that Mrs. Mulleavey has done a great job with the business and there has been no impact to the neighborhood. **A roll vote was taken: Earl Tuson – Yes; Ned Lizotte – Yes; Dave Powelson – Yes; Howard Pearl – Yes; George Saunderson – Yes. Unanimous - APPROVED**

Applications #Z13-04 Special Exception for driveway in wetlands conservation district, #Z13-05 Special Exception for work in the 50' wetland buffer, #Z13-06 Variance for filling of wetlands, #Z13-07 Variance for ground disturbance within 75' wetland buffer, and #Z13-08 Variance for construction of building in steep slope district, #Z13-11 (new this month) Variance for Driveway on More Traveled Road, Greenpeace Nominee Trust – C/I & RR Districts, Map 61, Lot 2 on Route 106 & Asby Road. There were no abutters present. Jeff Lewis and Matt Routhier of Northpoint Engineering and applicant Dave Pritchard were present. Ned Lizotte recused himself from this matter since he was not at the last meeting or site walk. Jim Venne was appointed as a voting member in place of Mr. Lizotte and George Saunderson was appointed as a voting member in the absence of Roy Merrill.

Jeff Lewis gave an overview of the applications. He said they would probably withdraw the applications for special exceptions if the variances are granted. Matt

Routhier spoke about a discussion at the site walk about a vernal pool area. He said based on a letter from the Conservation Commission and the site walk, they have pulled the grading out of the buffer, leaving it untouched. He also pointed out a pocket of wet that is holding water on the lower portion of the lot. They are now proposing a wall to reduce the impact, providing more of a buffer. Mr. Routhier said these changes lower the impact from 18,000 sf to less than 500 sf +/-.

Jeff Lewis spoke about the Phase 1 and 2 plans. He said that are not proposing any future development at this time so Phase 2 is only conceptual for the permitting process. He said once they get ZBA approvals for Phase 1 only they will go to the State for Alteration of Terrain and wetland permits. He said the pad site creation for future use would leave everything in order for when someone wants to do something with the lot. Dave Powelson clarified that they are asking for everything that will happen for Phase 1. Mr. Lewis said that was correct and that Phase 2 should not require any additional consideration by the ZBA.

Earl Tuson said he sees that they are adding to the slope on Phase 1 and then the plans show it removed on Phase 2. Jeff Lewis explained that they would put a wall up to allow additional room. Matt Routhier explained that the wall would be built as part of Phase 1. He said the numbers provided are for work to be performed in Phase 1 and there would no expansion of impact beyond that. Jeff Lewis said when Phase 2 happens the intent would be no more impacts as it would be within the footprint of Phase 1 disturbed areas. It was stated that there are 4.62 acres of buildable area on this 13 acre site.

George Saunderson noted that the Conservation Commission recommended an open bottom pre-cast concrete culvert. Jeff Lewis said they are agreeable to that but will have to go with what the State approves. Mr. Saunderson asked about a driveway permit for Route 106. Matt Routhier explained that they have learned that it is not a limited access area and have the right to put in a driveway. He said they will go through that process as they proceed. Mr. Routhier said a lot of the process is based on getting these variances. Howard Pearl asked if there would be a secondary access off Asby Road. Mr. Routhier said that is not anticipated as the road is not conducive to that much traffic. Earl Tuson stated that the State looks at a lot of record as of 1971 to determine how many drives are allowed.

Howard Pearl noted that the answers are about the same on all of the applications; he said in the interest of time maybe they could get the answers to all and ask questions on individual applications as they go along. Dave Powelson said he would like to go through them individually, looking at the first one clearly, then see what differences there might be on each additional one. It was agreed to go through the variance applications first.

#Z13-06, Variance for filling of wetland: Chairman Powelson went through the points of the application with Jeff Lewis. Mr. Lewis noted that the request is now for 8,604 sf as compared to 9,948 sf on the application. He also noted that the impact given in point #1 has been reduced from 4,254 sf to 2,910 sf for the driveway crossing. The chairman asked if the reduction in square footage reduces the overall percentage of impact. Mr. Lewis said it would not significantly reduce it; 96% would still be good.

Howard Pearl said the Zoning Ordinance allows for commercial development, and this is a challenging property where they have done a lot to minimize the impact. **Howard Pearl made a motion to approve application #Z13-06; seconded by Earl**

Tuson. Earl Tuson said they have minimized the impact. Howard Pearl said the applicant has shown some willingness to work with the boards in town and has taken the appropriate steps to protect the wetlands by working with the concerns of the Conservation Commission. **A roll vote was taken: Earl Tuson – Yes; Dave Powelson – Yes; Howard Pearl – Yes; Jim Venne – Yes, George Saunderson – Yes. Unanimous – APPROVED**

#Z13-07, Variance for disturbance within wetland buffer: Jeff Lewis said this is very similar with the criteria of Z13-06. He said there is a buffer impact of 2.42 acres; he gave an overview of the buffers. Chairman Powelson compared the responses for those of Z13-06. Howard Pearl referred to note #3 from the Conservation Commission with regard to a wall and plantings to protect an area. Matt Routhier said it was a reasonable request and it will be discussed when they meet with the Conservation Commission again. Howard Pearl said the responses are pretty much the same. Jim Venne agreed. Dave Powelson reviewed the answers. Jeff Lewis stated that the percentage in #3 has been reduced from 38% to 36%.

Earl Tuson noted that they had done well to stay out of the 25' buffer areas but then the seven parking spaces in the southern corner of the plan are very close to the 25' area. Matt Routhier said the final impact will depend on what it is used for and they have maximized it as much as they can since they lost ten spaces by a wetland. Howard Pearl said a little give and take is good as they have worked very hard in areas that the Conservation Commission was most concerned about. Jim Venne agreed. Jeff Lewis said the need for buffers was reduced with the gravel parking lot and drainage versus working around vernal pools. **Howard Pearl made a motion to approve #Z13-07; seconded by Jim Venne.** Earl Tuson said the seven parking spots could be put up back by the RR and C/I line. Matt Routhier said the slopes are steeper than 5% at the back area and he feels they can increase the quality of the buffer between the parking and wetland. Jeff Lewis said they could look at the idea, noting that the move may change numbers. He said if they could agree that the Board is comfortable with them working with the Conservation Commission to make the best decisions for the area then they would do so. Howard Pearl said he is comfortable with the plan as presented and he would always encourage applicants to work with the Conservation Commission. George Saunderson said he is comfortable if the applicant will work with the Conservation Commission to mitigate any problems. **A roll vote was taken: George Saunderson – Yes; Jim Venne – Yes; Howard Pearl – Yes; Dave Powelson – Yes; Earl Tuson – Yes. Unanimous - APPROVED**

#Z13-08, Variance for the construction of a commercial building and structures to be built in the steep slope district: Chairman Powelson compared the responses to those of Z13-07. Earl Tuson asked if the 1.02 acres they are proposing as steep slope impact on the plan is shown on the application. Jeff Lewis said it should be added. Mr. Tuson reviewed the Zoning Ordinance and the plan with regard to steep slopes; he said he does not feel they need 1.02 acres. Chairman Powelson stated what the Board is approving is according to the plan which will be attached to the application for reference. On Point A-1, Jeff Lewis added after hearing steep slope definition he would say it is intended to protect hillsides with high rises. He said he does not believe that applies as they are not protecting a steep slope. Earl Tuson said the tiered nature fits in well with the grades they have shown. **George Saunderson made a motion to approve**

#Z13-08; seconded by Howard Pearl. A roll vote was taken: George Saunderson – Yes; Jim Venne – Yes; Howard Pearl – Yes; Dave Powelson – Yes; Earl Tuson – Yes. Unanimous - APPROVED

#Z13-11, Variance for the construction of a driveway off Route 106: Jeff Lewis went through the points of the application. Point #1: Howard Pearl said he would 100% agree. Point #3: Howard Pearl said Asby Road is not suitable for that kind of traffic; if they can get access on Route 106 that is the best option. **Earl Tuson made a motion to approve #Z13-11; seconded by Jim Venne.** Howard Pearl said the best move for the town is onto Route 106, staying off Asby. Earl Tuson stated an abutter voiced his support for this plan at last month's meeting. **A roll vote was taken: Earl Tuson – Yes; Dave Powelson – Yes; Howard Pearl – Yes; Jim Venne – Yes; George Saunderson – Yes. Unanimous – APPROVED**

Jeff Lewis said he feels they can withdraw the two special exceptions since the variances have been granted. On behalf of Greenpeace Nominee Trust and Dave Pritchard, Jeff Lewis formally asked to withdraw special exception #Z13-05 and special exception #Z13-04. He thanked the Board for their patience and willingness to work with the applicant.

ADJOURNMENT

Howard Pearl made a motion to adjourn the meeting at 8:55 p.m.; seconded by Jim Venne. All were in favor.

Submitted by,

Donna White
Administrative Assistant