

Town of Northumberland
ZONING BOARD OF ADJUSTMENT
MINUTES
Wednesday, Jan. 8th, 2020
7:00 PM
MEETING ROOM
10 STATION SQUARE
Groveton, NH

Board Members Present: Gerald "Jerry" Crompton, Chair, Chris Wheelock, Joseph Kennett, Jeffrey St. Cyr

Others Present: Kim Howson, Lise Howson, Sandra Cabrera, Attorney, Michael Cormier, Theresa Cormier, Linda Day-Cordes, Gail Rossetto, Al Rossetto, James Weagle, Shawn Swallow, Emily Swallow, Pete Marshall, Addison Hall, Gloria Brisson-Covell, Elaine Gray, Clerk, recorder.

1. Minutes of May 13, 2019 Meeting

Jerry opens the meeting at 7PM and asks if everyone has read the last minutes and asks for a motion to approve. Chris Wheelock makes motion, Joseph Kennett seconds, all in favor, 4-0.

2. Discussion of Swallow Landscaping Business Issue with Neighbors – Map & Lot 251- 001 – (If Deferred from Planning Board)

Jerry asks if there is anything from the Planning Board. Chris tells Jerry it has not been deferred from the Planning Board yet because of verbage. It will be a change in Timber Management. Gloria reads and presents to the Zoning Board the verbage: to add to the Forestry/Timber Management that single family dwellings and remote camps that meet the area requirement of residential low density district will be permitted as a use in the Forestry/Timber Management district. And to remove single family dwellings and remote camps from existing special exemptions in Forestry/Timber Management.

Chris: this affects roughly 100 lots in Timber Management, about half have homes on them.

Jerry: so it is not only Longview?

Chris: No, a few others. A ballot vote on town meeting day could eliminate every one of these residents from having to have a public hearing and a special exception being brought to the Zoning Board.

Jerry: All of Timber Management would change?

Chris: Yes, for single family and remote camps. Other than those still have to get special exceptions. A big part of Timber Management zone is affected.

Joseph: Would taxes be affected?

Chris: No.

Gloria: This is all because of Long View Drive and the residents.

Elaine was asked to refer to Legal by the planning board.

Gloria presents Legal's response to Jerry.

Jerry, Gloria and Chris discuss the repercussions of not adopting this.
Jerry: I have a problem with it but don't have a problem because it is a remedy. It's a fix but not happy about it.
Joseph: it's too bad but this needs to be fixed, regardless of broken hearts or smiles. Don't vote, don't complain.
Chris makes motion to accept verbage, Joseph seconds, all in favor, 4-0.

3. PUBLIC HEARING-

Case #Z20-01: Shawn & Emily Swallow are seeking a Special Exception in the Timber Management Zone for their 2.19-acre parcel located on Longview Drive bordering Page Hill Rd. The parcel is on Map 251 Lot 1, and has 350 ft. of frontage and driveway onto Longview Drive. The Special Exception would be for a shed on a cement slab for storing road salt and sand (currently located on the parcel) and for building a personal garage.

Jerry: shed is already there Shawn? Garage?
Shawn: Yes shed is there, garage will be.
Some discussion on the reason, a business on the property.
Sandra Cabrera, Attorney presents updated position on building permit. A four page objection by residents to giving a special exception for salt shed or garage. Opposed to running a commercial business in Forestry/Timber Management zone.
Jerry asks Sandra to define "commercial business". She defines home occupation.
Jerry: you can have a home based business, and landscaping is a home based business.
Sandra: not in Timber Management
Jerry: can't have a home either
Sandra: by special exception you can. Today you need to decide on this lot, not the other 60. Salt storage is not a simple matter, it presents a serious risk of water pollution.
Jerry: our roads have lots of salt, that is permissable.
Sandra: handout from State of NH included.
Jerry: have you seen the shed?
Sandra: yes, I have color photos.
Jerry: so you have seen the cement floor
Sandra: yes, but it is not totally enclosed, only 3 sides, and the piles are completely outside of the shed.
Jerry: I have checked out the shed, it has 3 sides, if that is an issue, then our State shed and the town shed are out of compliance as well.
Sandra: there are piles of salt that appear to have additives outside of the shed.
Chris reads the letter Shawn received from the State, requesting registration of salt shed.

Sandra says the State is not regulating salt sheds, but towns should, and refers to State fact sheet where it can contaminate water. Salt sheds should be totally enclosed and not put on permeable ground near wells.

Chris asks Shawn about having a concrete floor which it does and the salt outside the shed is recently delivered. It is not on the ground but 10 inches of sand, which gets mixed and put into the shed. Water has been recently tested and no contamination was found.

Addie questions how legal the permit is, it does not have a floor listed on it.

Chris says that was the original permit and the floor has been added since.

Al speaks to Addie and tells him there was no need for a new permit because the floor did not meet the \$5000 threshold for materials, so no new permit was needed.

Sandra brings up that the argument is that a business like this is not even eligible for a special exception in Timber Management. Reviews the requirements for a special exception stating that this is not a permitted use and even if it were, it cannot have reasonable objections from abutters, and there are reasonable objections. Based off of recommendations of best practices to not put a salt shed near drinking wells.

Shawn: there is no contamination, there have been tests.

Lise Howson???: no contamination yet.

Shawn: been there a year, should have shown up by now.

Lise Howson???: It's not just a salt shed, it is a business being run out of Timber Management.

Jerry: actually landscaping is a home based business.

Lise Howson???: There is a tractor trailer delivering salt and sand, that is not a home based business.

Jerry: I get parts delivered to me in a tractor trailer.

Lise Howson???: Then I would argue that you don't have a home based business.

Jerry: I don't? Hmm.

Sandra: you also need to consider it is on a separate lot. Home based businesses need to be on the same lot as the residence. Needs to be an accessory of the residence.

Chris: accessory defined by you as on the same lot, not an abutting lot.

Sandra: yes, accessory to a residential dwelling.

Zoning Board members go over description.

Jerry: so move the salt shed onto the residence or join the two lots.

Sandra: yes, but neither of those circumstances exist today.

Jerry: so who actually abutts this land? I can't see all those houses reaching that land.

Theresa Cormier???: the abutters notice we received did not say anything about a garage, just a salt shed.

Chris: on permit not abutters notice. What is the legal definition of "accessory".

Jerry: that lot could be an accessory to the business.

Jerry sites example of his two lots on separate streets for same business.

Not qualified?

Sandra: you're not using that lot as a home based business.

Jerry: I am.

Sandra: the use of your lot is different from the characterization of your business.

Chris: the difference is it is Timber Management.

Sandra: for example if you buy a lot in residential and buy a lot in industrial and then you start an industry.

Jerry: we are talking about a home based business not something industrial. Using myself as an example, two properties, running same business out of two properties.

Sandra: does matter for other area, because you have to abide by the zoning rules for that property.

Chris and Jerry state that a special exception would work.

Sandra: a special exemption will not work because it is not a permitted use in Timber Management. You have to look at it possibly being detrimental.

Abutters have reasonable objections.

Jerry: determined by you?

Sandra: that's my argument to you to consider not granting this special exception.

Elaine: The legal services responded to the Town that residential homes fall under number 8 special exceptions. They also said the salt shed presumably falls under number 8. Of course up to zoning board.

Lise Howson: A shed but a business?

Jerry: You're trying to argue one against the other.

Howson inaudible.

Jerry: Because you don't want a salt shed, I get it.

Lise Howson: they're one in the same

Jerry: You're trying to put one against the other one. And we're here to see if we are going to put a salt shed there, that's it. I don't want to argue that his business is this or that. Let's face it, none of the houses should even be there.

Sandra again brings up that they still need to look at the reasonable objections of the abutters.

Jerry: and it requires us to determine what is a reasonable objection.

Sandra: yes

Jerry: it is not your definition, it's ours.

Addie: you keep saying businesses are out of residential areas, how many people have an exception to that?

Jerry: Have an exception?

Addie: yes, you get your permit and then you get an exception.

Jerry and Addie and Chris discuss home businesses without exception.

Chris says we know that Timber Management is different from Low Density. You built your homes and everything knowing you would become Residential Low Density.

Lise Howson: We bought in Timber Management.

Chris: but the road, utilities, building lots were understood to turn into Residential Low Density.

Lise Howson: We were under the assumption we were in Timber Management/Low Density on our building permits. Thought the zoning never changed.

Chris: Swallows and Cape Horn Clinic thought that once they went into Timber Management and developed they would be rezoned, as well as you. Same assumptions made by everybody.

Howson??: But you have a chance to correct it now.

Chris: Absolutely.

Howson??: I understand what you are saying. But the Swallows permit is not a home business, it said a salt shed. Now we know it's a business and it is

affecting the road, affecting our area, you have an opportunity to stop it because it is still Timber Management.

Chris: My problem with this, and I don't care if Shawn has a salt shed, and I don't care if you have solar panels, what I have to look at is what someone was told they could have.

Female????: As long as it does not create a nuisance.

Chris: a nuisance is defined by

Howson??: The person who lives there.

Argument between Chris and Howson??? on who's side who is on.

Considering 1 person over ten people. Chris objects. He is looking at what has gone on, what in the future will go on, the precedence set. We have to weigh that all in.

Howson??: weigh the impact too and not just for one person.

Cormier??: they were the last ones in, we have been there a long time.

Chris: right and there are open lots.

Howson??: Yes but if this is allowed we could have salt sheds all around us.

Chris: We have to sort thru all of this. This is a ton of information that your lawyer just gave us tonight and we are expected to just skim thru it and make a decision?

Howson??: yes but the real decision tonight is on the special exception.

Chris: and maybe the decision tonight is that there is no decision tonight.

Maybe it's that simple. The vote in March could sway this one way or another. Putting this decision on hold until after the vote is probably the way to go. Because everything may turn into a special exception. We have to look at what is tolerable to a neighbor, not just you eight, but for a neighbor to tolerate.

Howson?:Is this reasonable? Ten people are suffering under a nuisance. No other businesses affected.

Chris: there was an incident with another business. No one will be happy tonight, we should wait until after the vote. You will have to tolerate this for a few more months.

Mr. Howson?? Actually it won't go away, there is mulch there.

Chris: at least we will get some guidance from the town. Shawn is not an unreasonable person. We will work together to accommodate until the vote. Conversation between Al and Chris on another business, Cape Horn Clinic, and correct permitting. Which wasn't. Elaine gave Al the minutes of that planning board meeting that owner attended. Al read the motion made at meeting.

Elaine: What Al is referring to is that they went for building permits but not a permit for a business. No site plan review.

Shawn: What is the difference between Cape Horn and me?

Chris: I think, Shawn, it is the salt storage.

Jerry: Opposition to mulch?

Mr. Howson??: Opposed to a business.

Jerry: well you are going to have to get over that.

Sandra: for the record her complaint is the noise.

Chris: we have a number of issues. We should hold up on this decision.

Shawn: I am willing to work with anyone, just not sure why they didn't come to me?

Howson??: No one came to us with wanting to put in a business.

Arguing.

Lise Howson: Actually I would like to address that you say Shawn is a reasonable person. I did attempt to speak to him about the driveway going in.

I approached the person working there, asked if he was the landowner, he said no. I said you may want to check with Eversource because you are close to the pole. The next day he followed me home and the following day he blocked my exit from Long View onto Page Hill. And would not let me leave and would talk to me and tell me not to trespass. That's the reason we have not approached him.

Chris: I will work with Shawn

Howson: Thank you.

Chris: I would like to table this until after the town vote. So I make a motion to table this until after the town vote. Shawn will not have to pay the fee again.

We will address more than one business. Let's do it right the first time.

Motion made, Joseph seconds, all in favor, 4-0.

Jerry: Is that all?

Vacancy on the board because of resignation of Dave Auger. Have advertised, but no one has expressed interest.

Adjournment at 8:30 pm.

Respectfully submitted,
Pam Kathan
Zoning Board Minute Taker

Zoning Board Signatures Date_____

X_____ Gerald Crompton, Zoning Board Chair

X_____ Chris Wheelock, Zoning Board Member

X_____ Joseph Kennett, Zoning Board Member

X_____ Jeffrey St. Cyr, Zoning Board Member

