

**TOWN OF LOUDON  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF  
NOVEMBER 23, 2005  
REGULAR HEARING**

Chairman Roy Maxfield called the Loudon Zoning Board of Adjustment meeting on November 23, 2005 to order at 7:30 PM at the Loudon Community Building.

The following members were present: Roy Maxfield, Chairman; Ned Lizotte, Vice Chairman; Steve Ives, Roy Merrill, and alternate Jon Huntington. Dave Powelson and alternate George Saunderson were not present.

Jon Huntington will be a voting member to replace Dave Powelson.

**A. ACCEPTANCE OF THE OCTOBER 27, 2005 MINUTES:**

Ned Lizotte made a motion to accept the minutes as written. Seconded by Steve Ives. All were in favor.

**B. BOARD DISCUSSIONS:**

Appeal from an Administrative Decision – William Taranovich. Chairman Maxfield stated the Selectmen have been granting extensions for building permits for the past several years contrary to the rules of the ordinance. Chairman Maxfield read section 801.7 and stated the ordinance does not give authority to the Selectmen to extend or make special conditions and therefore anyone wishing to extend a building permit needs to appeal to the ZBA stating their hardship. Chairman Maxfield stated the other side of the issue is the backlog of building permits in town and someone who is able and willing to start building has to wait for someone who is speculating or sitting on a permit for a year. Chairman Maxfield stated court decisions over the past several years on building permits have allowed town's to deny building permits providing it isn't unreasonable and the land owner can get the value out of the property by applying and receiving another building permit. Chairman Maxfield stated the second appeal on the agenda tonight has withdrawn and decided to get the foundation in; which was required to grant an extension. Chairman Maxfield stated Mr. Taranovich is appealing to grant an extension to his 2005 building permit and tonight the Board has to decide if they wish to accept the appeal. Chairman Maxfield stated Mr. Taranovich was misinformed he would automatically be granted an extension. Chairman Maxfield read the Selectman's meeting minutes of November 15, 2005. Steve Ives made a motion to accept the appeal. Seconded by Roy Merrill. Jon Huntington asked why the Selectmen turned down his extension. Chairman Maxfield stated the Selectmen are neutral and are referring him to the ZBA. Mr.

Huntington asked if the ZBA turns him down does he have to go to court. Chairman Maxfield stated the court decisions he has read indicate the town has no liability beyond the one year the applicant has to start building. Ned Lizotte stated things happen and plans have to be deferred for a year but on the other hand there is no foundation in the ground. Steve Ives stated he deserves his day in court. All in favor. Motion carried.

### **C. PUBLIC HEARINGS:**

1. Case #05-24 - Wildwood Sanctuary Association, Inc. - Special exception for wetland crossings. Young's Hill Road, Map 34, Lot 2. Abutters have been notified. Chairman Maxfield stated Wildwood is not here and read a continuance request from them. Chairman Maxfield stated the Conservation Commission has several issues with the applicant and if they were here tonight they would ask to continue this application. Roy Maxfield made a motion to continue this hearing. Seconded by Ned Lizotte. All in Favor. This application will be heard on December 22, 2005, at 7:30 pm, at this facility. This is the only notice.
2. Case #05-26 - James Drolet - Special exception for a major home occupation. 127 Lovejoy Road, Map 38, Lot 12. Abutters have been notified. General contracting business and an auxiliary metal workshop. Mr. Drolet stated the property is 1.49 acres and he is proposing to build one building. Chairman Maxfield read the special exception application. Chairman Maxfield asked how they will remain in harmony with the residential character of the neighborhood. Mr. Drolet stated there will only be one car coming and going in connection with the business and the exterior of the barn will be vinyl siding; they plan to sound proof the barn. Mr. Drolet stated he is the only employee for the contracting business and his father works with him in the metal shop. Mr. Drolet stated the barn is around 2,500sq.ft. including a second floor office. Ned Lizotte asked if the barn meets setbacks. Mr. Drolet stated yes, the driveway is just inside the 30' side setback. Chairman Maxfield asked if there was anyone that would like to speak for or against the applicant. Chairman Maxfield closed this hearing and it will be taken up under unfinished business.
3. Case #05-28 - Russell Pearl - Special exception for a major home occupation. 113 Lovejoy Road, Map 38, Lot 24. Abutters have been notified. Chairman Maxfield stated this application is for a local contractor similar to what has been granted to others. Chairman Maxfield stated he visited the site today. Chairman Maxfield stated the defined area to be used will be kept on file. Chairman Maxfield read the application. Chairman Maxfield stated the ordinance was changed last year to allow local contractors with any conditions the Board deems appropriate. Chairman Maxfield asked if there was anyone that would like to speak for or against the applicant. Chairman Maxfield closed this hearing and it will be taken up under unfinished business.

**D. UNFINISHED BUSINESS:**

1. Case #05-26 - James Drolet - Special exception for a major home occupation. 127 Lovejoy Road, Map 38, Lot 12. Ned Lizotte made a motion to open the application for discussion as submitted. Seconded by Jon Huntington. Mr. Lizotte stated he would like to define the hours of operation; otherwise what he is asking seems reasonable. Chairman Maxfield stated the metal shop could run from 8am-5pm, Monday-Friday; on the contractor portion, coming in and out should not matter. Chairman Maxfield stated the information is on record as to what he wants to do and how many employees. Chairman Maxfield stated if Mr. Drolet wants more than one employee he can come back to the Board. Chairman Maxfield made a motion to approve the application with hours of operation for the metal work to be Monday-Friday, 8am-5pm; and if there are additional employees to come back to the Board for review. Seconded by Ned Lizotte. Roll call vote: Jon Huntington – yes, Steve Ives – yes, Roy Merrill – yes, Ned Lizotte – yes, Roy Maxfield – yes. All in favor, application approved.
2. Case #05-28 - Russell Pearl - Special exception for a major home occupation. 113 Lovejoy Road, Map 38, Lot 24. Ned Lizotte made a motion to open the application for discussion. Seconded by Roy Merrill. Mr. Lizotte inquired to hours of operation. Chairman Maxfield stated with a contractor the Board should state reasonable hours of operation and leave it to the contractor's discretion. The Board concurred. Roll call vote: Jon Huntington – yes, Roy Merrill – yes, Steve Ives – yes, Ned Lizotte – yes, Roy Maxfield – yes. All in favor, application approved.

**E. DISCUSSIONS:**

1. Abby Ladd –discuss a home occupation. 159 Blake Road. Map 36, Lot 13. Ms. Ladd stated she wants to produce garlic jellies and pecan maple clusters from her home. Chairman Maxfield asked if there is a sign. Ms. Ladd stated no the business is very inconspicuous. The Board reviewed the differences between major and minor home occupations. Chairman Maxfield asked if a State health permit is required. Ms. Ladd stated she has one. Chairman Maxfield asked if there are any employees. Ms. Ladd stated her sister grows the garlic in Gilmanton and handles the marketing. Ms. Ladd stated she does the producing. Chairman Maxfield stated he feels this is minor. Ms. Ladd inquired if this falls under farming in the AFP district. Chairman Maxfield stated she should be all set with a minor and the Board will inform the compliance officer.
2. Eric DeCato & Darlene Trudeau – special exception for a reduced setback for a driveway. Chairman Maxfield stated the Board is well aware of this property with frontage on Rt.106 and no access on Rt.106; driveways require 30' setbacks on both sides and the right-of-way off of Chichester Road will require reduced setbacks. Mr. DeCato stated this would be for residential use, just two vehicles traveling on the existing drive. The Board reviewed photographs from Robert

Fiske of the right-of-way. Mr. DeCato stated the right-of-way is 25.29' at the opening widening to 100' at the end of the right-of-way. Chairman Maxfield stated Mr. Blake will probably be at the public hearing. Chairman Maxfield stated he would be okay with residential traffic but not commercial traffic using the right-of-way. Mr. DeCato stated he may want to subdivide in the future but right now he is looking for one residential lot. Chairman Maxfield asked if this was a right-of-way or a swatch of land Mr. DeCato owns. Mr. DeCato stated this is land that he owns and belongs to the whole lot.

3. Summit Realty Partners – Variance for reduced lot size. Map 30, Lot 23 in the C/I District. Justin Belair from Summit Realty Partners presented the application for Madelyn Greenwood. Mr. Belair stated they would like to turn a non-conforming grandfathered use into a conforming grandfathered use because it is a 1.5 acre parcel and does not meet lot size requirements. Mr. Belair stated they do not have a use for the lot yet but would like to make it a commercial lot with a variance. The Board stated it would be a special exception. Chairman Maxfield stated under section 602.2 it would be a special exception. Chairman Maxfield stated once the property is changed to commercial use it cannot be used as a residence. Chairman Maxfield stated it will have to comply with non-conforming lots as far as build out goes. Mr. Belair stated if they are changing the use do they need a public hearing. Chairman Maxfield stated yes because the Board needs to make a ruling and the Board needs to operate in a public forum.

**F. ADJOURNMENT:**

Jon Huntington made a motion to adjourn this meeting at 8:18 p.m., seconded by Steve Ives. All were in favor.

Respectfully submitted,

Tammy Davis  
Secretary