

Loudon Zoning Board of Adjustment
Meeting Minutes
April 28, 2016

Present:

George Saunderson, Roy Merrill, Howard Pearl, Chairman Dave Powelson, Vice Chairman Ned Lizotte, Earl Tuson, Charlie Aznive

Also Present: Selectmen Ives, Stan Prescott and Bill Lake

Minutes:

Earl Tuson made a motion to approve the minutes of March 24, 2016 Regular Meeting as presented; seconded by George Saunderson. All were in favor.

Howard Pearl made a correction to the minutes of April 2, 2016 Site Walk. He was not present. Earl Tuson made a motion to approve the minutes as adjusted; Seconded by Howard Pearl. All were in favor.

Discussions:

Tony Merrullo – 33 Creekwater Lane. Mr. Merrullo met with the board to discuss placement of foundation. Mr. Merrullo said he realized he's encroaching 75 feet onto the wetland buffer and is looking for a direction of what to do next. Mr. Merrullo showed the board maps of the updated wetlands from the soil scientist. Tony Merrullo said this was subdivided in 2004, 2005 the foundation was poured. Mr. Merrullo said last year the project was picked back up and revised the building permit. Tony Merrullo showed site plans that they went by and one of the problems is that the zoning regulations have changed since 2005. Mr. Merrullo said item number 6 is the wetlands buffer which was enacted in 2003 and the regulations now are more stringent so he's not sure if he should be going by today's standards, or when the foundation was poured. David Powelson asked if there was a building permit when the foundation was put in. Mr. Merrullo said yes, at the time the wetland buffer wasn't considered as it was today. Tony Merrullo said the driveway encroaches on wetland buffer as well as the septic system. Tony Merrullo said because the wetland buffer was not considered at that time and as time went on he did realize this, the driveway and septic were moved out. Foundation was put in knowing the driveway and septic would need to be moved. Tony Merrullo explained he held the location of the house and rotated it and in doing so the house rotated into the wetland buffer by about 10 feet. Tony Merrullo said in January of 2006 it was inspected. Tony Merrullo said it's in the setback by 10 feet so wants to know what to do about it now. Wetlands regulations have also changed. According to Peter Schauer what used to be wet is no longer wet. Also been in contact with Conservation Commission and Julie said there may be someone at the meeting tonight. 2014 the septic system was redone and a new building permit was issued. The board discussed when the 75 foot buffer went into the zoning ordinance as well as the building permits involved and told Mr. Merrullo he needs to come to zoning and fill out an equitable waiver. Dave Powelson explained the waiver and that it's outside of our zoning ordinance, and it's through the state however it lets the zoning board know they can hear the case. It covers things that are accidentally, it's up to the applicant to prove that's what's happened. Dave Powelson said it's 674:33-a, it would be a full hearing and abutters would be notified. Code Enforcement agreed. George Saunderson asked if Conservation Commission should be part of this, Dave said yes. Mr. Merrullo said he's meeting with them next week as well.

Sylvia MacGuire – 70 S. Village Rd. – daughter Jennifer Macguire was also present. Sylvia McGuire said they bought the house in 2005 and in 2006 got a building permit for an addition. Sylvia McGuire said they went to get an equity loan, and during the appraisal they said they have an illegal kitchen upstairs, which wasn't done intentionally. Dave Powelson said this is allowed in the village district so he doesn't think it requires action on the board to be permitted and directed it to code enforcement. Bill Lake said if it was not inspected at the time, it needs to be done now. Dave Powelson said it's procedural for the equity loan but there is nothing to fix. Bill Lake said it can be inspected and code enforcement will sign off on it.

Public Hearings:

Application #Z-16-03, Matthew and Patricia Smith –Cont'd. Special exception for dormitory type housing, RR District, Map 24, Lot 13. Matt Smith shared the information from the septic company who came out and pumped. Patricia Smith said they were told everything was good. Dave Powelson asked if the access for this property was from an unmaintained road. Matt Smith said yes. Dave Powelson said he wouldn't count this as fire access. Bill Lake said the town roads end where class VI starts, so that would be a problem. Patricia Smith said the propane truck gets down the road fine. Dave Powelson said the building permit didn't show a kitchen. Bill Lake said the building permit said a pole barn was being constructed but no mention of living quarters, and if the board approves the application Code Enforcement would need to go out and inspect and make sure there are smoke detectors, two ways to exit, etc. Ned Lizotte said right now they are not approving apartments, or facilities outside the home. Howard Pearl stated temporary dormitory housing is what he's applied for which is completely different and regardless of his sins of the past this is what Matt Smith's applying for currently. Matt Smith said he won't come close to six months out of the year; it's just for when he needs help and is away. Howard Pearl asked if as part of inspection, code enforcement would determine how many people the dwelling is suitable for. Bill Lake said yes to building and fire standards. Matt Smith said the amount of people he's looking to have got mixed up; he wanted three people for meat cutting but only one person to reside there at any given time. Bill Lake said unless someone makes a complaint about going over the six month period it would be hard to track if someone's there three weeks here, two weeks there. Earl Tuson said there is a difference between seasonal and occasional. Ned Lizotte said he's been reading through the minutes and it sounds like part time employees and he feels like if there is no record of how the building was built, and now the board is being pushed into approving something that was never suppose to be there it's concerning to him. Howard Pearl said if he could specify a time that would help. Matt Smith said he's looking for the fall. Howard Pearl asked if they specified up to 3 people within the fall time frame if that would be okay. Matt Smith said yes. Roy Merrill asked if it makes a difference as far as safety for one or three people. Bill Lake said no, there needs to be emergency lighting possibly, two ways to exit and smoke detectors however one to three people won't make a big difference. Howard Pearl asked if his size septic is big enough for three people. Bill Lake said yes, but there's no official approval. Steve Ives asked if for migrant workers the employer has to be there. Howard Pearl said no. Steve Ives asked if this was a new situation and he came to the zoning board to be approved for dormitory housing, then he'd need to get a building permit to put the building up and then go to the planning board to get approval so is this considered a partial operation. Howard Pearl said you could take an existing building and convert it to dormitory housing. Steve Ives said this is a building without a permit. Howard Pearl said yes, but this is a way to now monitor it and make it so that it's inspected and safe. Ned Lizotte said there are no records of septic systems which concerns him. Bill Lake said if the building was built in 2010 there was a permit for it how does the building get plumbed to a septic system that you didn't know it was there or approved. Bill Lake said his other concern is that things aren't specific enough so aren't approved but it's done anyways and he doesn't want to go down the road where people don't do things correctly and then come after and let the town know. Bill Lake said the hard part on his end is

that he can't see everything because it's already built, so if inspected it will specifically say he wasn't able to look at everyone because it was already constructed. Howard Pearl said that's up to code enforcement, and has nothing to do with the zoning board. Howard Pearl made a motion to approve the application with the workers being on site from September 1st thru November 30th not to exceed three workers. Bill Lake asked if is there something contingent on fire access or is that something code enforcement needs to do. Howard Pearl said that part is up to code enforcement. Roy Merrill seconded the motion. George was appointed a voting member instead of Ned. **A roll call was taken. George Saunderson – yes; Howard Pearl – yes; Roy Merrill – yes; Dave Powelson – yes; Earl Tuson – yes. Unanimous – APPROVED.**

Application #Z-16-04 – Greg and Diane Colarusso,– Special Exception for event venue, RR District, Map 32, Lot 4. Greg Colarusso went through the application with the board, showing them a map of the property showing parking, the tent area and bathroom. Dave Powelson asked if there were kitchen facilities. Mr. Colarusso said no, it's all catered or however the customer chooses. Earl Tuson asked how far abutters were from the wall. Greg Colarusso showed the board where the abutters were on the map, and stated he has signed permission to put the bathrooms on the edge from the abutter. Dave Powelson said if it's ever subdivided and the owners' change that could be an issue. Mr. Colarusso showed different places on the map he could move the bathrooms. Howard Pearl asked where the nearest home is to them. Greg Colarusso said its Roger Maxfield, about 300-400 feet. Greg Colarusso said there's a good buffer of trees for noise control. Greg Colarusso said there are three ways to get to this location. Dave Powelson asked if there was a preferred route to direct them in and Greg Colarusso said 106. Howard Pearl asked if the tents are put up for each event and then taken down. Greg Colarusso said they are usually put up Thursday or Friday by the tent company they are rented from, and there is a schedule worked out which they've showed Bill and Chief Wright. Earl Tuson asked what the maximum parking was for cars. Greg Colarusso said it's 70 plus. Howard Pearl asked what Bill Lake would be looking at during inspection when the tents up. Bill Lake said they'd look at if the tent was erected properly, certificate of flame proofing, extinguishers every 75 ft, two ways out and emergency lighting after dusk if there are sides on the tent. Howard Pearl asked if there were any site inspections. Bill Lake asked if the parking would be the same. Greg Colarusso said absolutely. Bill Lake said they take the size of the tent; calculate how many people can be inside with tables and chairs and that is their occupancy load. Bill Lake said every event they would go out and inspect. Greg Colarusso said some events may require buses to drop off and then leave and come back to pick up. George Saunderson stated they are allowed up to eight events a year but asked if there is any way to know how spread out or close together they would be. Greg Colarusso said it will be the first 8, first come first serve. Dave Powelson asked if there was a maximum of people there would be. Greg Colarusso said 180. Howard Pearl asked if Mr. Colarusso would be comfortable with them having a maximum amount of guests. Greg Colarusso said yes. Roy Merrill said he could always come back and ask for more. Steve Ives said he thinks there needs to be restrictions such as hours of operation because as more people come to the board with different events it's important, things like music going down at 9 pm, maximum guests and so forth. Howard Pearl said if the conditions are too restrictive the Colarusso's can always come back and ask for changes. The board and audience discussed how many people with tables and chairs make sense. Howard Pearl asked what happens if someone complains. Bill Lake said it would go to the police department and then the police will respond. Howard Pearl said if they set a time for quiet how will that be known, and does quiet time mean people need to leave. Bill Lake said quiet time doesn't mean everyone has to leave; it just needs to be quiet. Howard Pearl said there should also be an end time. The board discussed an end time vs. quiet time. Steve Ives asked about alcohol consumption during the events. Greg Colarusso said caterers will have a bar and liquor license, or people can bring in their own alcohol. The board discussed responsibilities of alcohol consumption. **Howard Pearl made a motion to approve the application**

with a beginning time of 7 a.m. and end time of 11 pm, quiet time begins at 10pm and a maximum of 250 guests. Bill Lake asked if during the weddings there are a lot of complaints is there a way to go back and change the time. Dave Powelson said a cease and desist order would go out. Ned Lizotte asked to define quiet time. Greg Colarusso said it means the amplified noise would stop. **Earl Tuson seconded motion. A roll call was taken. Howard Pearl – yes, Roy Merrill – yes, Dave Powelson – yes. Ned Lizotte – yes Earl Tuson – yes. Unanimous – APPROVED.**

Application #Z-16-05 ESMI – Special Exception for modification of current operating hours, C/I District, Map 50, Lot 24. Marc Aubrey was present. Marc Aubrey said the only complaint was from Carol Soule after the trees were cut down and it was louder at that point. Marc Aubrey went through the application with the board. The board discussed how they built up to this point and things seem to be going well. Marc Aubrey said this would fill in the other six months of the year. George Saunderson said the summer might be different than the winter because people won't be inside their homes as much. Dave Powelson asked how many hours a week the plant would run if they had all the supply they needed. Marc Aubrey said they would have to shut down for maintenance and couldn't run continuously for more than two weeks. The board discussed a time frame of two years to try it out.

Earl Tuson made a motion to accept the application with a two year time frame ending on September 30, 2017. Ned Lizotte seconded motion. A roll call was taken. Earl Tuson – yes, Ned Lizotte – yes, Dave Powelson – yes, Roy Merrill – yes, Howard Pearl – yes. Unanimous – APPROVED.

Board Discussion:

Declaration of Restrictions from Doug Cole – discuss more at next meeting.

Letter from Leclerc family – their abutter letter was delivered to the wrong address and returned. The board discussed getting a copy of the application, notice of decision and the minutes from the meeting it was approved.

Adjournment:

Howard Pearl moved to adjourn the meeting at 9:30 pm; seconded by George Saunderson. All were in favor.

Submitted by,

Melissa Lucier
Administrative Assistant