

Loudon Zoning Board of Adjustment  
Meeting Minutes  
November 30, 2015

**ROLL CALL:**

Howard Pearl, Roy Merrill, Dave Powelson, Ned Lizotte, Earl Tuson, Alternates George Saunderson & Charlie Aznive

Bill Lake represented the Code/Compliance Office.

**ACCEPTANCE OF MINUTES:**

**Regular Hearing - Ned Lizotte made a motion to approve the minutes of October 22, 2015 as presented; seconded by Earl Tuson. All were in favor.**

**DISCUSSIONS:**

**Ben Carter, Foster Road** – Mr. Carter explained that he has been letting a friend use his back garage for body work. Due to a neighbor's complaint to the Code Enforcement Office, he has been asked to attend this meeting and discuss the matter. There was discussion about previous businesses that were at the property (M29L25). Mr. Carter said this is not really a business. He does not charge Mr. Rollins any rent; Mr. Rollins did recently give him a little for the power. He said there is one car at a time there. Dave Powelson asked if Mr. Rollins is charging people. Donna Rollins was there to represent her husband. She said he does not do this frequently, generally for people he knows. She said he is 70 years old, there is no heat in the building, they have known the Carters for a while, and he stores his tools there. She said there is minimal money involved. Bill Lake said his office had a complaint call so he told Mr. Carter to come in to discuss the best way to handle the matter. Dave Powelson asked Mr. Carter if he wants to define it as a business. Mr. Carter said he wasn't sure he wanted to do that as it is more of a hobby for Mr. Rollins. Roy Merrill said it does not sound like it is going to turn into a big business, he's just doing occasional repairs in a garage. Charlie Aznive said it sounds like it has to be defined if there is an ongoing dispute. Mr. Powelson asked if this could come to some kind of an agreement in the sense of this being a hobby. He said a hearing would be required if they go for a business. George Saunderson said no rent is charged for the space; perhaps a limit could be put on the number of cars. Roy Merrill pointed out that Mr. Carter could go out there every night and work on something if he chose to so this does not seem much different. Bill Lake said it appears that Mr. Rollins does the work through word of mouth, helping people out. Michael Harris spoke about the Town's Zoning Ordinance, cautioning the Board members about what precedent they might be setting. He said he sees this as a violation of the Zoning Ordinance. Roy Merrill said the only thing the Board is doing is realizing this is not a business. Charlie Aznive stated that there were two previous 'businesses' at this location. Howard Pearl said the Board is not approving anything as they have no application, this is only a discussion. He acknowledged that Mr. Harris has a valid point. Earl Tuson explained to Mr. Harris, after he mentioned the need for hardship several times, that hardship is only one point of a variance; it is not the only thing that the ZBA looks at. Mr. Harris said it is inappropriate to chip away at the Zoning Ordinance. Mr. Powelson said most of the Board feels comfortable with usual and customary uses of a home. He said using a garage/tinkering, if defined not a business, would comply with zoning. Ben Carter said farming is the only business at the property. It was agreed that farming is a permitted use throughout town. Howard Pearl said the Zoning Ordinance is very clear on what is required for a business; the Board is simply giving a little guidance. Ned Lizotte stated that if volume increases, traffic, etc. then the code enforcement office would tell them to come back in. Dave Powelson asked Bill Lake if this gave him something to work with; Mr. Lake agreed that it does.

**PUBLIC HEARINGS:**

Application #Z15-20, Jerry & Jo-Ellen Magalnick – The Board received a copy of letter from the applicants to the Board of Directors of the Villages at Loudon. In the letter they have stated that they no longer wish to pursue ownership/residence at the Villages. **Roy Merrill made a motion to recognize that the applicants have withdrawn the application; seconded by Howard Pearl. All were in favor.**

Application #Z15-21, Adam Bousquet – Variance to operate a repair/service garage, Map 53, Lot 11, AFP District. The applicant was not present. Abutters Jeff & Doreen Green were present. Michael Harris stated that he was present as a nearby resident. He again asked that the Board not erode the Zoning Ordinance by allowing a business in this area; he said it is no place for a business, speaking about additional traffic, etc.

After brief discussion, the Board agreed to table the application until the next meeting rather than conduct the hearing without the applicant being present. **Roy Merrill made a motion to tale the application to the next meeting; seconded by Earl Tuson.** The chairman and members discussed meeting date options since the regular date would be Christmas Eve. It was agreed to hold the meeting on Monday, December 21<sup>st</sup> at 7:00 p.m. There will be no further notification. **All were in favor.**

### **BOARD DISCUSSION:**

Email received – An email was received from Michael Harris. Mr. Harris said he was not sure why he was referred to the ZBA. Bill Lake explained that the matter of a sap tank and building was discussed at Board of Permit after receiving an inquiry from Mr. Harris. He said Mr. Harris did not seem satisfied with the findings of that meeting so he was told he could address it with this board. Howard Pearl said this board is not enforcement. Mr. Lake said there is nothing to be enforced as it is a permitted use. Mr. Harris said the guy is putting vinyl siding on the shed; that seems more than temporary as he was told it was. He said the tank is within 10' of the roadway; the guy parks in the road and creates a nuisance. He said this is a commercial operation; there is no driveway, will have lighting, noise, etc. Mr. Harris said the guy has no permit; he has not applied to any board. Roy Merrill asked Mr. Harris is he would be happy if the man had a place to park his truck. Mr. Harris said he would be happy if the guy had a permit for a driveway and moved things back 50'. Howard Pearl noted that the sap tank and building, by rule, are pieces of equipment according to Current Use laws and the Department of Agriculture. He said the man is not required to have a business. Bill Lake noted that driveway permits are generally only for addressing purposes; there is no residence at this location. Mr. Pearl stated that anyone could park at the side of the road to collect sap buckets, cut wood, etc. Mr. Harris again stated that the guy has no permit. Mr. Pearl said there is no permit to get.

Morin, craft shop – Donna received an inquiry about Richard & Kim Morin re-opening a craft shop at their home on McKenzie Road. The Board reviewed an approval for a special exception for the craft shop from 1990. It was agreed that the approval stands as granted. If they want to change anything, such as the amount of anticipated traffic, they would need to come back to the Board.

Zoning amendment workshop – Members were reminded of the workshop set for this Wednesday, December 2<sup>nd</sup>, at 4:30 p.m.

### **ADJOURNMENT:**

Ned Lizotte made a motion to adjourn the meeting at 7:58 p.m.; seconded by Howard Pearl. All were in favor.

Submitted by,

Donna White  
Administrative Assistant