

ZONING BOARD OF ADJUSTMENT MEETING
September 18, 2008

Present: Ray Danforth, John Gralenski, Ben Mayerson, Ray Halle, Joyce Carlisle, Jo Carpenter – recording secretary

The meeting opened at 7:03 PM.

Election of Officers

Ray Danforth volunteered to continue as Chairperson. The Board unanimously accepted his offer.

John Gralenski volunteered to be Vice Chairperson. The Board unanimously accepted his offer.

Ben Mayerson suggested that Joyce Carlisle be the Board's Clerk. Joyce agreed and the Board also unanimously agreed.

Ray told the Board that he does not believe the Board has adopted rules of procedure but he said that the Board has basically followed the rules that are suggested in the ZBA manual. John Gralenski said that he thought the Board had adopted rules of procedure when he was Chairperson. Jo will look in the ZBA files and Ray will edit the rules in the manual and bring them to the next meeting.

Ray then told the Board that he is proposing holding the Public Hearing on the Drouin's Special Exception request tonight but holding the record open for a set amount of time – a week , maybe two for people to submit written comments. He said he would announce the date of the reconvened session/deliberative session at the end of tonight's meeting. He said that he is also considering a site walk on the night of the reconvened session.

Ben Mayerson said that he feels a site walk would be in order to give the Board a better idea/feel of the sight.

The Board agreed by consensus to follow Ray's proposal.

Public Hearing on Bert & Tracey Drouin's request for a special exception to build a mini-storage facility in the Route 2 District

Present: ZBA – see above list

Applicants: Bert & Tracey Drouin & their agent Burke York & their appraiser Bob Goddard

Public: John Cosgriff, Larry Leger, John Russell, John Carpenter, Dave Landry, Peter Behling, Art Marchand, Marlene Marchand, Jeannette Lemieux, Ray Lemieux

Chairperson Ray Danforth opened the public hearing at 7:45 PM.

Ray explained that there are nine special exception criteria and for a special exception to be granted all nine must be met. If the project fails to meet one of the criteria then the special exception can not be granted. A work sheet containing the nine criteria was distributed to the Board and the members of the public.

The Board members introduced themselves. Then Ray announced that the application was received on August 24th, the certified letters to abutters, the applicant and their agent were mailed on September 8th, ads appeared in Berlin Daily Sun on September 8th, 11th, 15th, and 18th and the notice was posted at the Town Hall and at the Transfer Station on September 9th.

Ray then polled the Board members to see if any of them had a conflict of interest with sitting on the Board on this hearing:

Ray Danforth – no conflict, John Gralenski – no conflict, Ben Mayerson – no conflict, Joyce Carlisle – no conflict and Ray Halle – no conflict.

Ray then announced the procedure the Board will follow. He said that usually the board does its business all in one meeting. He said in this case he will hold the hearing tonight and then keep the record open for at least one week. A time will be chosen tonight for the reconvened hearing and deliberative session. Ray said that the Board would also like to do a site walk on the evening of the reconvened meeting.

Ray asked if there were any questions on the procedures for the hearing. John Cosgriff asked how many of the 9 criteria must be voted in the affirmative for the special exception to be granted. Ray explained that all nine must be – if one fails then the special exception can not be granted.

Ray said that the order of business will be as follows:

1. The Applicant will present the proposed project
2. People who want to speak in favor of the proposal
3. People who want to speak against the proposal
4. Rebuttals
5. General questions

Burke York and Bob Goddard presented for the applicants.

Burke began by presenting the ZBA with an amended plot plan that reflects suggestions made by the Planning Board at their meeting when the Drouin's site plan application was reviewed. Burke also posted a large color rendering of the proposal.

Ray Danforth asked what the changes on the plot plan were. Burke said the Planning Board asked that all well radii be shown and also the proposed stone wall.

Burke pointed out that a berm is planned along the west side of the property as well as trees. Burke said there is already a natural forest barrier along the east side of the property. Burke also stated that a sign on the building and out front have been proposed. Burke commented that the Bert and Tracey Drouin have worked to make the project aesthetically pleasing and also to match the rural character of the town.

Burke said one building is proposed. It will contain 28 storage units of various sizes and an office. The building will be 30 ft. X 120 ft.

Ray Halle asked if the plan is for just one building. Burke said that it is for just one building.

Burke York and Bob Goddard of Goddard Associates then presented the Drouins' answers to the nine special exception conditions.

1. The specific site is an appropriate location for such a use or uses in terms of overall community development.

Burke said that the proposed use is an appropriate one for the Rte2 District. He said that this is a mixed use district and there are multiple businesses in this district. He said the location is close to Gorham and the building fits the lot.

2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area.

Bob Goddard presented a copy of his study on how the surrounding values would be affected.

He then summarized his findings. He said that Route 2 is an east-west corridor and is not completely residential. He said that the town is about 23% commercial development and 33% when you include home businesses. He said that Rte 2 District is made up of diverse uses. Bob stated that this project is way above the usual quality of this type of project. He said it also meets the goal to be in harmony with the neighborhood.

Bob said that what affects value is a perception of the market. He said that his conclusion is that putting this project on this lot will have no positive and no negative effect on neighboring property values.

3. The proposed use will not cause an undue burden on the Town through the provision of basic Town services.

Burke York said that there are no roads proposed as part of this project, no well, and no septic system. He said that the project should have no effect on town services.

4. **The project shall not be a nuisance to any allowable use within the district. Nuisance includes but is not limited to excessive noise, odor, smoke and lighting, or hours of operation that are generally incompatible with pre-existing uses and allowable uses within the district.**

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Burke explained that the hours of operation will be 9 AM to 5 PM but 24 hour access will be allowed. Burke said that the Drouins feel that this will be basically a day time use. He said that the project will not produce odor or smoke. Burke said that the business will actually be at the Drouin's home in Gorham. People will call Tracey at home and she will come down and meet them with a contract and a key.

There will be lights on the building. The will shine down. Burke said information on the lights were included with the application. The lights will be timed so that the go off automatically at a certain time in the evening.

Ben Mayerson asked what the spread of the lights will be. The Drouins felt that it will be about 15 ft. Ben also asked if the unit would have electrical outlets. Burke said that they would not.

Ray Danforth asked if there would be lights in the storage bays. Burke said that there would not be lights in the bays. Ray asked what would be used for lights for night access. Burke answered that anyone wishing night-time access would have to bring their own flashlight. Bob Goddard commented that this would promote day-time use.

Ray Danforth asked if the light locations will be approximately as shown. Burke said that they will be located as shown.

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5. **The project shall visually fit in with the aesthetic character of the district.**

Bob Goddard directed the Board's attention to the color picture of the proposed unit. He pointed out that the Drouins have tried to make the project fit in aesthetically. He said the proposed building is aesthetically pleasing and is harmonious with the neighborhood.. He said the Drouins have gone the extra mile by putting cupolas on the building to make it look like a barn and have chosen tan and green colors for the siding and trim. They are also planning to attractively landscape the area around the project.

6. **The project shall provide for smooth, safe and convenient movement of vehicles both on and off site.**

Burke said that the driveway permit for this lot is in the process of being re-issued for this use. Burke said that he checked with NH Dot and the permit is approved and will be issued soon.

Burke said that there is plenty of space around the building for good access. He said that there will be a small traffic volume per day. Bob Goddard said studies for larger facilities have shown 4 to 6 visitor per day.

Ray Danforth asked if all the proposed driving area is proposed to be gravel. Burke said that it is proposed to be gravel but he expects that NH DOT will require a paved apron onto Route 2.

Joyce Carlisle asked if there will be grade changes on the lot.

Burke said that there will be grade changes. He said that the lot will be graded so that all drainage stays on the lot and away from the abutters and Route 2.

7. The project shall provide adequate parking facilities without creating a surplus of rarely used parking spaces. Whenever feasible parking should be located behind the buildings or berms.

Burke told the Board that there will be 50 ft. of parking behind the building and 30 ft. in front of the building.

Ray Danforth asked why not 30 ft. behind the building. Burke said that they left room for snow storage behind the building.

8. If the project is a commercial or industrial activity, buffers may be required between the proposed project and existing uses.

Burke explained that on the east side of the lot there is already an existing wooded buffer. On the west side of the lot there will be a berm and more evergreen trees will be added to the existing buffer.

Joyce Carlisle asked what will be done on the rest of the lot behind the building. Burke said that this area is already all cleared and will be left the way it is. There are no plans to do anything to it at this time.

9. The Zoning Board of Adjustment in granting any special exception may include such restrictions or conditions as may be necessary to ensure compliance with this section.

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Burke York said that the Drouins are trying to put forward a good project and would be happy to have any suggestions shared with them.

Ray Danforth then asked for comments from people who wished to speak in favor of the project.

Marlene Marchand (Tracey Drouin's step-mother) stated that she is not impartial but as a citizen she would like to say that the Drouins are really trying to put forth a good project and she hopes people will take a good look at it.

Bob Goddard said that his clients are concerned that people are not asking questions that they should be. He said that the Drouins have put a lot of work into this project.

Ray Danforth said that is precisely why the hearing will be kept open.

Bob Goddard said that since the Board is going to do a site walk he hopes that they will keep in mind that part of this viewing will be physical and part will be hypothetical.

Ray Danforth next asked for comments from people who wish to speak against the project.

Ray Lemieux said that he is speaking for himself and his mother, both abutters to the proposed project.

Ray said that night access with flashlights could become a problem or cause noise and the neighbors would have to call the police.

Ray asked who will monitor what goes into the units if there is no one on site during business hours. He said that when people empty the units they might leave junk lying around and garbage could blow on their lots.

He said that for 8 years there has been a buffer between the Lemieux properties and this lot. He said that he planted the trees that are there now.

Ray commented that there is junk and truck trailers on the lot now. He said that this will all be moved to the back of the lot nearer his home. He also stated that there are trailers being moved in and out of the lot now.

Peter said he will address several of the special exception items.

#1 Peter Behling said that the area of the proposed project has become residential. He said all the neighboring lots are now residential. He said the only businesses nearby are home businesses or have the owner on the site.

#2 Peter said that he has spoken to an appraiser and a realtor about this proposed project. The appraiser said it is hard to judge the effect of this project on changing values because there are no storage facilities located near homes now.

Peter said the real estate agent feels that the proposed project will negatively affect homes nearby. He feels the homes will not sell, their values will be lowered and taxes will be lost. He did not feel taxes on the project would make up the difference. He said that this project would not fit with Shelburne's character and rural nature and would detract from the gateway into Shelburne.

#3 Peter said that he feels that 24 hours of operation, no owner on the premises, no monitoring of the site when people are there are all detrimental to the neighborhood.

#4 Peter said that any further lighting even if pointing downward affects enjoying the night sky.

#7 Peter said that he is also concerned about vehicles being parked and left on the property.

John Cosgriff said that he will also address several of the special exception items.

John Cosgriff complimented the Drouins on their very attractive building. He then posed a series of questions.

#3 He asked where the nearest access to water for fire protection is located.

#5 He stated that while the building is very attractive will it be maintained? What will it look like in the future?

John asked why the lot will not be paved immediately. He also asked what type of siding will be on the building and he questioned how the back of the lot will be used? Equipment storage? He also asked if the landscaping will be maintained.

#1 John Cosgriff said that the town was about evenly divided passing on this issue so it must be scrutinized carefully.

John said all the businesses in the areas are home business and no one will be on site to monitor this one.

#4 John commented with 24 hr operation proposed who will take care of the problems that may arise

John Russell also complimented the Drouins on their proposal. John Russell said that he is not a realtor but he feels impact to neighboring property values is a concern. He said he hopes the Board will take into consideration how neighboring properties will be affected.

David Landry said that he is not for or against the proposal but he said that he feels that people have a right to build on their own property and people who build close

to their property lines should not affect how I use my property. David said that he would have questions about the lighting and possible police problems but he would not be worried about maintenance of the property because the Drouins have another business in Gorham and it is very well maintained.

Ray Lemieux said that there was confusion over the location of the property line and that is why his house is too close to the line.

Ray Danforth then allowed rebuttal from the applicants.

Burke York said in answer to the fire protection question that the Fire Chief has reviewed the proposal and has no concerns with the proposed project

Burke said in reply to the maintenance concern that the Drouins own Creative Threads in Gorham and it is very well kept.

In reply to the question about paving immediately, Burke said that this is a business venture and paving is a financial concern. He said he also feels that gravel helps maintain the rural character of the project and this is not a Wal-Mart parking lot.

Burke said in response to the back of the lot that the building will act as a buffer and block the view of the back of the lot.

As to the question of long-term parking, Burke said that the Drouins will monitor to see that this does not happen.

Bob Goddard said that the Drouins have heard a lot of questions that were what ifs and many of them are not relevant. He said the Drouins would like to have the Board generate a list of questions and they will answer them.

Bob Goddard said that there have been several opinions put forth about property values. He said that there is a difference between a broker and an appraiser. He said he feels if another opinion is to be brought forth that the appraiser involved should issue a report.

Ray Danforth said that there is currently heavy equipment stored on the lot and he would like to know if this will remain.

John Carpenter, Planning Board Chairman, state that a mini-storage facility can not have outside storage associated with it under Shelburne' Zoning Ordinance so if the exception is granted and the facility built this equipment, etc. will have to go.

Ray Danforth asked the Drouins if this exception is granted and things go well, will they build more buildings.

Burke said that at this point the project is one building and they have no plans for a second project.

Ray Danforth said if the Special exception approves the entire lot then the potential for building more could affect the outcome.

Burke said future projects would be subject to the ZBA and Planning Board.

Burke York also commented that there is no issue with Ray Lemieux's house being too close to the property line. Burke said that he thinks David Landry was speaking in general that building close to the property line should not take away the Drouin's rights.

David said that is what he meant. He did not know that the Lemieux building did not have the proper setback.

John Cosgriff said that questions about maintenance are important and valid and should be considered and answered.

David Landry said we don't ask other citizens to paint their houses every three years or to keep their lawns mowed. He further stated that he would think that anyone spending this kind of money would take care of it.

John Carpenter said that care needs to be taken to not mix the ZBA and site plan processes.

Ray Danforth explained that the Site Plan Review process has enforcement powers but the ZBA could add conditions but has no real enforcement power. However, the ZBA could make recommendations to the Planning Board about conditions.

Ray Danforth said that there have been a lot of questions tonight about property values. He said I am going to suggest that we submit Mr. Goddard's report to the town appraiser for his opinion. The Board had no problem with this. Ray asked if this could be done in a two week time frame. Jo Carpenter felt this was possible.

Ray Danforth suggested Thursday October 2nd for the continuation of the hearing and the deliberative session. The Board members and applicants agreed to this. Ray suggested the site walk be held at 6:00 PM and the meeting at 7:00 PM. He said any written comments must be received by 5:00 PM on Thursday October 2nd. Ray said there is to be no discussion between Board members or Board members and the applicants. If members of the public wish to say something to a Board member. The Board member can listen but ask them to speak to the whole Board or put their comments in writing.

Ray said if the deliberations go too late then the meeting may have to be extended again.

Burke York thanked everyone for their professionalism this evening. He said he has attended some hearing that it was not the case.

Joyce Carlisle said that she has policing and lighting concerns. She asked if the Conway mini-storage facility is gated. Bob Goddard said it is gated to the public but open to members.

Ben Mayerson said he as concerns about this being a place to pull a trailer and camp overnight. He said a gate might solve that.

Ray said that when the meeting reconvenes first at the site walk and then at the town hall. The public hearing will still be open. Written comments will be entered into evidence and more questions will be addressed , if necessary. The public hearing will be closed and deliberations will begin. Once the hearing is closed their will be no more input from the public. The Board can ask the applicants or their agents questions for clarification during the deliberations. The Board will ask for motions on each of the nine criteria and if all pass then the special exception will be granted. If just one fails then it will be denied.

Ben Mayerson made a motion to recess the public hearing at 9:45 PM. This motion was seconded by John Gralenski and passed unanimously.