

Zoning Board of Adjustment

July 1, 2014

Memorial Building

7:00 P.M.

These are to be considered draft minutes only until approved by board at their next meeting

Member's Present: Susan Chiarella, Bryan O' Day, Karen Cook, Gene Hayes, Justin Hastings, and alternate Peter Abair

Other's Present: Pam Laurie, Judy Gurka, Ed Shank, Tom Duling, George McCusker, Jeff Haley, and Wayne Smith

Susan called meeting to order at 7:00.

Justin makes a motion to approve the minutes of May 27th, Second by Karen all in favor and unanimously approved.

Continued hearing of Jake Messer- Jake presents the board with a surveyed map. Jake states that he is waiting for a DES permit for the proposed driveway. John Sisson from Beaver tracks is the soil scientist that went to Jake's property. Jake states that he is putting in culvert. The map also shows a retaining wall. Gene states that if application was for special exception for a landscape business then the wrong section was referenced on the legal notice. Susan states that she does not feel it is a huge problem as abutters and others are present. Jake states that the application to DES was shortly after May 24th. The surveyor he hired was Clayton Platt. He has moved his proposed business away from the back property line and further away from neighbors. He is proposing a 60 X 65 building for landscape supplies which includes bark mulch, sand and salt mix, loam, up to 5 trucks which are pick-up truck size, a loader, and tractor. He is proposing up to five employees. Has one right now. Susan states that because of the size he is proposing that he falls out of the realm of Home Business/Home Occupations and more towards a commercial business. The board reviews the ordinances. Justin asks how many acres Jake has and he states there are 4.4 acres.

Susan asks if the public has anything to say. Jeff Haley asks why the business is more concentrated around the house as opposed to further away. Jake stated he felt it might be a better location closer to the house as opposed to closer to neighbors' properties. Gene states that we are here to decide whether he can operate a commercial business. Ed Shank said that if it gets approved his property value will go down. If this is approved Ed Shank would like a solid fence around the property to keep lights and noise down. He also wants to know if an automotive repair is going to be allowed. He adds that wildlife issues would be affected and there are wetland issues. Wayne Smith states if he is commercial then he can operate 24-7. He asks if there is no noise ordinance then would he have to call the state police every time he is bothered by 3am snow storms. Gene states that the wetland across the road will be impacted and so will wildlife such as lizards, etc.....

Pam Laurie asks what the rules are for commercial businesses. She doesn't understand how everything is going to fit and asks if the board has to allow it. Susan and Justin states that under the ordinance it is allowed and they have to do the best they can to try and grant relief if they can. Susan explains that if it

is denied the board has to have a good reason. George McCusker states if the board denies and the case ends up in District Court, and the judge feels there is discrimination the judge could in fact give the applicant permission to do whatever he wants.

Gene makes the statement that he is personally concerned and does not think this is a good idea along with members of the public.

Jeff feels that the decisions of the board help shape what the town looks like in the future. Jeff also is concerned with property values, noise, and water run-off.

Gene asks if we want to impact market value.

Dorothy Martin speaks up and states she is also concerned with the same thing as the other neighbors. Noise, property value, etc....

George adds that the hours of operation can be controlled except plowing which are emergency services. Wayne states he doesn't feel plowing a driveway is emergency services. George states some people do if they want to leave for work in the morning. Wayne states he has no problem with the town plows at any time.

Karen asks Jake if his equipment has back up beepers. Bryan states that none of his equipment does.

Gene asks if there is a copy of the wetlands overlay district. Jeff Haley also asks if there is anything tying his lot to others.

Gene states that this particular lot is in the overlay district.

Susan asks if the board has heard everything. Susan reads application to the public. Jeff Haley asks to see the application.

Susan asks Jake if the board limits him will he still be able to do what he needs to do. Jake states he doesn't think so. Gene asks where is he now. Jake states he is in New London. Gene asks if there are any more public comments. Gene wants to point out section 4 of the conservation overlay district. No salt storage within 100' of wetland. Susan reads conservation overlay district. Bryan states there are no state setbacks to a stream. Jake says he still wants to do a sand shed 30'x40'

George addresses the public and states that they urge applicants to ask for more and project more on their applications so that they do not have to keep coming back before the boards.

Susan closes the hearing at 8:35 and board goes into deliberation. The board reviews size of lot and perimeters. Karen states she is not too concerned as she feels the site is self-limiting as to what the applicant may be able to fit. Gene feels they are impacting a residential neighborhood by allowing the business and he states that Jake bought this property knowing it had limitations. Justin asks Gene if he heard him say he had a personal interest. Gene states he did not.

There was lots of discussion around Residential/Commercial businesses. Susan asks Gene if we deny based on public concerns of the neighbors and in fact there is actually only one abutter present. Susan states that she knows where Gene stands on this case would like to hear from the rest of the board. They discussed obnoxious use. Karen states she looks at I89 as more obnoxious than proposed business. Susan states that we cannot say for sure whether property values will go down or not.

Gene makes a motion based on size and location of property that the application be denied based on poor civic design, create more congestion on the road, too close to boundaries, and impact land and home values, as well as creating more noise, and the impact on wetlands.

The Motion fails on basis that there is no second.

Susan feels that the application fails on section 11.42 of our zoning ordinance letter D.

The board goes through the application and ordinances again. Gene feels the application failed on Letter A as well. Board was in disagreement.

Susan make a motion that the application by Jacob Messer for a landscaping business be denied based upon the failure to meet the condition of 11.42 of our zoning ordinance letter D which reads:

D. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing or future road giving access to it shall be such that it will be in harmony with the orderly development of the District. The location, nature and height of buildings, walls, and fences shall not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof. In this regard the Board may impose safeguards in addition to the applicable requirements of this Ordinance, including but not limited to the following:

1. Front side or rear setbacks greater than the minimum requirements of the Ordinance.
2. Screening of parking areas or other parts of the premises from adjoining premises or from the road by walls, fences, planting, or other devices.
3. Modification of the exterior features or appearance of the building or structure.
4. Limitation of size, number of occupants, method or time or operation or extent of facilities.
5. Regulation of number, design, and location of drives or other traffic features;
6. Off-road parking or loading spaces beyond the minimum requirements of this Ordinance;
7. Control of the number, location, and size of lighting and signs.

E. Operations in connection with such a use shall not be more objectionable to nearby properties by reason of noise, fumes, odor, or vibration, than would be the operation of any permitted uses in this District which are not subject to special exception procedures.

Gene seconds the motion. Justin in favor. Karen and Peter opposed. Motion stands as three are in favor and application is denied.

Meeting adjourned 9:45